

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 September 2024

DOCKET NUMBER: AR20240000052

APPLICANT REQUESTS: removal of the general officer memorandum of reprimand (GOMOR), 19 May 2023, from her 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)
- Self-authored Memorandum (Request for Removal of GOMOR of (Applicant), 6 November 2023
- Counsel's Memorandum (Appeal of Unfavorable Information in the Case of (Applicant)), 6 November 2023
- National Apartment Association Apartment Lease Contract, 8 December 2022
- U.S. Army Military District of Washington and Joint Task Force-National Capital Region Memorandum (GOMOR), 19 May 2023
- Computer Screenshot (Divorce Case Filing), 9 June 2023
- Nine Memoranda of Support, 19 July 2023 to 2 August 2023
- Self-authored Memorandum (Request for Reconsideration of Army Regulation 15-6 Investigative Findings), 16 August 2024

FACTS:

1. The applicant states the GOMOR, 19 May 2023, is untrue and unjust based facts set forth her in her appeal. A Board of Inquiry (BOI) determined that all allegations set forth by the Government were not proven by a preponderance of the evidence. The BOI unsubstantiated all alleged misconduct and the violation of Article 133 (Conduct Unbecoming an Officer), Uniform Code of Military Justice (UCMJ), which was the basis for the GOMOR. The BOI found that her actions "did not meet the definition of adverse" as defined by Department of Defense Instruction 1320.04 (Military Officer Actions Requiring Presidential, Secretary of Defense, or Under Secretary of Defense for Personnel and Readiness Approval or Senate Confirmation). Additionally, the BOI found that her actions were not derogatory, unfavorable, or of a nature that reflects clearly unacceptable conduct, integrity, or judgment.

2. Counsel states:

a. The GOMOR followed an 8 March 2023 Army Regulation 15-6 (Procedures for Administrative Investigations and Board of Officers) investigation in which the investigating officer (IO) found the applicant in violation of Article 133, UCMJ. The IO made no recommendations as to disposition.

b. The only evidence of misconduct by the applicant or Major (MAJ) [REDACTED] comes from a private investigator's report, covertly collected at the request of the applicant's estranged husband and submitted for the purpose of harming the applicant. The allegedly "inappropriately close and personal relationship" was unknown to any military personnel in the command.

c. Neither the GOMOR nor the Army Regulation 15-6 investigation examined the law of conduct unbecoming. The applicant did not violate Article 133, UCMJ, because:

(1) she was legally separated with an eye towards a divorce;

(2) MAJ [REDACTED] had an eye towards a divorce for a significant period and was not living as husband and wife with his wife;

(3) neither individual was in the chain of command of the other;

(4) there was no use of Government resources;

(5) no member of the military was aware that they spent any time together outside of work. The conduct was unknown to any member of the command, but for a jilted spouse; and

(6) the conduct did not impact her moral standing as an officer. These were social activities between two separated officers of the same rank with no overlapping duties or responsibilities that were completely private in nature and unknown to the command.

3. U.S. Army Human Resources Command Orders R-01-208671, 3 January 2022, ordered her to active duty in an Active Guard Reserve status for a period of 3 years with a reporting date of 6 July 2022 and assigned her to the Office of the Chief of the Army Reserve.

4. On 30 January 2023, the Assistant Chief of Staff, Office of the Chief of the Army Reserve, appointed an IO pursuant to Army Regulation 15-6 (Procedures for Administrative Investigations and Boards of Officers) to investigate the facts and circumstances with regard to any extramarital relations between the applicant and MAJ [REDACTED] both members of the Office of the Chief of the Army Reserve.

5. On 13 February 2024, the IO completed the Army Regulation 15-6 investigation wherein he found and recommended the following:

a. Background. On 30 January 2023, the Assistant Chief of Staff, Office of the Chief of the Army Reserve, appointed an IO pursuant to Army Regulation 15-6. The purpose of the investigation was to determine the facts and circumstances with regard to any extramarital relations between the applicant and MAJ [REDACTED] both members of the Office of the Chief of the Army Reserve.

b. Summary and Findings. The IO found that the applicant and MAJ [REDACTED] engaged in an excessively intimate relationship while MAJ [REDACTED] was married, in violation of Article 133 (Conduct Unbecoming an Officer), UCMJ. He based this finding on photographs of the applicant and MAJ [REDACTED] holding hands, kissing, and staying together at a resort over the New Year's holiday. Circumstances that contributed to the misconduct include the applicant's contentious separation from her spouse, MAJ [REDACTED] geographic separation from his wife and children, and the Office of the Chief of the Army Reserve Force Management Division's practice of giving MAJ [REDACTED] rides in privately owned vehicles due to his lack of a privately owned vehicle.

c. Recommendation. The IO recommended:

(1) the appointing authority take action as deemed appropriate to address the applicant's violation of Article 133, UCMJ;

(2) the appointing authority take action as deemed appropriate to address the applicant's violation of Article 133, UCMJ; and

(3) the appointing authority consider referring the applicant and MAJ [REDACTED] to appropriate services to address problems that may have contributed to the misconduct described in this memorandum.

6. On 19 May 2023, the Commanding General, U.S. Army Military District of Washington and Joint Task Force-National Capital Region, issued the applicant a GOMOR for demonstrating poor judgment and conduct unbecoming an officer, wherein he stated:

You are hereby reprimanded for poor judgment and conduct unbecoming an officer. An AR [Army Regulation] 15-6 investigation found by a preponderance of the evidence that you, a married officer, had an inappropriately close and personal relationship with Major [REDACTED] an officer you knew was married. Your conduct seriously compromised your standing as an officer. On 19 December 2022, you were seen entering late at night into the apartment of an officer you knew to be married. On 31 December 2022, you were seen kissing and holding

hands with the same married officer while staying at an overnight resort together on holiday. Your actions constitute conduct unbecoming under Article 133 of the Uniform Code of Military Justice (UCMJ).

