

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 August 2025

DOCKET NUMBER: AR20240006504

APPLICANT REQUESTS: in effect –

- Correction of his records to show all awards and decorations awarded and/or authorized
- Correction of his record to show wartime service for the period September 2001 through January 2002
- Reconsideration by a Special Selection Board (SSB) for promotion to major (MAJ)
- Removal of derogatory information from his records based on reprisal

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's statement, wherein, he requests redress by retroactive promotions due to promotion board injustices
- Additional DD Forms 149 requesting additional awards, decorations, medals and citations; he also requests to be awarded the Ranger Tab and to update his records
- College transcripts, diplomas, and honorary degrees showing his level of civilian education
- U.S. Army Human Resources Command (HRC) Memorandum dated 23 January 2007, showing a SSB convened; unfortunately, he was not selected; according to the settlement in Wasson v. Secretary of the Army he received promotion consideration to implement the statutory exception under the provisions of Title 10, U.S. Code (USC), section 12205(b)4
- Orders Number D-12-249555, dated 24 December 2002, discharging the applicant from the U.S. Army Reserve (USAR), effective 1 January 2003
- Orders Number D-02-307183, dated 19 February 2003, discharging the applicant from the USAR, effective 19 February 2003
- DA Forms 67-9 (Officer Evaluation Report (OER)), various dates, showing his rank, unit, station, principal duties, responsibilities, and ratings
- Department of Veterans Affairs (VA) summary of benefits dated 23 March 2024, showing he is unemployable and considered to be totally and permanently disabled due solely to his service-connected disabilities

- Multiple license, identification and membership cards showing multiple licenses for private investigator, security officer, concealed firearms, state licenses and others
- Photograph of himself
- Email communication, dated 10 March 2025, requesting updates to his records based on his service in Saudi Arabia during Operations Noble Eagle, Enduring Freedom, and the Global War on Terror; he also describes his duties, assignments, growth, and efforts
- National Intelligence Meritorious Unit Citation dated 13 February 1990, which does not appear in Army Regulation (AR) 600-8-22 (Military Awards)
- Email communication, dated 15 March 2025, wherein, he wrote to provide the Board with a copy of his college transcripts, diplomas, and degrees, which were submitted to the U.S. Army Personnel Records Branch in 1994 and 1997
- Fax with attachments, dated 5 May 2025; provided Joint Services Transcript showing military course titles, college level test scores, and other learning experiences
- Email, wherein, he wrote a 6-page biography describing, outlining, and highlighting his military career
- Fax with attachments, dated 5 May 2025, containing a request for wear of the Special Forces Tab, regulatory and policy extracts, Enlisted Evaluation Reports, orders, and training diplomas
- Message approving the Joint Meritorious Unit Award for the National Security Agency/Central Security Service for the period of 1 June 1991 to 1 June 1995
- DA Form 67-8 (Officer Evaluation Report) period covered 15 May 1993 through 14 May 1994, showing his unit of assignment (National Security Agency, B Company, 741st Military Intelligence Battalion, Fort Meade, MD), principal duties, and ratings
- Joint Service Commendation Medal and Citations for the period of April 1989 to October 1990, while serving in the Operations Organization of the National Security Agency
- General Order Number 120, dated 16 August 1990, awarding him the medal
- DA Forms 2166-7 (NCO Evaluation Report), various periods, showing his rank, units of assignment, principal duty, and ratings
- Orders Number C05-593021, dated 15 May 2025, placing the applicant on the Army of the United States retired list, effective 9 June 2025
- DA Form 1059 (Service School Academic Evaluation Report) dated 30 August 2001, showing he completed the Air Deployment Planning Course
- Orders Number B-09-607234, dated 27 September 2006, which promoted the applicant to the rank of MAJ, effective 7 June 2006
- Basic Scuba Diver certificate, dated 15 December 1987, showing he completed the Basic Scuba Diver course

- Additional OERs, various periods showing his rank, units of assignment, principal duties, and ratings
- Officer Record Brief (ORB), dated 25 April 2002, showing his rank, assignment information, specialty/military occupational data, military education, civilian education, awards and decorations, assignment history (Korea, 1994)
- Ranger Indoctrination Program diploma, dated 31 July 1991, showing he completed the course at Fort Benning, GA

