

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 April 2025

DOCKET NUMBER: AR20230008182

APPLICANT REQUESTS: removal of the DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)), 22 January 2015, from his Army Military Human Resource Record (AMHRR).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552).

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states he received nonjudicial punishment (NJP) for alcohol consumption while serving in Guam. He took full responsibility for his actions and believes the incident should not hinder his career or future assignments. He has not been in any trouble since receipt of this NJP. His career has been steadily going in the right direction and he believes the resilience he has shown over the last 8 years shows that he can strive to be better and be a better role model. He is unable to be assigned to certain positions with the DA Form 2627 filed in his AMHRR, which he believes is detrimental for the Army as a whole.
3. He enlisted in the Regular Army on 1 September 2009.
4. The DA Form 2627, 22 January 2015, shows that while serving in the rank/grade sergeant (SGT)/E-5:
 - a. His commander considered imposing NJP against him under the provisions of Article 15, UCMJ, for the following offenses:

(1) violating a lawful general order on or about 15 November 2015 by wrongfully consuming alcohol at or near Tumon Bay, Guam, to wit: Task Force Talon General Order Number 1, 8 July 2013;

(2) violating a lawful general regulation on or about 15 November 2015 by wrongfully consuming alcohol with Private First Class [REDACTED] which compromised or appeared to compromise the integrity of supervisory authority or the chain of command; cause actual or perceived partiality or unfairness; and created an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission; to wit: Army Regulation 600-20 (Army Command Policy); and

(3) violating a lawful regulation on or about 15 November 2015 by wrongfully making a false official statement to Staff Sergeant [REDACTED] with intent to deceive, to wit: "No, Chief, I did not drink any alcohol" or words to that effect.

b. Item 3b shows he did not demand trial by court-martial and requested a closed hearing.

c. Item 4a shows his commander, having considered all matters presented in the closed hearing, found him "Guilty of Some Specifications (Line Out Not Guilty Specifications)" and lined through the second offense.

d. Item 4b shows the imposing commander directed filing the original DA Form 2627 in the restricted folder of the applicant's Official Military Personnel File (OMPF).

e. Item 5 shows he did not appeal the findings.

f. Item 6 shows his punishment consisted of reduction to the rank/grade of specialist/E-4.

5. He was again promoted to the rank/grade of SGT/E-5 effective 1 October 2015.

6. 589th Brigade Support Battalion Permanent Orders 195-001, 12 July 2021, awarded him the Army Good Conduct Medal (4th Award) for the period 31 August 2018 to 30 August 2021.

7. He reenlisted indefinitely on 5 December 2022.

8. He was promoted to the rank/grade of sergeant first class/E-7 effective 1 December 2022.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, a majority of the Board found relief is warranted.
2. A majority of the Board found the quality of the applicant's service in the years subsequent to the imposition of NJP sufficient as a basis for granting the requested relief. A majority of the Board determined the DA Form 2627, dated 22 January 2015, and any related documents should be removed from the applicant's AMHRR.
3. The member in the minority found insufficient evidence indicating the DA Form 2627 in question contains any errors or was unjustly imposed. The member in the minority determined the DA Form 2627 should remain in the applicant's AMHRR.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	:	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	█	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by removing from his AMHRR the DA Form 2627, dated 22 January 2015, and any related documents.

9/18/2024

X

CHAIRPERSON

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. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Board members will review all applications that are properly before them to determine the existence of an error or injustice and direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists in the record. The ABCMR will decide cases on the evidence of record; it is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. Army Regulation 27-10 (Military Justice) prescribes the policies and procedures pertaining to the administration of military justice and implements the Manual for Courts-Martial. It provides that a commander should use nonpunitive administrative measures to the fullest extent to further the efficiency of the command before resorting to NJP under the UCMJ. Use of NJP is proper in all cases involving minor offenses in which nonpunitive measures are considered inadequate or inappropriate. NJP may be imposed to correct, educate, and reform offenders who the imposing commander determines cannot benefit from less stringent measures; to preserve a Soldier's record of service from unnecessary stigma by record of court-martial conviction; and to further military efficiency by disposing of minor offenses in a manner requiring less time and personnel than trial by court-martial.

a. Paragraph 3-6a provides that a commander's decision whether to file a record of NJP in the performance folder of a Soldier's AMHRR is as important as the decision relating to imposition of the NJP itself. In making a filing determination, the imposing commander must carefully weigh the interests of the Soldier's career against those of the Army to produce and advance only the most qualified personnel for positions of leadership, trust, and responsibility. In this regard, the imposing commander should consider the Soldier's age, grade, total service (with particular attention to the Soldier's recent performance and past misconduct), and whether the Soldier has more than one record of NJP directed for filing in the restricted folder. However, the interests of the Army are compelling when the record of NJP reflects unmitigated moral turpitude or lack of integrity, patterns of misconduct, or evidence of serious character deficiency or

substantial breach of military discipline. In such cases, the record should be filed in the performance folder.

b. Paragraph 3-37b(2) states that for Soldiers in the ranks of SGT and above, the original DA Form 2627 will be sent to the appropriate custodian for filing in the OPMF. The decision to file the original DA Form 2627 in the performance folder or restricted folder of the OPMF will be made by the imposing commander at the time punishment is imposed. The filing decision of the imposing commander is subject to review by superior authority. However, the superior authority cannot direct filing a DA Form 2627 in the performance folder that the imposing commander directed to be filed in the restricted folder.

c. Paragraph 3-43 contains guidance for transfer or removal of DA Forms 2627 from the AMHRR. Applications for removal of a DA Form 2627 from the AMHRR based on an error or injustice will be made to the ABCMR. There must be clear and compelling evidence to support removal of a properly completed, facially valid DA Form 2627 from a Soldier's record by the ABCMR.

//NOTHING FOLLOWS//