As a field grade officer, you are charged with the responsibility of setting an example for subordinates to follow. Clearly, you failed in this regard. Your poor judgement [sic] and conduct seriously compromised your standing as an officer and fell below the high standards expected of officers in the U.S. Army. Your conduct causes me serious concern about your continued service.

This is an administrative reprimand imposed under the provisions of AR [Army Regulation] 600-37 and not as punishment under Article 15, UCMJ. You are advised that in accordance with AR [Army Regulation] 600-37, paragraph 3-5b, I am considering whether 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 [Army Regulation] 600-37, paragraph 3-7.

7. On 24 May 2023, she acknowledged receipt of the GOMOR and elected to submit written matters within 7 duty days. She did not provide and her records do not contain evidence showing she submitted written matters in response to receipt of the GOMOR within the time prescribed.

8. On 30 June 2023, the Commanding General, U.S. Army Military District of Washington and Joint Task Force-National Capital Region, directed permanently filing the GOMOR in her AMHRR.

9. On 10 July 2023, she acknowledged the GOMOR filing determination.

10. On 18 September 2023, a BOI convened to determine whether the applicant should be separated from the Army prior to the expiration of her term of service under the provisions of Army Regulation 600-8-24 (Officer Transfers and Discharges), paragraph 4-2b, for misconduct, moral or professional dereliction, and 4-2c, for derogatory information. The board, in a closed session and upon secret ballot with a majority vote taken, made the following findings and recommendations:

a. The board, having carefully considered the evidence before it, found:

(1) The allegation that the applicant committed acts of personal misconduct pursuant to Army Regulation 600-8-24, paragraph 4-2b(5), in that between on or about 1 December 2022 and on or about 31 December 2022, the applicant, a married officer, had an inappropriately close relationship with another officer, not her spouse in violation of Article 133, UCMJ, is not supported by the preponderance of the evidence.

(2) The allegation that the applicant exhibited conduct unbecoming an officer pursuant to Army Regulation 600-8-24, paragraph 4-2b(8), by engaging in the conduct indicated in the allegations is not supported by a preponderance of the evidence.

(3) The allegation that the applicant received a GOMOR, 16 May 2023, for misconduct which was filed in her AMHRR, constituting derogatory information under Army Regulation 600-8-24, paragraph 4-2c, as listed in the notification of proposed separation is not supported by the preponderance of the evidence.

b. In view of these findings, the BOI recommended the applicant's retention in the U.S. Army.

11. On 19 September 2023 in Docket Number AR20230010056, the Department of the Army Suitability Evaluation Board (DASEB) denied the applicant's request for removal of the GOMOR, 19 May 2023, from her AMHRR. The DASEB determined the evidence presented did not clearly and convincingly establish that the document under consideration was untrue or unjust and did not warrant its removal from her AMHRR.

12. On 16 August 2024, the applicant submitted a request to the Office of the Chief of the Army Reserve for reconsideration of the Army Regulation 15-6 investigative findings on the bases of mistake of law and mistake of fact. There is no evidence showing the Office of the Chief of the Army Reserve rendered a decision regarding her request for reconsideration.

13. She provided the following evidence for consideration:

a. nine letters of support from senior leaders in her unit and previous commanders speaking highly of her leadership, motivation, work on special projects, being one of the top field-grade officers, adhering to the Army values, being intelligent and driven to achieve, and being a team player;

b. a National Apartment Association Apartment Lease Contract, 8 December 2022, showing her as the resident of an apartment on Fort Belvoir, VA, with a lease term beginning 9 December 2022 and ending 8 July 2023; and

c. a computer screenshot showing a pending divorce case for [REDACTED] and [REDACTED] filed on 9 June 2023.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, her military records, and regulatory guidance were carefully considered. Based upon the available documentation, the misconduct involved, and the BOI's recommendation to retain the officer for continued service, as well as the injustice in the view of the Board of future opportunities impacted with the requested document in her record, the Board concluded there was sufficient warranting removal of the General Officer Memorandum of Reprimand, dated 19 May 2023, from the applicant's record.

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:

- deleting from her record the General Officer Memorandum of Reprimand (GOMOR), dated 19 May 2023
- deleting from her record all documents related to the above GOMOR (evidence, endorsements, etc).

1/17/2025

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. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. 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.

2. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to authorize placement of unfavorable information about Army members in individual official personnel files; ensures that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and ensures that the best interests of both the Army and the Soldier are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

a. Chapter 3 (Unfavorable Information in Official Personnel Files) states 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. Paragraph 3-5 (Filing of Nonpunitive Administrative Memoranda of Reprimand, Admonition, or Censure) states nonpunitive administrative letters of reprimand, admonition, or censure in official personnel files, such as a memorandum of reprimand, may be filed in a Soldier's AMHRR 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 AMHRR, the recipient's submissions are to be attached. Once filed in the AMHRR, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states once an official document has been properly filed in the AMHRR, 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 AMHRR.

3. Army Regulation 600-8-104 (Army Military Human Resource Records Management), 7 May 2014, prescribes policies governing the Army Military Human Resource Records Management Program. The AMHRR includes, but is not limited to, the Official Military Personnel File, finance-related documents, and non-service related documents deemed necessary to store by the Army.

a. Paragraph 3-6 states that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the Army Board for Correction of Military Records or other authorized agency.

b. Appendix B shows letters/memorandums of reprimand, censure, and admonition are filed in the performance folder unless directed otherwise by the Department of the Army Suitability Evaluation Board.

//NOTHING FOLLOWS//