### 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, in part:

- As a captain/O-3, he transitioned from active duty to active Reserve March 1999
- He possessed more than 14 years active service, enlisted and officer, three honorable discharges, including one reenlistment, one transition from enlisted to officer, and a transition from active duty to active Reserve
- He entered the active Reserve as a decorated captain (CPT)/O-3
- He has come to realize that he was due promotions that did not occur although his active Reserve officer evaluation reports did recommend promotion
- He has also discovered from a review of his record; the MAJ promotion board made an error in that it overlooked him several times claiming he had no college degree; he possessed two bachelors
- The MAJ board ended his career; at the time of the board, he had two associate and bachelor's degrees
- After being passed over by the MAJ board several times in error, he received an Honorable discharge in 2003; he had already achieved 5,700 retirement points; he was required to stop drilling
- The Army later promoted him to MAJ in the year 2006
- If he had been promoted on time from year 1999-2006; he would have achieved the rank of O-7 (Brigadier General) minimum
- Service medals such as Global War on Terrorism Service Medal (GWOTSM), National Defense Service Medal (NDSM)-3, Armed Forces Reserve Medal (AFRM)-3, etc. are due to him also; all unit citations and service medals from year 1999 to 2003 are also due to him
- The following service medals should be awarded for his active Reserve service during operations Enduring Freedom, Iraqi Freedom, and Noble Eagle: GWOTSM-3, Army Reserve Components Achievement Medal (ARCAM)-2, AFRM with M-3, Armed Forces Service Medal (AFSM), and NDSM-4

- The Korea Defense Service Medal (KDSM) should be awarded for his service in Korea 1994-1995
- He requests that the following badges and medals, on record in his military file, be added to his DD Form 214 and ORB: Aviation Crew Member Load Planner 3S, Space Activities Badge 3Y, Scuba Diver, Basic Airborne 5P, The German Armed Forces Proficiency Badge Silver, and the National Intelligence Meritorious Unit Commendation
- Please add: GWOTSM-3, ARCAM-2, AFRSM W/M-3, AFSM, NDSM-4, and KDSM to his ORB and DD Form 214 after they are awarded
- He served in active Reserve status from 19 May 1999 to 27 September 2006, and mobilized with the 350th Civil Affairs Command (CACOM), 3rd Battalion (BN), 311th Regiment (REGT), 5th Brigade (BDE), and 5/159th Aviation, 244th Aviation Regt, during the following military operations: Enduring Freedom, Iraqi Freedom, and Operation Noble Eagle
- The National Intelligence Meritorious Unit Citation was awarded while assigned to the National Security Agency CSS 741st MI BN, 704th MI BDE, from 1989 to 1990
- He was assigned to the 1st Special Forces Group from December 1987 to June 1989 as a staff sergeant/E-6 18E/05H3S prior to obtaining his commission in February 1991
- He again served with special forces as a CPT in 350th CACOM from 19 March 1999 to 29 July 2000; in addition, he completed the Special Forces correspondence course; Add Special Qualification Identifier (SQI)-S and SQI-3 for these periods of service in Special Forces (SF), SF-TAB
- Remove all derogatory information from his file to the restricted file until it can be permanently deleted; it is the result of reprisal
- He requests to be awarded/authorized the Ranger Tab based on completing the U.S. Army Ranger Indoctrination Program on 31 July 1991; the Ranger Tab be added to his personnel file, ORB, and DD Form 214
- He also requests to be awarded the Armed Forces Expeditionary Medal

3. The applicant requests correction of his ORB. The Board does not correct ORBs. The correction of ORBs is a unit function. Therefore, the Board will not consider the request to correct his ORB.

4. A review of the applicant's service record shows:

- On 5 December 1984, the applicant enlisted in the Regular Army
- On 17 January 1991, he was honorably discharged and ordered to active duty as a commissioned officer; he completed 6 years, 1 month, and 17 days net active service this period; DD Form 214 (Certificate of Release or Discharge from Active Duty) shows in:

- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):
  - Expert Badge Rifle (M-16)
  - Army Service Ribbon
  - Army Good Conduct Medal (2nd Award)
  - Army Commendation Medal
  - Army Achievement Medal
  - Joint Service Commendation Medal
  - Overseas Service Ribbon
  - Noncommissioned Officer Professional Development Ribbon-2
  - Parachutist Badge
- Item 14 (Military Education):
  - Electronic Warfare/Signal Intelligence Morse Interceptor, 24 weeks, 1995
  - German Head Start, 1 week, 1995
  - Primary Leadership Development Course, 4 weeks, 1987
  - Basic Noncommissioned Officer Course, 7 weeks, 1988
  - Officer Candidate Course 1-91, 14 weeks, January 1991
- On 18 January 1991, the applicant was appointed as a Reserve commissioned officer, in the rank/grade of second lieutenant (2LT)/O-1, and executed his oath of office
- On 31 July 1991, he completed the Military Intelligence Officer Basic Course
- On 19 January 1993, DA Form 71 (Oath of Office – Military Personnel) shows he was appointed as a Reserve commissioned officer, in the rank of first lieutenant and executed his oath of office
- On 14 May 1993, he completed the Cryptologic Skills for Junior Officers Course
- On 11 January 1995, Order Number 2-042 promoted him to the rank/grade of CPT/O-3, with a Date of Rank (DOR) of 1 February 1995
- On 15 February 1996, he completed the Military Intelligence (MI) Officer Advanced Course
- DA Forms 67-8 (U.S. Army OER) show the applicant received two referred OERs with unfavorable ratings and comments for the period covered from 16 February to 17 August 1997; at that time, he was a CPT with a DOR of 1 February 1995
- On 22 April 1998, a Board of Inquiry (Elimination) – Summary Sheet shows elimination action was initiated against the applicant for substandard performance of duty; he failed to perform his duties as a CPT in the U.S. Army in a satisfactory manner as an Assistant S3

- His record contains an ORB dated 17 July 1998, which shows his military education, civilian education (Level Completed – Baccalaureate), and awards and decorations
- On 11 September 1998, DA Form 1574 (Report of Proceedings by Investigating Officers/Board of Officers) shows the Board of Inquiry:
  - Found the applicant demonstrated substandard performance as indicated by a downward trend in overall performance resulting in an unacceptable record of efficiency; this was substantiated by substandard performance evaluations documented; and
  - Recommended he be separated from the service in accordance with Army Regulation (AR) 600-8-24 (Officer Transfers and Discharges) for substandard performance; separation for substandard performance automatically is characterized as an Honorable Discharge
- On 22 January 1999, the Deputy Assistant Secretary (Army Review Boards) approved the recommendation for elimination for substandard performance of duty, and directed he be discharged from the Army with an Honorable Discharge
- On 27 January 1999, the Commander, Total Army Personnel Command (PERSCOM) requested the issuance of orders discharging the applicant
- On 19 March 1999, he was honorably discharged from the Army for substandard performance and was transferred to the USAR Control Group (Reinforcement); DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he entered active duty on 18 January 1991 and completed 8 years, 2 months, and 2 days of net active service this period; it also shows in:
  - Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):
    - Joint Service Commendation Medal
    - Army Commendation Medal
    - Joint Service Achievement Medal
    - Army Achievement Medal (2nd Award)
    - Army Good Conduct Medal (2nd Award)
    - National Defense Service Medal
    - Noncommissioned Officer's Professional Development Ribbon (Numeral 2)
    - Army Service Ribbon
    - Overseas Service Ribbon (2nd Award)
    - Parachutist Badge
    - Air Force Space Badge

- Silver German Armed Forces Proficiency Badge for General Duties of the Army
- Item 14 (Military Education):
  - Basic Airborne Course, 1987
  - Military Intelligence Officer Basic Course, 1991,
  - National Comp [Computer] Security Course, 1992
  - Crypto Skill Junior Officer Course, 1993
  - Military Intelligence Officer Advanced Course, 1996
  - Intelligence Collection Management Course, 1996
- On 26 July 2001, by memorandum, PERSCOM notified the applicant that the performance portion of his official military record according to the Memorandum of Instructions (MOI) provided by the Secretary of the Army was considered, but unfortunately, he was not recommended for promotion to the next higher grade (MAJ)
  - The applicant was informed/advised that his career manager may be able to assist him in improving his official file and to advise him regarding specific actions which may increase his potential for promotion
- On 24 December 2002, Orders Number D-12-249555 discharged the applicant from the USAR, effective 1 January 2003
- On 19 February 2003, Orders Number D-02-307183 discharged the applicant from the USAR, effective 19 February 2003
- On an unknown date, by memorandum, the U.S. Army John F. Kennedy Special Warfare Center and School, Personnel Officer, notified the applicant that his request for award of the Special Forces Tab was denied "at this time"
- On 12 June 2003, by memorandum, the PERSCOM, Chief, Office of Promotions Reserve Components, notified the applicant that a Department of the Army (DA) SSB was convened to consider SSB requests; the SSB examined the performance portion of his Official Military Personnel File (OMPF):
  - The applicant was considered under 2002 criteria, but unfortunately, was not selected for promotion by the board
  - His non-selection by the SSB did not constitute an additional failure of selection, but was confirmation of the action of the regularly convened board
  - The specific reasons for his non-selection were not known, as selection boards do not record their reasons for selection or non-selection
  - In absence of new evidence showing that an error or injustice existed, further consideration by SSB is not possible

