

IN THE CASE OF: ██████████

BOARD DATE: 14 June 2024

DOCKET NUMBER: AR20230011688

APPLICANT REQUESTS:

- correction of his DA Form 67-10-1 (Company Grade Plate (O1 – O3; WO1 – CW2) Officer Evaluation Report (OER)) to show in item j (Period Covered) from 1 March 2014 thru 31 July 2015
- addition of DA Form 67-9 (OER) from 1 August 2013 thru 28 February 2014 to 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)
- DA Form 67-9
- DA Form 67-10-1
- Memorandum, subject: Award of the Army Reserve Components Overseas Training Ribbon (ARCOTR)
- Email Correspondence, re: OER
- Email Correspondence, re: Transfer to the Individual Ready Reserve (IRR)
- NGB Form 22 (Report of Separation and Record of Service)

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:

a. In 2015, he was serving as the S-4 in the ██████████ Army National Guard (ARNG) and was selected for a competitive Master's degree program at Northwestern. With the support of his command, he was quickly approved to enter the IRR in July 2015 and moved to ██████████ shortly after to start school. Almost 6 months later, he finally received his NGB Form 22 with an effective date of 16 December 2015.

b. The issues in his record are his final OER from 1 March 2014 thru 28 February 2015 should actually cover until 31 July 2015 when his IRR package was approved and he resigned his commission.

c. As supporting evidence, his OER references the position he held as the Battalion S5 in Cambodia, which occurred from 5 March 2015 through 22 March 2015 (after the OER rating period) and is supported by his state partnership award in his records.

d. After 31 July 2015 should be non-rated with an effective date of entry into the IRR on 31 July 2015. When he signed his OER nearly six months later (November 2015), he did not realize the mistake in dates and the information and also had not received his NGB Form 22 showing a 6 December 2015 discharge date.

e. The OER he signed was his final report in the [REDACTED] ARNG, but he did not connect the dots that the dates were incorrect until he rejoined the military almost five years later. These errors are now negatively impacting his ability to show a clean history with no gaps in his performance and to remain competitive for promotion.

3. In regard to the applicant's request to add his DA Form 67-9 from 1 August 2013 thru 28 February 2014 to his AMHRR, the applicant has not exhausted all of his administrative remedies. Therefore, this issue will not be considered by the Board.

4. The applicant provides:

a. Memorandum for Record, 25 March 2015, Award of the ARCOTR in support of Angkor Sentinel Cambodia 2015 from 5 March 2015 through 22 March 2015.

b. Email chain regarding his OER, 14 May 2015, which states, in pertinent part, he added the information discussed to his OER Support Form. His rater would work on his OER some more.

c. Email chain regarding his transfer to the IRR, 24 August 2015, his rater understood he would be transferring to the IRR and it was important to make sure his OERs were all caught up.

5. A review of the applicant's service record shows:

a. NGB Form 337 (Oath of Office), shows he took the oath of office in the [REDACTED] ARNG on 16 November 2008.

b. DA Form 67-10-1 shows the from date as 1 March 2014 and the thru date as 28 February 2015, the rated months as 12. In Part IV - Performance Evaluation - Professionalism, Competencies, and Attributes, there is a comment stating "[the

applicant] willingly volunteered to fulfill the S5 role when the battalion went to Cambodia....."

c. NGB Form 22 shows he was honorably transferred to the IRR on 16 December 2015.

d. There is no evidence the applicant appealed the OER through the National Guard Bureau, U.S. Army Human Resources Command, or to the Officer Special Review Board.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, 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 review based on law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined his request contains insufficient information concerning his assignment release date to determine when the rating period was terminated and when he was assigned to a new organization to determine rating criteria for the period 1 August 2013 thru 28 February 2014. The Board recommended the applicant coordinate with his Army National Guard unit and/or U.S. Army Human Resources Command to determine assignment information.

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.

7/1/2024

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 (ABCMR)), prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. It states, 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 623-3 (Personnel Evaluation - Evaluation Reporting System), prescribes the policy for completing evacuation reports and associated support forms that are the basis for the Army's Evaluation Reporting System.

a. Generally, Soldiers will have a continuous rating history of sequential OERs documenting both rated and non rated time. The periods covered on OERs will not overlap. Reports submitted From and/or Thru dates that overlap another reporting period will be placed in a Returned status awaiting correction. Gaps in a Soldier's evaluation history may occur for various reasons. A majority of these gaps are acceptable. Acceptable gaps between OERs include periods when a Soldier was in a nonratable status when no OER was warranted. Unacceptable gaps are periods when the rated Soldier was in a status that warranted the preparation of an OER but rating officials failed to render an OER.

b. An OER appeal will be supported by substantiated evidence. An appeal that alleges an evaluation report is incorrect, inaccurate, or unjust without usable supporting evidence will not be considered.

c. The Battalion and/or Brigade S1 or administrative office servicing the rated Soldier's unit may request minor administrative changes to an accepted evaluation report. However, the request will be accompanied by substantiating evidence.

d. Appeals based on administrative error only will be adjudicated by Headquarters, Department of the Army, Evaluation Appeal Branch for Regular Army, U.S. Army Reserve, and when necessary, for ARNG evaluation reports. Appeals based on administrative error for ARNG evaluation reports will be adjudicated by National Guard Bureau.

//NOTHING FOLLOWS//