

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 April 2024

DOCKET NUMBER: AR20230009907

APPLICANT REQUESTS:

- removal of the general officer memorandum of reprimand (GOMOR), 15 August 2022, from her Army Military Human Resources Record (AMHRR)
- personal appearance hearing before the Board

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

- Online DD Form 149 (Application for Correction of Military Record)
- DA Form 67-10-2 (Field Grade Plate (O4-O5, CW3-CW5) Officer Evaluation Report), 20220531 through 20230515

FACTS:

1. The applicant states she has received a satisfactory evaluation that covers that time period in which the GOMOR was administered.

2. Review of the applicant's service records shows:

a. Having had prior enlisted service (12 February 2003 to 15 December 2010), she executed an oath of office and was appointed a commissioned officer of the Army on 16 December 2010.

b. She served in a variety of staff or command positions, including deployments to Iraq, and she was promoted to major (MAJ) in November 2021.

c. On 5 April 2022, by memorandum to the applicant's commander, the Command Inspector General (IG), Fort Jackson, SC stated that the Office of the IG received complaints alleging misconduct by members of the command. In accordance with Army Regulation (AR) 20-1 (Inspector General Activities and Procedures), the IG referred the matters to the chain of command for appropriate action.

(1) Allegation 1: [Applicant] is in a romantic relationship with a noncommissioned officer, in violation of AR 600-20 (Army Command Policy) paragraph 4-14 (Allegedly,

[Applicant] told Sergeant First Class K***'s ex-wife that she was in a sexual relationship with SFC K*** since October 2021. Allegedly, [Applicant] also stated that while SFC K*** was speaking to his children on the phone, she was performing oral sex on SFC K***.

(2) Allegation 2: [Applicant] misused human resource (HR) systems to access personally identifiable information for personal use, in violation of AR 600-8-104 (Army Military Human Resource Records Management), paragraph 2-4. (Allegedly, [Applicant] told SFC K***'s ex-wife that she used HR systems to get the ex-wife's home address and find out if SFC K*** was still in a relationship with the ex-wife.

(3) Allegation 3: [Applicant] communicated a threat to person and property in accordance with Uniform Code of Military Justice (UCMJ), Article 115. (Allegedly, [Applicant] threatened to grab her gun and go to SFC K***'s ex-wife home in Savannah, GA. She also threatened to "bust out" SFC K***'s car windows.

(4) Allegation 4: SFC K*** is in a romantic relationship with a commissioned officer in violation of AR 600-20, paragraph 4-14. (Allegedly, SFC K*** has been in a sexual relationship with [Applicant] since -October 2021.**

d. On 2 June 2022, an investigating officer (IO) (Lieutenant Colonel B****) was appointed pursuant to Army Regulation (AR) 15-6 (Procedures for Administrative Investigations and Boards of Officers), to conduct an administrative investigation into the facts and circumstances surrounding allegations that:

- [Applicant] and SFC K*** have been involved in an inappropriate romantic and/or sexual relationship
- [Applicant] has made threats against persons and/or property
- [Applicant] has called the workplace of the person that originally brought these complaints to light

e. On 21 June 2022, the IO submitted his findings and recommendations to the appointing authority:

(1) Findings:

- [Applicant] and SFC K*** engaged in a relationship that could be considered fraternization as defined by paragraph 4-14, AR 600-20
- there is no evidence to confirm or deny whether [Applicant] personal use violating AR 25-22 (The Army Privacy and Civil Liberties Program)
- [Applicant] did communicate a threat to injure the property of SFC K*** that would constitute a violation of Article 115, UCMJ
- [Applicant] did willfully damage SFC K***'s apartment window violating Article 109, UCMJ

- [Applicant's] calls to the workplace of Ms. Pe**** Ba**** did not rise to the level of violating Art. 115, UCMJ.
- SFC K**** provided a false official statement that would constitute a violation of Article 107, UCMJ

(2) Recommendation: In view of the above findings, the IO recommended: [Applicant] for appropriate administrative action; SFC K**** for appropriate administrative action

f. On 15 August 2022, the applicant was reprimanded in writing by the Commanding General (CG), Fort Jackson, SC. The GOMOR states:

(1) "You are reprimanded for participating in a prohibited relationship with an enlisted Soldier in violation of para 4-14, AR 600-20 and conduct unbecoming an officer. From on or about March 2022 to May 2022, you engaged in a dating relationship with SFC K****. You publicly flaunted your inappropriate relationship by posting photos on social media that depicted an inappropriate level of intimacy between you and SFC K****. In addition, you allowed this inappropriate relationship to rise to a level that impacted your unit. Your inability to manage your personal affairs had an impact on good order and discipline and squandered the time and resources of military and civilian law enforcement. Your conduct was extremely unprofessional and brought disrepute on your reputation as an officer."

(2) "As a commissioned officer, you are charged with the responsibility of setting the example for subordinates to emulate. Instead, your actions demonstrated a complete disregard for orders and your conduct brought dishonor upon the military profession. An officer of your rank and experience has no excuse for this type of irresponsible and improper behavior. Further incidents of this nature may result in more serious action being taken against you. I trust your future duty performance will reflect the degree of professionalism expected of every Soldier to this command."

