

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 April 2025

DOCKET NUMBER: AR20230014762

APPLICANT REQUESTS:

- In effect, reversal of the recommendation to release him from active duty (REFRAD), made by the Fiscal Year 2023 (FY23) Active Guard/Reserve (AGR) REFRAD Board and approved by the Chief of Army Reserve (CAR)
- Permission to appear personally before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum
- Acknowledgement and Options Statement
- FY23 AGR Frequently Asked Questions (FAQ)
- Two MILPER (Military Personnel) messages

FACTS:

1. The applicant states, in effect:

- In September 2023, he was a U.S. Army Reserve (USAR) lieutenant colonel (LTC) who had been on active duty in an AGR status since 18 September 2017
- On 19 September 2023, the U.S. Army Human Resources Command (HRC) announced the results of the FY23 AGR REFRAD board, and HRC informed him he had been selected for REFRAD
- The applicant elected to continue on the Reserve Active-Status List (RASL) by reverting to a non-AGR status; this meant his scheduled REFRAD date was to be 31 July 2024
- The applicant maintains the REFRAD decision must have been a mistake, and the file viewed by the board had to have been incomplete; REFRAD boards are supposed to remove "low performers" from active duty, and he is "NOT a low performing officer" (emphasis added by applicant)
- The applicant acknowledges that the MILPER message pertaining to this board stated no redress was available; however, even the CAR at the time (Lieutenant

General J___ J. D___) indicated she was "scratching her head" and unable to explain the board selected him

- The error made by the board has taken away his career, retirement, and financial stability, and it will ruin any future Troop Program Unit potential for him

2. The applicant provides:

a. MILPER Message 23-110, dated 24 March 2023, subject: FY23 USAR AGR REFRAD Board as a Force Alignment Tool.

(1) Eligibility. The board was to consider:

- All Army Reserve AGR colonels (COL) and LTCs who did not have an approved retirement
- Date of rank of 22 May 2022 or earlier
- Mandatory Release Date (MRD) on or after 30 September 2024

(2) Notification of Appeals Process/Request for Redress:

- Only appeals regarding ineligibility for consideration were entertained
- Officers selected by the board who are later found to have been ineligible for consideration could have their REFRAD selection nullified with the approval of the CAR
- Officers selected by the REFRAD board could elect to transfer to Retired Reserve status or request to revert to another Ready Reserve status, such as Troop Program Unit (TPU), Individual Mobilization Augmentee (IMA), or Individual Ready Reserve (IRR)

b. HRC's memorandum, dated 19 September 2023 and addressed to the applicant. It states:

- On 17 July 2023, the FY23 AGR REFRAD convened and, on 5 September 2023, the Chief, Army Reserve approved the board's results; the applicant was selected for release and his scheduled release date would not be extended
- Officers with less than 18 years of Active Federal Service (AFS), as of 1 August 2024, were to be released on the first day of the 12th month (1 August 2024)
- Officers with 18 years, but less than 20 years AFS would remain on active duty until they attained 20 years
- Officers with more than 20 years AFS were to be released on 31 July 2024
- There was no appeal process, waiver, or redress; however, officers later found to have been ineligible for consideration could have their REFRAD selection nullified after obtaining approval from the CAR

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

- On 15 July 2012, after completing 6 years and 13 days of Regular Army commissioned service, the applicant executed his oath of office as a USAR commissioned officer
- HRC Orders, dated 11 August 2017, directed the applicant enter active duty for a 3-year term, effective 18 September 2017; on 6 April 2020, HRC Orders extended the applicant's term indefinitely
- Effective 1 October 2021, the Army promoted the applicant to LTC
- On 19 September 2023, the FY23 AGR REFRAD board announced the applicant's selection for REFRAD
- On 31 July 2024, the Army honorably released the applicant from active duty and transferred him to the U.S. Army Control Group (Reinforcement)
- The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 6 years, 10 months, 13 days during the period of the report, with 8 years, 3 months, and 3 days of prior active duty service and 4 years, 2 months, and 4 days of prior inactive service
- The applicant's online service record shows his MRD was in 2034; additionally, the two periods of active duty reflected on his DD Form 214 totaled to 15 years, 1 month, and 16 days of net active duty service

