

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 December 2024

DOCKET NUMBER: AR20240003419

APPLICANT REQUESTS: removal of the DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)), 20 September 2021, and associated documents 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)
- DA Form 2627, 20 September 2021, with Associated Documents

FACTS:

1. The applicant states he has a company-level record of nonjudicial punishment (NJP) filed in the restricted folder of his AMHRR. He requests complete removal of the DA Form 2627 from his records to enable him to pursue positions of trust in the form of Department of the Army-broadening assignments, such as drill sergeant, instructor, recruiter, or White House enlisted aide.

a. He expressed his most sincere apologies for his past action and notes it has affected his opportunities to date. He believes his past transgression should have no bearing on his character and position today. In June 2021, he requested leave to attend his 10-year high school reunion in his hometown in Texas. He mistakenly entered his leave address as his mailing address in Hawaii instead of the address where his leave would take place in Texas. Because of his carelessness, he rightfully received NJP for violating Article 107 (False Official Statement), UCMJ. He attended the reunion in July 2021.

b. Due to cancellations with his originally scheduled airline, he was required to reserve a flight with a different airline on a different day. Because of this, he did not report back to his unit until well after his leave expired and he rightfully received NJP for violating Article 86 (Absence without Leave), UCMJ. These circumstances were beyond his control; however, he felt he was being proactive by reserving the next available flight

back to the island. These offenses are not a reflection of his position and character. He is an excellent leader and takes great pride in the work that he performs.

c. He works to grow professionally and personally. He was recently granted an internship from the Survey and Mapping Limited Liability Company in Houston, TX, to perform his military occupational specialty in the civilian sector. This allowed him to bring his experience and expertise back to the military. He also received his associate degree in Business Administration and earned a CompTIA Security+ certification in cybersecurity in December 2023. He continues to attend school to receive a Bachelor of Science degree and he obtained a Project Management Professional Certification from the Project Management Institution on 3 January 2024. He was promoted to staff sergeant in January 2024 and has attended many military professional schools.

d. He has learned from his mistakes and has become a better leader and Soldier for it. He lives his life by the Army Values and has maintained a clean military record. He has grown with increased schooling and he has received numerous awards since his receipt of the NJP.

2. He enlisted in the Regular Army on 27 December 2016 in the rank/grade of private first class/E-3. He was promoted to the rank/grade of sergeant/E-5 effective 1 June 2019.

3. Headquarters, 101st Airborne Division (Air Assault) and Fort Campbell, Orders 141-0117, 20 May 2020, assigned him to the 25th Aviation Replacement Detachment, Wheeler Army Airfield, HI, with a reporting date of 10 August 2020.

4. The DA Form 2627, 20 September 2021, with associated documents, shows his commander notified him that he was considering imposition of NJP against him on 8 September 2021 under the provisions of Article 15 (Commanding Officer's Nonjudicial Punishment), UCMJ, while assigned to Headquarters and Headquarters Company, 25th Combat Aviation Brigade, Wheeler Army Airfield, HI, for the following offenses:

a. failing to go at the time prescribed to his appointed place of duty without authority on or about 3 August 2021, to wit: 0090 work call located at 25th Combat Aviation Brigade Headquarters, Building 100, in violation of Article 86, UCMJ; and

b. signing an official document with intent to deceive on or about 9 June 2021, to wit: DA Form 31 (Request and Authority for Leave), dated 9 June 2021, which document was false in that you did not remain at the leave location listed, and was then known by you to be so false, in violation of Article 107, 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, extenuation, and/or mitigation.

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 extra duty for 14 days.

f. The imposing commander directed filing the DA Form 2627 in the restricted folder of his AMHRR on 20 September 2021. He elected not to appeal the NJP on the same date.

5. A review of his records revealed the DA Form 2627 and allied documents are filed in the restricted folder of his AMHRR.

6. He was promoted to the rank/grade of staff sergeant/E-6 effective 1 January 2024.

7. He is currently serving in the rank of staff sergeant as a geospatial engineer with Headquarters and Headquarters Company, 25th Combat Aviation Brigade, 25th Infantry Division, Wheeler Army Airfield, HI.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was 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. One potential outcome was to deny relief finding no error or injustice in the applicant's records. However, upon review of the applicant's petition and available military records, the Board determined the applicant did demonstrate by a preponderance of evidence that this was a onetime occurrence and the applicant has since been promoted and continued to service and do great things for the Army after his lapse in judgement. The Board concluded based on the preponderance of evidence found in the military record removal of the Article 15 is warranted.

2. 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. The Board agreed, there does not appear to be

any evidence the contested Article 15 was unjust or untrue or inappropriately filed in the applicant's AMHRR. However, in the best interest of the Army and the applicant's strong reference character statements and his continued service, the Board granted relief.

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 removing from his Army Military Human Resource Record (AMHRR) the DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ) 20 September 2021, and associated documents from the restricted folder of his Army Military Human Resource Record (AMHRR).

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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 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 Official Military Personnel File (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 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 OPMF. Applications for removal of a DA Form 2627 from the OPMF 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 other 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 NJP presently filed in either the performance or restricted folder of the OMPF will remain so filed, subject to other applicable regulations.

//NOTHING FOLLOWS//