- On 13 December 2005, the Chief, Military Law, U.S. Army Reserve Command forwarded the applicant's involuntary separation action to the Staff Judge Advocate, 63rd Regional Readiness Command (RRC) and stated, although the applicant resided in the Philippines during the request for a separation board:
  - He recently updated his home address, as of 5 November 2005, to an address in Moreno Valley, CA
  - As the RRC nearest the applicant's residence, please initiate the involuntary separation action against the applicant, as directed by "LG J\_ H" in his memorandum dated 27 May 2005
- On 27 September 2006, Orders Number B-09-607234 promoted the applicant to the rank of MAJ, effective on with a DOR of 7 June 2006
- On 23 January 2007, by memorandum, the HRC, Chief, Office of Promotions Reserve Components, notified the applicant that a DA SSB convened to consider officers for promotion who may have been improperly non-selected for promotion; the HRC official stated:
  - The applicant was considered under the criteria year 2002 by the SSB
  - The original MOI for the subject board included the civilian education requirement prescribed by AR 135-155 paragraph 2-9b(2) which required that captains being considered for promotion to major possess a baccalaureate degree if the officer's initial appointment was after 1 October 1997
  - Title 10, USC, section 12205(b)4, provides an exception to the baccalaureate degree requirement for officers who were appointed to the grade of CPT before 1 October 1995
  - According to the settlement agreement in Wasson v. Secretary of the Army the applicant received promotion consideration to implement this statutory exception
  - Unfortunately, the applicant was not among the officers selected for promotion
  - In absence of new evidence showing that an error or injustice exists, further consideration by SSB is not possible
- On 24 January 2009, DA Form 1574 shows the applicant failed to respond/appear and failed to appear or invoke his right to defense counsel; the administrative separation board:
  - Found the applicant did commit Moral or Professional Dereliction of Duty based on unsatisfactory participation due to failure to satisfactorily complete military duty resulting in his unexcused absence from Annual Training on 1 November 2008, in violation of AR 135-175 (Separation of Officers), paragraph 2-12 and AR 135-91 (Service Obligations, Methods of

Fulfillment, Participation Requirements, and Enforcement Procedures)

- Recommended the applicant be separated and his service be characterized as Under Other Than Honorable Conditions
  - On 5 March 2009, the Chief, Military Law determined that the proceedings complied with applicable regulations and were legally sufficient
  - On 26 August 2009, HRC notified the applicant that the separation board's findings and proceedings were approved, and he would be separated from the USAR with the issuance of an Under Other Than Honorable Conditions Discharge
  - On 28 August 2009, Orders Number D-08-917400 discharged the applicant from the USAR, Under Other Than Honorable Conditions, effective 28 September 2009
  - On 25 February 2011, the Army Discharge Review Board voted unanimously to deny the applicant's request for an upgrade of his Under Other Than Honorable Conditions discharge; the board determined that the discharge was both proper and equitable
  - On 15 May 2025, Orders Number C05-593021 placed the applicant on the Retired List, effective 9 June 2025
5. On 20 February 2025, the HRC, Human Resources Specialist, Officer Promotions Special Actions, provided an advisory opinion for this case and stated:
- a. Based on a review of our [HRC] records and the information provided, we find that the applicant's request for a SSB does not have merit.
  - b. The applicant was originally disqualified for promotion consideration under Calendar Year (CY) 2002 due to his civilian degree transcripts not being uploaded into his Army Military Human Resources Record (AMHRR). The original MOI for the CY2002 board included a provision that CPTs being considered for promotion to MAJ must possess a baccalaureate degree if the officer's initial appointment was after 1 October 1997. Title 10, U.S. Code (USC), section 12205(b)4 provided an exception to this provision for officers who were promoted to CPT prior to 1 October 1995. In 2006, the applicant was granted an SSB for promotion reconsideration under the CY2002 criteria. Unfortunately, he was not recommended for promotion by the SSB.
  - c. The reasons for the applicant's non-selection are unknown because statutory requirements set forth in Title 10, USC, section 14104 Nondisclosure of Reserve Selection Board Proceedings, prevent disclosure of these proceedings to anyone outside the promotion board in question. It can only be concluded that the promotion board determined that the applicant's overall record, when compared with the records of his contemporaries, did not reflect as high a potential as those selected. Therefore, reconsideration can only occur as a directive by the ABCMR.

