

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 March 2025

DOCKET NUMBER: AR20240006571

APPLICANT REQUESTS: promotion reconsideration by a Special Selection Board (SSB).

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Request for Reconsideration by PRB; Reverse the Adverse Finding Regarding the Promotion Eligibility
- DA Form 67-10-1 (Company Grade Plate (O1-O3; WO1-CW2) Officer Evaluation Report)
- Memorandum – Subject: Involuntary Discharge, 7 February 2024
- Memorandum – Subject: Delay of Promotion and Referral to a Promotion Review Board, 7 February 2023
- Photograph
- Memorandum – Subject: Brigade Sexual Assault Response Coordinator Review of a Commanders Inquiry for an Informal Sexual Harassment Complaint, 27 January 2022
- DA Form 4833 (Commanders Report of Disciplinary or Administrative Action)
- Memorandum – Subject: Law Enforcement Report – Final
- CID Form 94 (Agent's Investigation Report)
- Memorandum – Subject: Filing Determination on Reprimand, 9 August 2022
- Memorandum – Subject: General Officer Memorandum of Reprimand (GOMOR), 8 July 2022
- Memorandum – Subject: Character Statement

FACTS:

1. The applicant represented by legal counsel provides that he was previously falsely accused of sexual harassment. Despite the investigation resulting in an unsubstantiated finding, the applicant received a GOMOR. Counsel argues that this reprimand is void of any reference of the alleged sexual harassment. Furthermore, the lower-level command did not characterize the alleged incident as sexual harassment. In fact, law enforcement suggested that the actions were merely about consensual dancing. After reviewing a

video of the alleged incident, the applicant's command withdrew any action involving law enforcement, yet they proceeded to take administrative action against the applicant.

a. Counsel notes that it is absurd for the previously conducted PRB to consider the unfounded and highly inflammatory evidence in their decision to deny the applicant's promotion to first lieutenant (1LT)/O-2. During the investigation, both the Sexual Assault Response Coordinator (SARC) and the Investigating Officer (IO) concluded that while the actions made the complainants uncomfortable, the information presented was insufficient to clearly determined that behaviors of sexual harassment had occurred. Therefore, the allegations of sexual harassment were unsubstantiated.

b. Counsel further argues that the actions against the applicant were predicated by a personality conflict that he has with some of his female colleagues. This general disdain for the applicant prompted the false accusations that were alleged against him. Since then, the applicant has proceeded to exemplify the actions of an officer as evidenced by his deployment to Kuwait and completion of applicable military education. Counsel provides that the culmination of these factors suggests that there was a material error in the applicant's record at the time of the PRBs review.

c. In conclusion, the applicant admits that his response to the PRB was crude. However, this admission does not amount to sexual harassment. The actions previously performed demonstrate consistent inequity and unfairness which warrant a fresh look at his case. This action would eradicate all of the derogatory matters raised previously. This argument is further provided in its entirety for the Board members review within the supporting documents.

2. A review of the applicant's available service records reflects the following:

a. On 22 May 2021, the applicant was appointed a Reserve commission at the rank/grade of second lieutenant (2LT)/O-1.

b. On 8 June 2021, the applicant was appointed a Regular Army commission as a Signal Corps Officer.

c. On 21 January 2022, the applicant was removed from the Signal Basic Officer Leader Course (BOLC) due to his violation of regulations, policies, and established discipline standards.

d. On 30 August 2023, the applicant successfully completed BOLC.

e. On 19 October 2023, the Secretary of the Army removed the applicant's promotion eligibility pursuant to Title 10, U.S.C, Section 629a, Executive Order 12396 and Army Regulation (AR) 600-8-29 (Officer Promotions), paragraph 7-1b.

f. On 20 August 2024, the U.S. Army Intelligence Center of Excellence issued Orders Number 233-0101 reassigning the applicant to the U.S. Army transition point pending separation processing.

g. On 14 October 2024, the applicant was honorably discharged from military service in accordance with AR 600-8-24 (Officer Transfers and Discharges) due to his non-selection for promotion.

