

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2024

DOCKET NUMBER: AR20230005482

APPLICANT REQUESTS: a change to his Narrative Reason for Separation to reflect "Resignation in Lieu of Elimination" rather than "Unacceptable Conduct."

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DA Form 67-10-2 (Field Grade Plate (O-4 – O-5; CW3 – CW5) Officer Evaluation Report), 17 June 2019
- Officer Record Brief
- Memorandum – Subject: Resignation in Lieu of Elimination Proceedings, 12 June 2020
- Memorandum – Subject: Personal Letter in Support of Resignation and Request for a Favorable Characterization, 15 June 2020
- Memorandum – Subject: Resignation in Lieu of Elimination, 9 September 2021
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 29 September 2021

FACTS:

1. The applicant states in pertinent part that he was previously assigned to Fort Leonard Wood, MO, with duty as the only Family Medicine Physician on the installation. He contests that he was required to work extensive hours with minimal time off. Due to the stresses of the workplace, he began consuming alcohol despite not doing so for 20 years prior. At some point, he was stopped on post resulting in him being cited with Driving Under the Influence (DUI). He later received a General Officer Memorandum of Reprimand (GOMOR), and separation proceedings were initiated. He notes that after repeated visits by the Deputy Chief of Clinical Services (DCCS) which upset him, he elected to resign his commission in lieu of elimination against the advice of legal counsel (military). Legal counsel encouraged him to go before a retention board for which he declined prompting the processing of the GOMOR. Several months passed and he sought the assistance of a civilian attorney. He submitted a request to rescind his submitted resignation and requested to go before a retention board. His request was subsequently denied, and he was discharged. The issued DD Form 214 reflects that he was discharged for misconduct with the separation code of "BNC." He adds that at the

time, he was in the process of going before a Medical Evaluation Board but was unable to finish the process before he was discharged.

2. A review of the applicant's available service records reflects the following:

a. On 23 January 2009, the applicant was appointed a Reserve commission.

b. On 11 February 2009, the U.S. Army Human Resources Command (AHRC) issued Orders Number A-02-904706 ordering the applicant to active-duty as a 61H (Family Medicine Physician), effective 13 February 2009, with assignment to Fort Campbell, KY.

c. On 19 September 2017, AHRC issued Orders Number 262-014 announcing the applicant's promotion to the rank/grade of lieutenant colonel (LTC)/O-5, effective 1 October 2017.

d. On 10 May 2019, Headquarters, 101st Airborne Division (Air Assault) and Fort Campbell issued Orders Number 130-0112 reassigning the applicant to Fort Leonard Wood, with a reporting date of 30 August 2019.

e. On 5 January 2020, the applicant was flagged due to an adverse action (Alcohol Abuse).

f. On or about 10 January 2020, the applicant received a GOMOR for driving under the influence on 5 January 2020.

g. On 6 February 2020, the GOMOR issuing authority directed that the reprimand be permanently filed within the applicant's Army Military Human Resource Record (AMHRR).

h. On 15 September 2021, Headquarters, U.S. Army Garrison, Fort Leonard Wood issued Orders Number 258-1318 reassigning the applicant to the transition point pending discharge.

i. On 29 September 2021, the applicant was honorably discharged from active duty under the provisions of Army Regulation 600-8-24 (Officer Transfers and Discharges). DD Form 214, item 28 (Narrative Reason for Separation) reflects "Unacceptable Conduct"; item 26 (Separation Code) reflects "BNC."

3. The applicant provides the following a:

a. DA Form 67-10-2, ending on 17 June 2019, reflective of the applicant's duty performance as assessed by members of his immediate leadership during the period of

30 June 2018 – 17 June 2019. The applicant was rated as "proficient" by his rater with an overall rating of "highly qualified" by his senior rater.

b. Officer Record Brief reflective of the applicant's pertinent personnel information to include assignment and promotion history. Section I (Suspension Favorable Personnel Action) provides that the applicant was flagged for separation on 13 April 2020.

c. Memorandum – Subject: Resignation in Lieu of Elimination Proceedings, dated 12 June 2020, reflective of the applicant's voluntary request to tender his resignation in lieu of further elimination action. The applicant elected to waive his right to appear before a board of officers with legally qualified counsel or civilian counsel retained by him. Further, he declined to submit matters in explanation, rebuttal, or defense concerning the allegations in his case contingent upon his receipt of a characterization of service no less favorable than Honorable.

d. Memorandum – Subject: Personal Letter in Support of Resignation and Request for a Favorable Characterization, dated 15 June 2020, reflective of the applicant's submitted letter in support of his voluntary request to resign his commission. The applicant cites previous events occurring while he was deployed, the mental stresses associated with his last duty assignment as contributing factors to his increased alcohol consumption. This letter is provided in its entirety within the supporting documents for the Board's review.

e. Memorandum – Subject: Resignation in Lieu of Elimination, dated 9 September 2021, reflective of communication from AHRC regarding the applicant's discharge from military service. AHRC advised that the Deputy Assistant Secretary (Army Review Boards) had accepted the applicant's request for resignation in lieu of elimination and directed that the orders be issued effecting his Honorable discharge. The authority for separation will reflect "Army Regulation 600-8-24, Paragraph 4-2B (Misconduct and Moral or Professional Dereliction) and Paragraph 4-2C (Derogatory Information) with the Separation Code of "BNC."