6. On 25 February 2025, the applicant was provided a copy of the HRC advisory opinion. On the same date, he responded and stated, in part:

- His promotion board file was incomplete due to the negligence and dereliction of duty the Army personnel records management branch exhibited by not presenting a complete and accurate record to the promotion board
- His initial appointment to CPT/O-3E occurred on 11 January 1995, prior to 1 October 1995 and much prior to October 1997
- See attached promotion Order Number 2-042, dated 11 January 1995; due to the continued negligence and unjust activity of the Army personnel records management branch, these oversights hindered his promotion
- Due to the negligence and dereliction of the Army's personnel records management branch, a complete and proper promotion board file was not presented to the promotion board, hindering the board's ability to review an accurate and complete record
- His promotion file was less competitive because of missing awards and decorations from Operation(s) Enduring Freedom, Iraqi Freedom, and Noble Eagle
- The entire email can be reviewed and considered within the tabbed supporting documents

7. On 26 February 2025, in an email, the applicant stated, he was amazed to see the memorandum from Kentucky and the level of inaccuracy. He was shocked by the statements made by the author of it. He is assuming this determination can be made within 30 days. Is there any other information he needs to provide the Board? His ORB from the time of the injustice, is included in this email. Please provide it to the Board also. It is missing from his official records.

8. On 4 March 2025, by email, the applicant provided an additional statement titled "My Insufficient and Unjust Promotion Board File: A Journey Through Service and Recognition". He listed a table of contents with 6 chapters/sections and stated in part, he recognized the importance of accurate representation and recognition of contributions. The journey through the promotion board process has been fraught with challenges, but it has also highlighted the resilience and dedication of those who serve. The entire email can be reviewed and considered within the tabbed supporting documents.

9. On 5 March 2025, by email, the applicant provided "Two incomplete awards and decorations list from the National Personnel Records Center. Both are insufficient because they do not list all of my awards and decorations."

10. On 14 March 2025, by email, the provided a response titled "Unlawful Command Influence and the Army Board for Correction of Military Records: A Violation of

Article 37 of the UCMJ [Uniform Code of Military Justice]". In part it states:

a. Unlawful command influence (UCI) is a serious issue within the military justice system, as it undermines the integrity of legal proceedings and erodes trust in the military justice system. Article 37 of the UCMJ explicitly prohibits UCI, stating that "no person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of a board or any other military tribunal or any member thereof, negatively, in reaching the findings or sentence in any case." Despite this explicit prohibition, instances of UCI continue to occur, particularly in cases before the ABCMR.

b. In conclusion, UCI poses a significant threat to the integrity of the ABCMR. We can work towards a more just and equitable system by understanding the implications of UCI and the protections afforded to service members under Article 37 of the UCMJ.

11. On 1 April 2025, by email, the applicant stated, "we must uphold AR 600-8-22 (Military Awards) for the sack [sake] of recognition and correctness." He wrote about:

- The Value of Recognition in Military Service, The Significance of End of Tour Awards, Acknowledgment of Service and Sacrifice, Professional Development, Promotions, and Career Progression, and Preserving Historical Legacy
- Navigating the Awards Process: A Call to Action, Understanding the Complexities, Addressing Missing Awards, and Engaging the Chain of Command
- Seeking Higher Review: The ABCMR and Leveraging Support Networks
- Conclusion: Upholding the Integrity of Military Recognition

12. On 10 April 2025, by email, the applicant attached a historical record of his performance from private first class to MAJ, included with the documents provided to the Board earlier.

13. On 28 May 2025, by email, he stated to advise the Board that we continue in a U.S. Department of Justice/U.S. Federal Bureau of Investigations case against unlawful command influence, identity theft, and deprivation of rights. Please see the attached file. "Those are convictions we have succeeded at so far. We are attempting to correct my military record and further prosecute the offenders." The applicant attached several cases addressed to him from the U.S. Department of Justice.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief is warranted. The Board carefully considered the applicant's record of service, documents submitted in support

of the petition, and executed a comprehensive review based on law, policy, and regulation.

2. Additional Awards. Grant. The Board reviewed and concurred with the analyst of record's administrative note below to add additional awards the applicant is authorized to more accurately depict his military service.

3. Wartime service for the period September 2001 through January 2002. Deny. Upon review of the applicant's petition and available military records the Board determined there was insufficient evidence of an error or injustice. Based on this, the Board denied relief.

4. Reconsideration by a SSB for promotion to MAJ. Deny. The Board concurred with the HRC, Officer Promotions Special Actions, advisory opinion and found the request was without merit. The evidence of record shows, in 2006, the applicant was granted an SSB for promotion reconsideration to MAJ under the CY2002 criteria. Unfortunately, he was not recommended for promotion by the SSB. The Board determined that the applicant has not demonstrated by a preponderance of evidence that any procedural error occurred that was prejudicial to the applicant. The Board further noted that the applicant bears responsibility for reviewing and ensuring that his promotion board file is accurately updated prior to the promotion selection board. The Board concluded the applicant does not meet the criteria for an SSB. Therefore, relief was denied.