3. The applicant provides the following a:

a. DA Form 67-10-1, reflective of the applicant's professional performance as assessed by members of his immediate leadership during the period of 13 September 2021 – 10 May 2024. During this extended period, the applicant was rated as highly qualified. Notably, that applicant was rated as number 1 of the 6 lieutenants that his Senior Rater rated during this period.

b. Memorandum – Subject: Involuntary Discharge, dated 7 February 2024, reflective of the applicant being separated from military service because of the Secretary of the Army, Manpower and Reserve Affairs denial of his promotion. He was ordered to be separated effective 14 October 2024.

c. Memorandum – Subject: Delay of Promotion and Referral to a PRB, dated 7 February 2023, reflective of the applicant being advised that his records were being referred to a PRB due to his records reflecting two law enforcement reports, a GOMOR and a referred Officer Evaluation Report that were identified during the post board screening. The board would consider whether the applicant would be retained and promoted or denied promotion to the next rank. He was afforded 14 days to submit his rebuttal.

d. Photograph that is illegible other than the notation that this was a video of him and the other Soldier involved in the previously mentioned sexual harassment case.

e. Memorandum – Subject: Brigade Sexual Assault Response Coordinator (SARC) Review of a Commanders inquiry for an Informal Sexual Harassment Complaint, dated 27 January 2022, reflective of the SARCs concurrence with the Investigating Officers findings of unsubstantiated as it pertained to the allegations of sexual harassment.

f. DA Form 4833, reflective of information pertaining to the actions taken by the commander against the applicant for the alleged violation of Article 120 (Abusive Sexual Contact) of the Uniformed Code of Military Justice. The commander's decision on 27 January 2022 indicated that sexual harassment had not occurred. The actions taken by the commander although indicated on page 1, where not provided with this case i.e. the packet is incomplete and or missing pages 2-7 of this document.

g. Memorandum – Subject: Law Enforcement Report – Final reflective of information collected by the Criminal Investigations Department (CID) pertaining to the applicant's alleged sexual harassment incident. On 2 October 2021, the applicant was alleged to have inappropriately touched female officer's genitalia while dancing at a night club. On 24 January 2022, Trial Counsel opined that probable cause existed to believe that the applicant committed the offense of Abusive Sexual Contact, in violation of Article 120, UCMJ. No further investigative efforts were required. This information was further provided to his command for consideration of action.

h. CID Form 94, reflective of the Special Agents summary of the information obtained from witnesses present during the alleged sexual harassment incident. This document is provided in its entirety for the Board members review within the supporting documents.

i. Memorandum – Subject: Filling Determination on Reprimand, dated 9 August 2022, reflective of the GOMOR issuing authority directing that the applicant's reprimand be placed temporarily in the applicant's local unit file with all enclosures for a period of 10-18 months or until the applicant is reassigned to another general court-martial jurisdiction, whichever is sooner.

j. Memorandum – Subject: General Officer Memorandum of Reprimand, dated 8 July 2022, reflective of the applicant being reprimanded for engaging in an inappropriate relationship while attending BOLC and in violation of AR 600-20 (Army Command Policy), by using disparaging an/or sexualizing terms, creating an unlawful hostile environment, and bullying.

k. Memorandum – Subject: Character Statement, reflective of Captain (CPT) J_B_ statement regarding his knowledge of the applicant's character over the course of a year. CPT J_B_ notes that the applicant is honest, fair and sustains a comprehensive effort to better himself. In a deployed environment, the applicant excelled in positions of increased responsibility and was often recognized by his battalion leadership for his dedication/commitment to the organization.

4. On 27 February 2025, the U.S. Army Human Resources Command, Officer Promotions Special Actions, provided an advisory opinion recommending denial of the applicant's request noting that the Secretary of the Army signed the PRB, removing the applicant from promotion eligibility on 19 October 2023. The Officer Evaluation Report with a thru date of 10 May 2024 cannot be utilized in the reconsideration process, as it occurred after the results of the PRB were published and has no bearing on the original decision. If the applicant wishes to pursue any reconsideration, the appropriate method of redress would be to first apply to the Department of the Army Suitability Evaluation Board (DASEB) to have all derogatory information removed from his records.

5. On 28 February 2025, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. The applicant did not respond.

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 applicant's petition, available military records and U.S. Army Human Resources Command- Officer Promotion Special Actions Branch advisory opinion, the Board concurred with the advising official recommendation for denial finding the applicant was eligible for promotion to 1LT on the Fiscal Year (FY) 23, Active Component (AC), 1st Quarter Army Competitive Category (ACC) Scroll. The opine also note he was notified on 7 February 2023 that he was referred to a PRB for two derogatory law enforcement reports, a GOMOR, and a referred Academic Evaluation Report (AER).

