

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 March 2025

DOCKET NUMBER: AR20240005322

APPLICANT REQUESTS: reconsideration of his prior request for retirement for length of service (20 years).

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

- DD Form 149 (Application for Correction of Military Record)
- Enlisted Record Brief (ERB)
- Noncommissioned Officer Evaluation Report (NCOER) covering the period 1 August 2010 through 31 July 2011, original and amended NCOER
- NCOER covering the period 21 March 2014 through 20 March 2015
- Military Personnel Message 15-394, dated 7 December 2015, titled: Procedures for the Fiscal Year 2016 Qualitative Management Program (QMP)
- U.S. Army Human Resources Command (AHRC) memorandum dated 8 December 2015, subject: Department of the Army Notification for Potential Denial of Continued Service under the QMP
- AHRC memorandum, dated 29 April 2016, subject: Notification of Denial of Continued Active Duty Service under the QMP
- AHRC memorandum, dated 15 August 2016, subject: Evaluation Report Appeal (21 March 2014-20 March 2015)
- AHRC Memorandum for Record, dated 15 August 2016, subject: Nonrated Statement
- AHRC memorandum, dated 29 September 2016, subject: Headquarters, Department of the Army (HQDA) Standby Advisory Board (for applicant)
- extract of Army Board for Correction of Military Records (ABCMR) Record of Proceedings Docket Number AR20220008071
- extract of Army Times article on the Army QMP
- excerpt of Army Regulation 15-185 (ABCMR) pertaining to reconsideration of ABCMR decision

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20220008071 on 16 June 2023.

2. The applicant states:

a. He was forced to separate because of the QMP. Both of his NCOERs had a "4" rating, and he was denied continued service. Both NCOERs have been changed. The 2015 NCOER was a "4-3" and was voided in August 2016. The 2011 NCOER was a "4- 2" and was changed to a "2-2" rating in April 2024. Therefore there is no 4 rating in his file. He is providing his ERB to showing his expiration term of service (ETS) was 30 November 2020 based on his last reenlistment for an indefinite period.

b. He is a veteran with 16 years of active duty service. He has been fighting for a 20-year retirement since May of 2016. He was denied continued service by the QMP around April 2016 and was forced to separate on 1 November 2016. He was put on QMP because of two NCOERs; one NCOER (July 2011) with a 4-2 rating and the other one (March 2015) with a 4-3 rating. The part of the military personnel message that changed for 2016 was to include staff sergeants (SSG)/E-6 Soldiers and add the "4" ratings as potentially helping to drop down the force numbers. He is requesting a possible 20-year or 24-year retirement because he was the victim and both allegations were changed and dropped.

3. The applicant enlisted in the Regular Army on 17 November 2000. His ERB shows he was promoted to SSG/E-6 with a date of rank of 1 June 2008.

4. The applicant's NCOER covering the period 1 August 2010 through 31 July 2011 shows in:

a. Part IVc (Physical Fitness and Military Bearing), the rater placed an "X" in the "Needs Improvement (Some)" block and annotated he failed his Army Physical Fitness Test (APFT) 12 April 2011 and failed his height/weight standards.

b. Part Vc (Senior Rater, Overall Performance) and Vd (Senior Rater, Overall Potential for Promotion and/or Service in Positions of Greater Responsibility) his senior rater rated his overall performance as "4/Fair" and his overall potential as "2/Superior."

5. The applicant reenlisted on 2 November 2012 for an indefinite period. The reenlistment document shows he acknowledged that his reenlistment was for an indefinite period and he would be allowed to serve until the retention control point (RCP) for his current rank. The RCP for his rank at the time was 30 November 2020.

6. The applicant's NCOER covering the period 21 March 2014 through 20 March 2015 shows in:

a. Part IVc, the rater placed an "X" in the "Needs Improvement (Some)" block and annotated he passed the APFT on 24 September 2014 and met height/weight

standards and entered the following bullet comment: failed to meet standards in accordance with Army Regulation 600-9 (The Army Body Composition Program).

b. Part IVf (Responsibility and Accountability), the rater placed an "X" in the "Needs Improvement (Some)" block and entered the following bullet comments:

- failed to properly execute additional duty requirements as the company Personnel Recovery (PR) noncommissioned officer (NCO) in charge; resulted in the company not being properly trained on PR procedures
- showed lack of concern as the company's primary EOL (note: interpreted to mean equal opportunity liaison) failing to conduct 2nd quarter fiscal year 2015 equal opportunity training

c. Part Va (Rater. Overall Potential for Promotion and/or Service in Positions of Greater Responsibility), the rater placed an X in the "marginal" block.

d. Parts Vc and Vd, his senior rater rated his overall performance as "4/Fair" and his overall potential as "3/Superior."

e. Part Ve (Senior Rater Bullet Comments), his senior rater entered the following:

- promote to sergeant first class when slots are available
- send to advanced military schooling when slots are available
- continue to mentor and challenge this NCO at current levels of responsibility
- a technical "SME" and great asst for operations, but demonstrates a lack of self-discipline in physical fitness

7. In a memorandum dated 8 December 2015, AHRC informed the applicant that a QMP board would convened on 1 March 2016 to consider his separation as a result information contain in his Army Military Human Resource Record (AMHRR). Specifically, his NCOERs discussed above.