5. Removal of derogatory information. Deny. Upon review of the applicant's petition, available military records, and supporting documents, the Board found no evidence to support the applicant's contention of reprisal. Based on the preponderance of evidence available for review, the Board determined the evidence presented was not sufficient to warrant a recommendation for relief.

BOARD VOTE:


<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
XX	XX	XX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 19 March 1999 by adding the:

- Korea Defense Service Medal
- 2 bronze service stars to the National Defense Service Medal
- Global War on Terrorism Service Medal
- Joint Meritorious Unit Award

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any other requested relief not mentioned above.

  
**X** //SIGNED//

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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.

ADMINISTRATIVE NOTE(S):

1. Reference the enclosed request for correction of military records from the applicant to correct his DD Form 214 for the period ending 19 March 1999, by adding the:

- Korea Defense Service Medal
- 2 bronze service stars to the National Defense Service Medal
- Global War on Terrorism Service Medal
- Joint Meritorious Unit Award

2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.

- DD Form 214 ending on 17 January 1991
- DD Form 214 ending on 19 March 1999
- Officer Record Brief, 25 April 2002
- AR 600-8-22 (Military Awards)
- AR 635-8 (Separation Processing and Documents)

REFERENCES:

1. Title 10, U.S. Code (USC), 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. Title 10, USC, section 1556, provides that the Secretary of each military department shall ensure that an applicant seeking corrective action by the Army Review Boards Agency is provided a copy of all correspondence and communications (including summaries of verbal communications) to or from the agency or board, or a member of the staff of the agency or board, with an entity or person outside the agency or board that pertain directly to the applicant's case or have a material effect on the applicant's case.
3. AR 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 Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that 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. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.
4. Title 10, USC, section 12205 – Commissioned officers: appointment; educational requirement, provides that no person may be appointed to a grade above the grade of first lieutenant in the Army Reserve or be federally recognized in a grade above the grade of first lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree by a qualifying educational institution. Subsection (b)(4), exceptions state, subsection (a) does not apply to the appointment to or recognition in a higher grade of any person who was appointed to, or federally recognized in, the grade of captain before 1 October 1995.
5. Title 10, USC, section 14104 – Nondisclosure of board proceedings provides that the proceedings of a selection board convened under section 14101 or 14502 of this title may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board. This prohibition is a statutory exemption from disclosure, as described in section 552(b)(3) of title 5.
6. AR 135-155 (Promotion of Commissioned Officers and Warrant Officers) prescribes the officer promotion function of the military human resource support operations for officers on the Reserve active status list (RASL) and U.S. Army Reserve (USAR) warrant officers. In pertinent part, Chapter 6 (SSB) states in:

a. Paragraph 6-1, SSBs are governed by the same instructions provided to the boards that considered or should have considered an officer for promotion. Inquiries concerning these boards should be addressed to Commander, HRC, Fort Knox, KY.

b. Paragraph 6-2, SSBs are convened under Title 10, USC, section 14502 to consider or reconsider commissioned officers on the RASL for promotion when Headquarters, Department of the Army determines that one or more of the following circumstances exist:

(1) Administrative error (Title 10, USC, section 14502(a)) (SSB required). An officer was not considered from in or above the promotion zone by a regularly scheduled board because of an administrative error. This would include officers who missed a regularly scheduled board while on the Temporary Disability Retired List and who have since been placed on the RASL.

(2) Material errors (Title 10, USC, section 14502(b)) (HRC discretionary, see paragraph 6-13a). (a) The action of the promotion board that considered the officer from in or above the promotion zone was contrary to law in a matter material to the decision of the board or involved material error of fact or administrative error. (b) The board that considered the officer from in or above the promotion zone did not have before it material information for its consideration.

(3) An SSB will not consider an officer whose non-selection or omission was for BZ consideration.

c. Paragraph 6-13 (Processing requests for Special Selection Board Promotion reconsideration):

(1) Officers who discover that a material error existed in their file at the time they were non-selected for promotion may request reconsideration if the Silver Star or higher award was missing from an officer's Army Military Human Resources Record [OMPF].