(3) "This is an administrative reprimand imposed under the provisions of AR 600-37 (Unfavorable Information) and not as punishment under Article 15, Uniform Code of Military Justice. You are advised that in accordance with AR 600-37, Paragraph 3-5b, I intend to direct this reprimand be filed permanently in your Army Military Human Resource Record. Prior to making my filing decision, I will consider any matters you submit in extenuation, mitigation, or rebuttal. You will be provided, by separate cover, a copy of the evidence which forms the basis for this reprimand. You will immediately acknowledge receipt of this reprimand in writing. You will forward any matters you wish me to consider through your chain of command within seven calendar days, using the format prescribed in AR 600-37, paragraph 3-7."

g. The applicant acknowledged receipt of the GOMOR and provided a response on 24 August 2022, in which she stated:

(1) She asks that if the reprimand be filed, it is filed in her local file rather than permanently in her AMHRR. She admits that she has been involved in an inappropriate relationship with SFC K***, as prohibited by AR 600-20. At no time did she intend to bring shame, discredit, or dishonor to herself, unit, the Army, or the military profession. Unfortunately, she made poor decisions that ultimately did result in such and had an impact on good order and discipline.

(2) SFC K*** and she were very discreet about their relationship, as the only people who knew of their relationship were four of their closest friends. In any case, she is still wrong for being in a relationship with SFC K***. She apologizes sincerely to all those who have been dragged into this chaos, and more so to people who wasted their time and energy investigating my wrongdoings.

h. On 29 August 2022, after carefully considering the reprimand, the circumstances of the misconduct, and all matters submitted by the Soldier in defense, extenuation, or mitigation, if any, along with recommendations of subordinate commanders, the CG directed the GOMOR be placed permanently in the Soldier's AMHRR. All enclosures will be forwarded with the reprimand for filing as appropriate.

i. On 16 March 2023, an informal physical evaluation board found several of the applicant's medical conditions unfitting, assigned a combined disability rating of 100% and recommended placement on the temporary disability retired list (TDRL).

j. She retired from active duty on 3 July 2023, and she was placed on the TDRL in her retired grade of MAJ on 5 July 2023. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 12 years, 6 months, and 19 days of commissioned active service.

3. The applicant provides a copy of her DA Form 67-10-2 for the rating period 31 May 2022 through 15 May 2023, reflective of a "Proficient" performance rating by her rater and "Highly Qualified" potential rating by her senior Rater.

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is/is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's

contentions, the military record, and regulatory guidance were carefully considered. An AR 15-6 found the applicant engaged in a relationship that could be considered fraternization, communicated a threat to injure the property of a sergeant, and damaged the sergeant's property. As a result, she was reprimanded for participating in a prohibited relationship with an enlisted Soldier in and conduct unbecoming an officer. She was afforded the opportunity to review all of the evidence against her and to submit matters on her own behalf prior to a final filing decision and she did so. After careful consideration of her case, the imposing general officer ordered filing of the GOMOR in the applicant's AMHRR. Among the purposes of filing unfavorable information is protection. Here, the Board found the GOMOR to be properly filed, and the applicant has not proven this GOMOR to be untrue or unjust. Therefore, the Board determined relief is not warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

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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 15-6 (Procedures for Administrative Investigations and Boards of Officers), establishes procedures for conducting preliminary inquiries, administrative investigations, and boards of officers when such procedures are not established by other regulations or directives. The primary function of any investigation or board of officers is to ascertain facts and to report them to the appointing authority. It is the duty of the IO or board to ascertain and consider the evidence on all sides of each issue thoroughly and impartially and to make findings and recommendations that are warranted by the facts and that comply with the instructions of the appointing authority.

2. Army Regulation 600-37 (Unfavorable Information), sets forth policies and procedures to ensure the best interests of both the Army and Soldiers are served by authorizing unfavorable information to be placed in, transferred within, or removed from an individual's AMHRR.

a. An administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

b. A memorandum of reprimand may be filed in a Soldier's OMPF only upon the order of a general officer-level authority and is to be filed in the performance folder. The direction for filing is to be contained in an endorsement or addendum to the memorandum. If the reprimand is to be filed in the OMPF, the recipient's submissions are to be attached. Once filed in the OMPF, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states that once an official document has been properly filed in the OMPF, it is presumed to be administratively correct and to have been filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the OMPF.

d. Paragraph 7-3(c) states an officer who directed the filing in the AMHRR of an administrative memorandum of reprimand, admonition, or censure, may request its revision, alteration, or removal, if evidence or information indicates the basis for the adverse action was untrue or unjust, in whole or in part. An officer who directed such a

filing must provide the DASEB a copy of the new evidence or information to justify the request.

3. Army Regulation 600-8-104 (Army Military Human Resource Records Management), prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the AMHRR. The AMHRR includes, but is not limited to the OMPF, finance-related documents, and non-service related documents deemed necessary to store by the Army. Paragraph 3-6 provides that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or another authorized agency.

4 Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//