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence to support the applicant's contentions for a change to his Narrative Reason for Separation to reflect "Resignation in Lieu of Elimination" rather than "Unacceptable Conduct." Evidence of record shows, at the time

of separation, documentation supports the narrative reason for separation properly identified on the applicant's DD Form 214. As such, the Board determined under liberal consideration changes to the applicant's narrative reason are not warranted. Additionally, based on regulatory guidance, it states reasons for separating Soldiers from active duty. Table 2-2 (Officer personnel) shows SPD Code "BNC" as the code for "unacceptable conduct" under the authority of AR 600-8-24. Therefore, the Board denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

3/19/2024

X [Redacted Signature]

CHAIRPERSON

[Redacted Name]

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation (AR) 600-8-24 (Officer Transfers and Discharges) prescribes policies governing the transfer and discharge of Army officer personnel. Paragraph 4-2 (Reasons for Elimination) provides that when one of the following or similar conditions exist, elimination action may be or will be initiated as indicated:

a. Paragraph 4-2b. (Misconduct, Moral or Professional Dereliction, or in the Interests of National Security) pertains to several actions to include alcohol and drug-related misconduct or conduct unbecoming of an Officer.

b. Paragraph 4-2c. (Derogatory Information) reasons require an officer's record to be reviewed for consideration of terminating appointment. Standing alone, one of these conditions may or may not support elimination, however, this derogatory information combined with other known deficiencies form a pattern that, when reviewed in conjunction with the officer's overall record, requires elimination. Examples of applicable reasons include: adverse information filed in the AMHRR, any substantiated adverse finding or conclusion from an officially documented investigation, proceeding, or inquiry or a relief for cause Officer Evaluation Report (OER).

c. Paragraph 4-11 (Respondent) provides that when a board of inquiry convenes to consider an officer's recommendation for involuntary separation, the board will determine whether each allegation in the notice of proposed separation is supported by a preponderance of the evidence. The respondent will be present at all open sessions of the board unless he or she fails to appear before the board after timely notice or expressly waives the right to attend. Although a respondent may elect not to attend his or her board, the board will be conducted unless the officer submits a resignation in lieu of elimination, a retirement in lieu of elimination, or a request for discharge in lieu of elimination.

d. Section III (Eliminations) provides that elimination action will be initiated against an officer who is identified by one or more of the reasons outlined in paragraph 4-2. When the Board of Review recommends elimination, the board will forward the case directly to SECARMY or designee for the final decision. When SECARMY or designee approves elimination, AHRC will forward separation instructions to the appropriate Military Processing Division.

e. Chapter 3 (Resignations) provides the rules for processing voluntary resignations. Except as provided in paragraph 3-1b, any officer of the RA or USAR may tender a resignation under the provisions of this chapter. SECARMY (or designee) may accept resignations and orders will be issued by direction of the CG, HRC. An officer whose resignation has been accepted will be separated on the date specified in DA's

orders or as otherwise directed by the DA. A resignation may be withdrawn only with the approval of HQDA.

2. AR 600-8-2 (Suspension of Favorable Personnel Actions (Flag) Chapter 3 (Prohibitions and Retention of Flagged Personnel) provides that unless otherwise prohibited, commissioned and warrant officers may submit a request for unqualified resignation, discharge, or retirement for consideration by HQDA (or the appropriate regional commander) while flagged. A properly imposed Flag prohibits the following personnel actions:

- Appointment, reappointment or reenlistment
- Voluntary unqualified resignation, retirement, or discharge (AR 600-8-24)

3. AR 635-8 (Separation Processing and Documents) provides that the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clearcut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier's service. DD Form 214, item 25 (Separation Authority) is obtained from the regulatory directives authorizing the separation. Item 26 (Separation Code) reflects the corresponding SPD code for the regulatory authority and reason for separation. Item 28 (Narrative Reason for Separation) is based on the regulatory or other authority.

4. AR 635-5-1 (Separation Program Designator (SPD) Codes) in effect at the time prescribes the specific authorities (statutory, regulatory, and Department of Defense (DOD)/Army policy) and reasons for separating Soldiers from active duty. Table 2-2 (Officer personnel) shows SPD Code "BNC" as the code for "unacceptable conduct" under the authority of AR 600-8-24.

//NOTHING FOLLOWS//