8. In a memorandum dated 29 April 2016, AHRC informed the applicant the QMP Selection Board conducted a comprehensive review of his record for potential denial of continued service under the QMP and recommended denial of his continued active duty service. He was further informed the Director of Military Personnel Management approved the board's recommendation and as result, he would be involuntarily discharge from the Army not later than 1 November 2016.

9. The applicant submitted an NCOER appeal, dated 6 June 2016, appealing his NCOER covering the period 21 March 2014 through 20 March 2015 on the basis of administrative inaccuracy. On 20 July 2016, the Army Review Boards Agency, Enlisted Special Review Board (ESRB), determined the applicant's contentions that the

contested NCOER contained administrative and substantiated errors specifying unjustly prejudicial information had merit. As result, the ESRB directed the removal of the contested NCOER from his AMHRR.

10. In a memorandum dated 15 August 2016, AHRC Appeals and Corrections Section informed the applicant that as result of the ESRB's decision, his NCOER covering the period 21 March 2014 through 20 March 2015 was removed from his AMHRR and replaced with a Memorandum for Record annotating non-rated time. He was also informed that his corrected records were forwarded to the AHRC Enlisted Promotion Section for determination on promotion reconsideration.

11. Orders issued on 17 August 2016 ordered the applicant's discharge from the Regular Army effective 1 November 2016.

12. In a memorandum dated 29 September 2016, AHRC informed the applicant that his request for HQDA Standby Advisory Board was approved, and his record would be considered for promotion to sergeant first class on or around 7 February 2017.

13. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged on 1 November 2016, in the rank and grade of SSG/E-6, under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 4, by reason of non-retention on active duty. The DD Form 214 also shows he completed 15 years, 11 months, and 15 days of active service.

14. In the applicant previous case (AR20220008071), the Board determined the evidence presented was sufficient to warrant partial relief. As a result, the Board recommended the amendment of the applicant's NCOER for the period ending 31 July 2011 by:

- changing the entry in Part IVc from "APFT FAIL 20110412" to "APFT PASS 20110603"
- changing the box checked in Part IVc to "success"
- deleting the rater's comments in Part IVc
- deleting the first two comments in Part Ve
- changing the box checked in Part Vc to "3"

15. The Board further determined there was insufficient evidence to determine if the NCOER for the period ending 31 July 2011 was the only basis for his non-retention on active duty. As a result, the Board was unable to determine if amending the NCOER had created an injustice related to his discharge. In the absence of additional evidence, the Board determined the portion of the applicant's request pertaining to additional service credit should be denied.

BOARD DISCUSSION:

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. Regulatory guidance provides that the mere fact that a Soldier's performance has improved or that the Soldier's file contains material error is not necessarily sufficient to overcome the reason for QMP selection. The appeal board may determine that the reason for QMP selection still applies even in light of the improved performance or correction of an error. Upon review of the applicant's petition, available military records, the Board concluded there was insufficient evidence of an error or injustice which would warrant relief.

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 to amend the decision of the ABCMR set forth in Docket Number AR20220008071 on 16 June 2023.

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 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. Chapter 19 contains policies and procedures for voluntary and involuntary separation, for the convenience of the Government, of noncommissioned officers (NCO) under the Qualitative Management Program (QMP). NCOs whose performance, conduct, and/or potential for advancement do not meet Army standards, as determined by the approved recommendations of Headquarters Department of the Army (HQDA) centralized selection boards responsible for QMP screening, will be denied continued service. The QMP is designed to enhance the quality of the career enlisted force, selectively retain the best qualified Soldiers, deny continued service to nonproductive Soldiers, encourage Soldiers to maintain their eligibility for further service.

a. QMP selection criteria include, but are not limited to:

(1) Moral or ethical conduct incompatible with the values of the NCO corps and the Army ethic.

(2) Lack of potential to perform NCO duties in current grade.

(3) Decline in efficiency and performance over a continuing period, as reflected by NCOERs or failure of NCO Education System courses.

(4) Recent or continuing disciplinary problems, as evidenced by conviction by court-martial, nonjudicial punishment, or administrative reprimand.

(5) Other discriminators such as imposition of a field commander's bar to reenlistment, inability to meet physical fitness standards, and failure to comply with requirements of the Army body composition program.

b. HQDA, Deputy Chief of Staff, G-1, or his/her designee, is authorized to approve the recommendations of QMP boards. The DCS, G-1, or his/her designee, is also the authority for separation under this chapter.

c. A Soldier denied continued service under the QMP may appeal the determination and request retention on active duty on the basis of improved performance and/or presence of material error in the Soldier's record when reviewed by the selection board.

d. The mere fact that a Soldier's performance has improved or that the Soldier's file contains material error is not necessarily sufficient to overcome the reason for QMP selection. The appeal board may determine that the reason for QMP selection still applies even in light of the improved performance or correction of an error.

e. Successful appeals result in removal of the denial of continued service determination.

2. Title 10, U.S. Code, section (Twenty to thirty years: enlisted members) provides that under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired.

//NOTHING FOLLOWS//