4. On 1 October 2024, the Office of the CAR provided an advisory opinion and recommended the Board deny relief.

- The REFRAD board is intended to be a force shaping tool, not a quality board; it is used to correct imbalances or strength overages; qualified officers who meet Army standards may be selected for REFRAD so that the AGR program can meet its strength requirements
- The board identifies officers who are least qualified for future service in the AGR program after reviewing their records and considering factors such as strategic leadership, ability to work in complex environments/assignments, advanced education, physical fitness, and Army Values
- The FY23 AGR REFRAD board reviewed the records for 525 eligible LTCs, and it selected 42 officers as least qualified for retention in the AGR program
- The board members conducted the board under instructions approved by the CAR and under the oversight of the Department of the Army Secretariat for Selection Boards
- A review of the board's process and its after-action report identified no errors or omissions; the Office of The Judge Advocate General also evaluated the results and found no legal objections; the CAR reviewed and approved the results
- The Army Reserve has no process/procedure/policy to facilitate a request by an officer who believes they should not have been selected by the board

- "Unlike a promotion special selection board, there is not an arbitrary standard to compare an officer selected for REFRAD against...It would require comparison against the same population considered by the original board effectively negating the original board results when no basis for negating the results exist"

5. On 3 October 2024, the Army Review Boards Agency provided the applicant a copy of the Office of the CAR's advisory opinion for review and the opportunity to submit a rebuttal and/or additional documentary evidence; the applicant did not respond.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation and the findings and recommendation outlined in the OTSG advisory opinion, as well as the lack of any rebuttal of the facts outlined in the OTSG advisory submitted by the applicant, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's record.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

X //SIGNED//

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. Army Regulation (AR) 135-18 (The Active Guard/Reserve (AGR) Program), currently in effect, prescribes policies and procedures for obtaining, administering, and separating Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) Soldiers serving as members of the AGR program.

a. Paragraph 1-7 (Objectives). The objective of the AGR program is to provide the Army selected officers, warrant officers, and enlisted Soldiers to administer; instruct; organize; recruit and train as needed in order to meet the full-time support and readiness requirements for ARNGUS, ARNG, and USAR projects, programs, and missions.

b. Paragraph 2-1 (Qualifications for Entry in the AGR Program). For initial entry in the AGR Program, an applicant must possess the following qualifications:

- Be a member of the Ready Reserve
- Pass the Army Physical Fitness Test; meet medical fitness and body composition standards; able to perform functional activities while living in an austere environment
- Have fulfilled educational requirements for his/her respective grade
- Be able to complete a 3-year initial AGR tour prior to his/her mandatory removal date (MRD)
- Possess a grade equal to or below that authorized for the AGR position and possess the branch area of concentration commensurate with the AGR duty position
- Possess a valid national agency check, credit check, and a favorable background screen

c. Paragraph 5-4 (Involuntary Separations). AGR officers may be released involuntarily from active duty at any time, per AR 600–8–24 (Officer Transfers and Discharges).

d. Paragraph 5-5 (Selection for Separation).

(1) The Chief of the Army Reserve (CAR) will monitor and manage the number of AGR Soldiers in each grade and ensure that the grade structure is consistent with and will support the overall readiness objectives of the USAR. When the CAR determines that there are or may be an excess number of AGR Soldiers for any grade, he/she may initiate the necessary action to reduce such numbers.

(2) The CAR may request the Deputy Chief of Staff, G-1 to convene a Department of the Army Active Duty Board, under the provisions of AR 600-8-24, to reduce the numbers of any officer grade; the CAR provides input for the memorandum of instruction to the board.

(3) Releases that result from such boards are dictated by the needs of the service; members involuntarily released are not considered ineffective or substandard in duty performance.

2. AR 600-8-24, currently in effect, prescribes officer transfers from active duty (AD) to the Reserve Component (RC) and discharge functions for all officers on AD for 30 days or more. Paragraph 2-12 (Involuntary Release from AD due to Non-Selection of AGR Continuation) states:

a. An officer on his or her initial AGR tour will be separated 90 days after notification of non-selection for continued AGR service.

b. An officer on a subsequent AGR tour, who is subsequently selected for release from active duty (REFRAD) by an AGR REFRAD board, will be released not earlier than 9 months and no later than 12 months from the date the board results are approved.

3. AR 15-185 (Army Board for Correction of Military Records (ABCMR)), currently in effect, states in paragraph 2-11 (ABCMR) Hearings, that 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//