(2) Reconsideration is normally not granted when the error is minor or when —  
(a) An administrative error was immaterial, or the officer in exercising reasonable diligence, could have discovered and corrected the error or omission in the AMHRR. Also, the officer could have taken timely corrective action such as notifying the Chief, DA Promotion Branch of the error and providing any relevant documentation. (b) Letters or memorandums of appreciation, commendation, or other commendatory data for awards below the Silver Star are missing from the officer's AMHRR. (c) The board did not consider correspondence to the board president that was delivered to the Chief, DA Promotions Branch after the cutoff date for such correspondence established in the promotion board zone of consideration message.

7. Title 10 USC, section 628 (Special Selection Boards), (a) Persons Not Considered by Promotion Boards Due to Administrative Error. (1) If the Secretary of the military department concerned determines that because of administrative error a person who should have been considered for selection for promotion from in or above the promotion zone by a promotion board was not so considered, the Secretary shall convene an SSB under this subsection to determine whether that person should be recommended for promotion. (b) Persons Considered by Promotion Boards in Unfair Manner. (1) If the Secretary of the military department concerned determines, in the case of a person who was considered for selection for promotion by a promotion board but was not selected, that there was material unfairness with respect to that person, the Secretary may convene a SSB under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion.

8. AR 635-8 (Separation Processing and Documents) prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents. In pertinent part:

a. Paragraph 5-1 (When to prepare the DD Form 214) states, the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clearcut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. A DD Form 214 will be prepared for Soldiers in the following categories: (1) Regular Army Soldiers on termination of active duty because of administrative separation (including separation because of retirement or Expiration Term of Service), physical disability separation, or punitive discharge resulting from a court-martial. (2) Reserve Component (RC) Soldiers completing 90 days or more days of continuous active duty. For example, such periods may consist of Active Duty Operational Support (ADOS), contingency operations-ADOS, active duty operational support-RC, Active Guard/Reserve, or full-time National Guard duty for operational support.

b. Paragraph 5-6 (Rules for completing the DD Form 214) states, this paragraph provides detailed instructions for data required in each block of the DD Form 214. The instructions for completing:

(1) Block 11 (Primary Specialty) Enter the titles of all MOSs or areas of concentration (AOCs) awarded and held for at least 1 year during the current period of service and include for each MOS/AOC the number of years and months held. For an enlisted Soldier, specify the first five characters of the military occupational specialty code (MOSC), which includes three characters of the MOS, the fourth character of skill and grade level in the MOS, and the fifth character of a special qualification identifier. For commissioned officers, specify the AOC consisting of two numbers and one letter.

Up to two additional skill identifiers or special skill identifier are allowed immediately following the AOC.

(2) Block 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) state to list all federally recognized awards and decorations for all periods of service. Do not use abbreviations. Do not enter foreign or State level awards on DD Form 214. State awards and decorations will be entered on NGB Form 22 (National Guard Report of Separation and Record of Service) upon separation from the ARNGUS.

(3) Block 14 (Military Education) to list all formal, in-service (full-time attendance) training courses successfully completed during the period of service covered by the DD Form 214 of at least 1 week or 40 hours duration. Include course title, length in weeks, and year completed. This information is to assist the Soldier in job placement and counseling; therefore, do not list training courses for combat skills.

9. AR 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. Paragraph 7-2 (Policies and Standards) states that once an official document has been properly filed in the OMPF, 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 OMPF.

10. AR 600-8-104 (Army Military Human Resource Records Management) prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the AMHRR, formerly known as the OMPF.

a. Paragraph 3-5 (Authority for filing documents in the AMHRR folders) states, only documents pertaining to a Soldier's military career and listed in this regulation (appendix B) will be filed in the AMHRR. No more than one copy of a document will be uploaded into the AMHRR, although that document may be viewed in different folders within the record. Proponents of each form or document contained in the AMHRR will make recommendations to the official records custodian (ORC) through the Army Soldier Records Branch, HRC. The ORC is the final authority for the disposition of documents into folders contained within the AMHRR.

b. Table 3-1 (Army Military Human Resource) provides that:

(1) The "Performance" folder maintains performance related information to include evaluations, commendatory documents, and specific disciplinary information

and training/education documents. The primary purpose of this folder is to provide necessary information to officials and selection boards tasked with assessing Soldiers for promotion, special programs, or tours of duty. This folder populates various board related applications (for example, Army Selection Board System, National Guard Army Board System).

(2) The "Service" folder maintains general, administrative, and Service documents. The "Administrative" folder maintains general administrative data.

(3) The "Restricted" folder maintains documents that may normally be considered improper for viewing by selection boards or career managers.

c. Appendix B (Documents Required for Filing in the AMHRR and/or Interactive Personnel Electronic Records Management System) shows case files for approved separations and Officer Evaluation Reports are authorized to be filed in the AMHRR (OMPF).

