

IN THE CASE OF [REDACTED]

BOARD DATE: 21 October 2024

DOCKET NUMBER: AR20240000864

APPLICANT REQUESTS: removal of the DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)), 19 May 2021, from the restricted folder of 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)
- DD Form 2627, 19 May 2021, with associated documents
- U.S. Army Human Resources Command Recruiting Team Email Correspondence, 25 July 2022
- Department of the Army Orders 0005532218, 31 July 2023
- Fort Gregg-Adams Form 1125 (Automated Logistical Specialist Advanced Leaders Course Diploma) covering the period 4 October 2023 through 16 November 2023
- Logistics Noncommissioned Officer Academy, Fort Gregg-Adams, Certificate of Achievement, 16 November 2023

FACTS:

1. The applicant states he requests removal of the DD Form 2627, 19 May 2021, from the restricted folder of his AMHRR. It has been 2 years since the nonjudicial punishment (NJP) was imposed, he has been promoted to staff sergeant, he has executed a permanent change of station, and he has not received any additional NJP. He was Department of the Army selected for recruiting duty, but he was unable to meet the eligibility criteria due to the record of NJP. He recovered from the NJP, completed his Advanced Leaders Course, and graduated as the Distinguished Honor Graduate. He has become a better person and leader.

2. He enlisted in the Regular Army on 5 November 2013. He was promoted to the rank/grade of sergeant/E-5 effective 1 April 2018.

3. The DA Form 2627, 19 May 2021, shows his commander notified him that he was considering imposition of NJP against him on 26 April 2021 under the provisions of

Article 15, UCMJ, while assigned to Headquarters and Support Company, Headquarters and Headquarters Battalion (HHBN), 2d Infantry Division, for the following offenses:

a. failing to go at the time prescribed to his appointed place of duty without authority on or about 8 March 2021, to wit: 0600 work call at HHBN motor pool at or near Camp Humphreys, Korea, in violation of Article 86, UCMJ; and

b. failing to go at the time prescribed to his appointed place of duty without authority on or about 18 March 2021, to wit: 0600 work call at HHBN motor pool at or near Camp Humphreys, Korea, in violation of Article 86, UCMJ.

c. He was afforded the right to consult with counsel. He did not demand a trial by court-martial. He requested a closed hearing and indicated he would present matters in defense in person.

d. In a closed hearing and having considered all matters presented, the imposing commander found him guilty of all specifications.

e. His punishment consisted of forfeiture of \$743.00 pay, suspended, to be automatically remitted if not vacated on or before 19 November 2021; extra duty for 7 days; restriction to the limits of the company area, dining/medical facility, and place of worship for 14 days; and an oral reprimand.

f. The imposing commander directed filing the DA Form 2627 in the restricted folder of his Official Military Personnel File (OMPF) on 19 May 2021. He elected not to appeal the NJP on the same date.

4. The email correspondence between himself and the U.S. Army Human Resources Command Recruiting Team, 25 July 2022, shows the U.S. Army Recruiting Command disapproved a waiver to attend an Army Recruiter training course.

5. Department of the Army Orders 0005532218.00, 31 July 2023, promoted him to the rank/grade of staff sergeant/E-6 effective 1 August 2023.

6. The Fort Gregg-Adams Form 1125 covering the period 4 October 2023 through 16 November 2023 shows he completed the Automated Logistical Specialist Advanced Leaders Course. The accompanying Certificate of Achievement named him as Distinguished Honor Graduate for his exceptional academic achievement while maintaining the highest-grade point average in the course.

7. He is currently assigned to Company E (Maintenance), 3d Battalion, 2d Air Defense Artillery Regiment, Fort Sill, OK, in the rank of staff sergeant and will be assigned to the

19th Expeditionary Sustainment Command, Camp Henry, Korea, effective 20 November 2024.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found relief was not warranted.
2. The Board carefully considered the applicant's statement, his record of service, the frequency and nature of his misconduct, the date of the NJP, his promotion to SSG and the disapproval of his attendance to an Army Recruiter Training Course. The Board considered the nature of the applicant's misconduct and the length of time that the NJP has been in the applicant's record. Based on a preponderance of evidence, the Board determined that the presence of the DA Form 2627 in the restricted folder of the applicant's AMHRR is not in error or unjust.

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.

4/28/2025

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 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 non-punitive 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 non-punitive 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 addresses the filing of NJP and provides that a commander's decision whether to file a record of NJP in the performance folder of a Soldier's OMPF is as important as the decision relating to the 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 sergeant and above, the original will be sent to the appropriate custodian for filing in the OMPF. The decision to file the original DA Form 2627 in the performance folder or restricted folder of the OMPF 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 file 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 OMPF. Applications for removal of a DA Form 2627 from the OMPF based on an error or injustice will be made to the Army Board for Correction of Military Records (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.

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. Unfavorable information will not be filed in the AMHRR unless the recipient has been given the opportunity to review the documentation that serves as the basis for the proposed filing and a reasonable amount of time to make a written statement in response.

3. Army Regulation 600-8-104 (Army Military Human Resource Records Management), prescribes policies governing the Army Military Human Resource Records Management Program. 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.

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 ABCMR or another authorized agency.

b. Appendix B states the original DA Form 2627 will be sent to the appropriate custodian for filing in the OMPF. The decision to file the original DA Form 2627 in the performance folder or the restricted folder in the OMPF 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 any superior authority. However, the superior authority cannot direct that a report be filed in the performance folder that the imposing commander directed to be filed in the restricted folder. Records of nonjudicial

punishment presently filed in either the performance or restricted folder of the OMPF will remain so filed, subject to other applicable regulations.

//NOTHING FOLLOWS//