

IN THE CASE OF [REDACTED]

BOARD DATE: 11 June 2025

DOCKET NUMBER: AR20240002644

APPLICANT REQUESTS: removal of the DA Form 2627 (Record of Proceedings under the provisions of Article 15, Uniform Code of Military Justice (UCMJ)), 30 September 2009, and allied documents, 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), 29 February 2024
- 2nd Battalion, 227th Aviation Regiment Memorandum (Appointment of Investigating Officer (IO), 9 September 2009
- DA Form 1574 (Report of Proceedings by IO/Board of Officers), 23 September 2009
- 2nd Battalion, 227th Aviation Regiment Memorandum (Findings and Recommendations, Inappropriate Relationship between (Applicant), and Private First Class (PFC) [REDACTED], 22 September 2009
- Investigation timeline with 117 pages of supporting documents, covering the period from 9 September 2009 to 24 September 2009.
- DA Form 2627 (Record of Proceedings under Article 15, UCMJ, 30 September 2009
- Summary of Accomplishments, from 30 September 2009 to present
- U.S. Army Human Resources Command Memorandum (Statutory Referral to a Special Selection Review Board (SSRB)), 7 September 2021
- Two Emails (Subject: SSRB Results (Applicant)), 10 March 2023 to 21 April 2023
- Department of the Army Orders 0004551222.00, 24 April 2023
- Two Letters of Recommendation, undated

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 an error in judgement stemming from immaturity led to her receiving an Article 15 punishment fifteen years ago. She argues that the non-judicial punishment no longer reflects the responsible and high-performing officer she has become. Despite the setback, she has consistently excelled, earning merit-based promotions and serving in high-responsibility positions, including at the Pentagon. The Article 15 and its repercussions resulted delayed promotions, caused missed opportunities, and affected her personal and family life. She fears that her record unfairly hinders her future advancement to fully serve and reach her potential.

3. Following prior enlisted service in [REDACTED] Army National Guard, she enlisted in the Regular Army on 20 September 2006.

4. On 9 September 2009, an IO was appointed pursuant to Army Regulation 15-6 (Procedures for Administrative Investigations and Board of Officers) to investigate the possible inappropriate relationship between the applicant and PFC [REDACTED]

5. The 2nd Battalion, 227th Aviation Regiment Memorandum (Findings and Recommendations, Inappropriate Relationship between (Applicant), and Private First Class (PFC) [REDACTED] 22 September 2009, shows the IO determined the following (note: the IO's findings included 107 pages of evidence. The full 117 pages are available for the Board to review in the supporting documents):

a. Background: The applicant and PFC [REDACTED] are separately married Soldiers, working in different units within the same brigade. In February 2009, the applicant's husband contacted the unit commander regarding nonpayment of spousal support and an alleged affair between the applicant and PFC [REDACTED]. Suspicious emails were later forwarded to the commander, indicating an inappropriate relationship. Brigade Legal advised that the emails could not be used due to possible tampering by the applicant's husband but recommended issuing a no contact order to both soldiers, which was done in June 2009. Despite the no contact order, both soldiers were seen together in September 2009 and admitted their no contact order had not been lifted.

b. Findings: The applicant and PFC [REDACTED] became acquainted in 2008, eventually living together in a rented house prior to deployment. The investigation concluded their cohabitation, and continued relationship indicated an inappropriate relationship. Claims that PFC [REDACTED] was a guest of the applicant's brother were found to be untrue. While deployed, the two maintained frequent personal contact via government communication systems, degrading their duty performance. Both were found to have willfully disobeyed their no contact order, misused government resources, and attempted to hide their relationship. The applicant also misrepresented her emotional and psychological state to superiors and failed to make spousal support payments, violating Army regulations. Though the evidence suggested adultery, it could not be pursued under the UCMJ

without proof of sexual intercourse. No favoritism was found related to their rank difference, as they worked under separate commands.

c. Recommendations:

(1) Initiate UCMJ action on both the applicant and PFC [REDACTED] for willfully disobeying a superior officer, encompassed in Article 92 (failure to obey order or regulation) of the UCMJ. Their decision to violate the no contact order was a clear violation of a direct order, be the order arbitrary or not.

(2) Initiate UCMJ action on the applicant for making false official statements, encompassed in Article 107 (false official statements) of the UCMJ. The applicant informed Captain [REDACTED] that the person living in her house with her was her brother and that PFC [REDACTED] was a friend of her brother. The preponderance of the evidence is that such statements were untrue, and were made to conceal the true nature of the applicant's relationship with PFC [REDACTED]. A similarly misleading statement was made to Master Sergeant [REDACTED] with regards to the existence of a photo of herself with PFC [REDACTED]. In addition, the applicant indicated on her DD Form 93 (Record of Emergency Data), that she was divorced, when it was in fact untrue. She indicated the same on her Family Assistance Information sheet, her Personal Data Sheet, and indicated that she was not married on her Warrior Family Readiness Data sheet. All of these are in violation of Article 107 of the UCMJ.