11. AR 600-8-22 (Military Awards) implements a part of the Army Awards Program. It prescribes Department of the Army policy, criteria, and procedures for individual and unit military awards and foreign decorations and badges.

a. Paragraph 8-41 (Ranger Tab) states, the Ranger Tab is authorized for award to U.S. military and civilian personnel and foreign military personnel who qualify as prescribed. The basic eligibility criteria for award of the Ranger Tab, is any person who successfully completed a Ranger course conducted under the auspices of the Ranger Department at Fort Moore, GA. The award approval authority for veterans and retirees, the Chief, HRC Awards and Decorations Board (ADB).

b. Paragraph 8-42 (Special Forces (SF) Tab) states, any Regular Army, USAR, or ARNG Soldier, veteran, or retiree meeting one of the criteria below may be awarded the SF Tab by the Commander, USAJFKSWCS: Successful completion of the USAJFKSWCS-approved SF qualification institutional training conducted by the USAJFKSWCS that leads to SF qualification. For Regular Army institutional training, the SF Tab may be retroactively awarded to all personnel who meet the following: (1) Successful completion of the SF Qualification Course or SF Detachment Officer Qualification Course (previously known as the SF Officer Course). These courses are or were conducted by the USAJFKSWCS. (2) Prior to 1 January 1988 for successful completion of the then approved program of instruction for SF qualification in a SF group, who were subsequently awarded, by competent authority, SQI "S" in Career Management Field 18 (enlisted), or SQI "3" in functional area 18 (officer).

c. Award approval authority for Regular Army, USAR, and National Guard Soldiers, is the Commander, USAJFKSWCS. For veterans and retirees, Commanding General,

U.S. Army Human Resources Command Fort Knox, KY, and the Commander, USAJFKSWCS.

d. Army Reserve Components Achievement Medal. The ARCAM is authorized for award to Army personnel in the rank of COL/O–6 and below. The individual must have been a member of an Army National Guard unit or USAR Troop Program Unit. The medal is also awarded to USAR Soldiers serving as Individual Mobilization Augmentee (IMAs) after completing qualifying service and on recommendation of the unit commander or HQDA official to which the IMA is assigned. Orders are not published for the award of this medal. ARCAM approval is announced using an official memorandum. Between 3 March 1972 and 28 March 1995, the ARCAM was authorized on completion of 4 qualifying years of service with a RC unit. b. Effective 28 March 1995, the period of qualifying service for award of the ARCAM was reduced from 4 qualifying years to 3 qualifying years. That is, Soldiers completing 3 qualifying years of service on or after 28 March 1995 are eligible for ARCAM consideration. This change is not retroactive. A member must be recommended for the award by their unit commander whose recommendation is based on personal knowledge of the individual and the individual's official records of periods of service under prior commanders during the period for which the award is made.

e. The Armed Forces Reserve Medal (AFRM) was established, as announced in DA Bulletin 15, 1950, and was amended by EO 10439, announced in DA Bulletin 3, 1953 and EO 13013, dated 6 August 1996. The reverse of this medal is struck in two designs for award to personnel whose RC service has been primarily in the organized Reserve or primarily in the National Guard. The first design portrays the Minute Man from the Organized Reserve Crest. The other design portrays the National Guard insignia. b. The AFRM recognizes Servicemembers or former Servicemembers of the RC (including Active Guard Reserve (AGR)) who have— (1) Completed a total of 10 years of honorable military service in the RC. (2) Been called to active duty and served under specific statutory conditions. (3) Volunteered and served on active duty in support of designated U.S. military operations or contingencies.

f. AFSM was established by EO 12985, 11 January 1996. It is awarded to Servicemembers of the Armed Forces of the United States who, after 1 June 1992, meet the following criteria: (1) Participate or have participated as Servicemembers of U.S. military units in a U.S. military operation that is deemed to be a significant activity. (2) Encounter no foreign armed opposition or imminent threat of hostile action.

g. AFEM was established by EO 10977, dated 4 December 1961, as amended by EO 13286, 2 February 2003, and may be awarded to Servicemembers of the Armed Forces of the United States who, after 1 July 1958— (1) Participate or have participated as members of the U.S. military units in a U.S. military operation in which Servicemembers of any military department participate, in the opinion of the Joint Chiefs

of Staff, in significant numbers. (2) Encounter during such participation foreign armed opposition, or are otherwise placed, or have been placed, in such position that, in the opinion of the Joint Chiefs of Staff, hostile action by foreign armed forces was imminent even though it did not materialize.

//NOTHING FOLLOWS//