(3) Counsel the applicant on AR 608-99 (Family Support, Child Custody, Parentage), specifically paragraphs 2-5 and 2-6. All evidence suggests that the applicant regularly failed to make spousal support payments on time, if at all. Recommend that the commander give the applicant seven days to prove the payment or the last six month's spousal support, as well as require proof of payments on the first of every month until her divorce is finalized. If the applicant fails to complete either task on time, recommend UCMJ action under Article 92.

6. On 30 September 2009, she accepted nonjudicial punishment under the provisions of Article 15, UCMJ, for the following:

a. In that she did, having received a lawful order from a noncommissioned officer, to not contact PFC [REDACTED], and order which was her duty to obey, did at or near Camp Taji, Iraq, on or about 8 September 2009, willfully disobey the same.

b. In that she did, on or about 17 November 2008, with intent to deceive, sign an official record: Service Member's Group Life Insurance Election Form 8286, which

record was false in that she stated her marital status was divorced, and was then known to be false.

c. In that she did, on or about 17 November 2008, with intent to deceive, sign an official record: DD Form 93 (Record of Emergency Data), which record was false in that she stated her marital status was divorced and was then known to be false.

d. In that she did, or about 20 November 2008, with intent to deceive, sign an official record: Family Assistance Information sheet, which record was false in that she stated her marital status was divorced, and was then known to be so false.

e. In that she did on or about 20 November 2008, with intent to deceive, sign an official record: Soldier's Personal Data Sheet, which record was false in that she stated her marital status was divorced, and was then known to be so false.

f. Her punishment included reduction to the rank/grade of specialist/E-4, forfeiture of \$1159.00 per month for two months, 45 days restriction, and 45 days extra duty.

7. The DA Form 2627, 30 September 2009, is currently filed in restricted folder of her AMHRR.

8. On 4 June 2012, she was appointed a commissioned officer of the Regular Army.

9. On 7 September 2021, the Chief, Department of the Army Promotions, notified the applicant that a review of her records by the Fiscal Year 2021 Major (MAJ) Promotion Selection Board, convened on 30 March 2021, revealed adverse information from the Article 15, UCMJ, 30 September 2009, and she was directed to an SSRB.

10.. The Email (Subject: SSRB Results (Applicant)), 10 March 2023, shows the applicant's SSRB was approved and her promotion to the rank of MAJ was sustained.

11. Department of the Army Orders 0004551222.00, 24 April 2023, shows the applicant was promoted to the rank/grade of MAJ/O-4, effective 1 July 2022.

12. The applicant provided:

a. A summary of her accomplishments since her Article 15 punishment on 30 September 2009, wherein she highlights multiple accomplishments throughout her officer career.

b. Two letters of recommendations from a general officer and Colonel who she previously worked with, wherein they provide support and endorsed her promotion to the rank of MAJ.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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 and standard review based on law, policy and regulation. Upon review of the applicants petition available military records the Board determined that the applicant did not present sufficient evidence to demonstrate a procedural error that was prejudicial or that the contents of the Article 15 were substantially incorrect to warrant removal.
2. While the applicant submitted supporting evidence and statements highlighting her exemplary performance and promotion to the rank of major since the imposition of the Article 15. Regulatory guidance prescribes that a Soldier's uncorroborated sworn statement will not constitute a basis to support the setting aside of punishment. Additionally, the Board agreed a clear injustice is not established solely by post-punishment achievements or potential adverse effects on retention and promotion. Based on the available evidence, the Board found no indication that the Article 15 was unjust, inaccurate, or improperly filed in the applicant's Army Military Human Resource Record (AMHRR). Therefore, relief was denied.
3. The purpose of maintaining the Army Military Human Resource Record (AMHRR) is to protect the interests of both the U.S. Army and the Soldier. In this regard, the AMHRR serves to maintain an unbroken, historical record of a Soldier's service, conduct, duty performance, and evaluations, and any corrections to other parts of the AMHRR. Once placed in the AMHRR, the document becomes a permanent part of that file and will not be removed from or moved to another part of the AMHRR unless directed by an appropriate authority.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

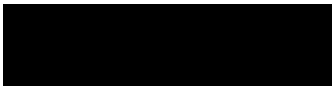
: : : GRANT PARTIAL RELIEF

: : : 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.



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) prescribes policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Board members will review all applications that are properly before them to determine the existence of an error or injustice and direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists in the record. 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.

3. 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 nonpunitive 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 nonpunitive 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 provides that a commander's decision whether to file a record of NJP in the performance folder of a Soldier's AMHRR is as important as the decision relating to 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 SGT and above, the original DA Form 2627 will be sent to the appropriate custodian for filing in the OPMF. The decision to file the original DA Form 2627 in the performance folder or restricted folder of the OPMF 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 filing 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 AMHRR. Applications for removal of a DA Form 2627 from the AMHRR based on an error or injustice will be made to the 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.

//NOTHING FOLLOWS//