2. The Board determined there is insufficient evidence to support the applicant contentions for promotion reconsideration by a Special Selection Board (SSB). Furthermore, the Board found no evidence the applicant applied to the Department of the Army Suitability Evaluation Board (DASEB) to have all derogatory information removed from his records based on the evidence. Based on the preponderance of evidence, the Board denied relief.

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. AR 600-8-29 (Officer Promotions), Chapter 7 (Promotion Review Boards (PRB)) provides that the President, or his designee, may remove the name of an officer, in a grade above 2LT and below Brigadier General (BG), from a list of officers recommended for promotion by a selection board (10 USC 629(a)). This authority has been delegated to the Secretary of the Army (SECARMY). An officer whose name is removed from a promotion list to 1LT/CW2 as a result of actions by the SECARMY (or designee) will be discharged in accordance with AR 600-8-24.

a. PRBs are used to advise the SECARMY in any case in which there is cause to believe that a commissioned officer or warrant officer on a promotion list is mentally, physically, morally, or professionally unqualified or unsuited to perform the duties of the grade for which the officer was selected for promotion. A PRB may be conducted when an officer's name appears on a report of a selection board, although the SECARMY's final decision or recommendation under paragraph 7-8 may not be made until the report is approved by the President or President's authorized designee.

b. If the SECARMY recommends removal of the name of an officer from a selection board's report and the recommendation includes information that was not presented to the selection board, the information will be made available to the officer. The officer will be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. An officer who has been provided with 14 days from the date of receipt of such information to submit comments, is considered to have been provided a reasonable opportunity, unless good cause is shown. Proof of service will be included in the file.

The remainder of this paragraph addresses PRBs and is not applicable to Secretarial recommendations to remove the name of an officer from a report of a selection board.

c. Commanding General (CG), AHRC may refer a 2LT to a PRB when the sole basis for the referral is derogatory information filed in the officer's AMHRR after the initial screening for exemplary conduct certification and the referral authority finds that the information is substantiated, relevant, and might reasonably and materially affect a promotion recommendation.

d. The President, or his designee, may remove the name of an officer, in a grade above 2LT and below BG, from a list of officers recommended for promotion by a selection board (10 USC 629(a)). This authority has been delegated to the SECARMY.

e. Chapter 6 (Special Selection Boards (SSB)) provides that SSBs may be convened under 10 USC 628 to consider or reconsider commissioned or warrant officers for promotion when Headquarters Department of the Army determines that one or more of the following circumstances exist:

- administrative error
- material unfairness

f. Paragraph 6-3 (Cases not Considered) an officer will not be considered or reconsidered for promotion by an SSB when the following occurs:

- the officer is pending removal from a promotion or recommended list and the removal action was not finalized by the SECARMY before the next selection board convened to consider officers of his or her grade
- an administrative error was immaterial, or the officer, in exercising reasonable diligence, could have discovered and corrected the error
- letters of appreciation, commendation, or other commendatory data for awards below the Silver Star are missing from the officer's AMHRR
- the PSB did not see a nonmandatory DA Form 4037 submitted to HRC after the suspense established in the promotion board zone of consideration MILPER message
- the PSB did not see a DA official photograph or saw an outdated DA official photograph
- the PSB did not consider correspondence to the board president that was delivered to the CG, AHRC

g. Paragraph 6-12 (Processing Requests for Special Selection Board Promotion Reconsideration) provides that Officers being reconsidered will not be afforded the opportunity to correspond with the SSB. The officer's file will be constructed as it appeared on the convening date of the promotion board which failed to select the officer for promotion. The only document(s) added or changed, will be the document(s) that is

(are) the basis for the SSB. These documents must be submitted to, and present in, the officer's AMHRR prior to requesting the SSB.

h. Chapter 7 (Promotion Review Boards) provides that HQDA will continuously review promotion lists to ensure that no officer is promoted where there is cause to believe that he or she is mentally, physically, morally, or professionally unqualified to perform the duties of the higher grade. An officer may be referred to a PRB for the following reasons (list is not exclusive):

- a referred evaluation report.
- punishment under UCMJ, Art. 15 (whether filed in the restricted or performance file of the AMHRR).
- any court-martial conviction.
- a memorandum of reprimand placed in the AMHRR.
- adverse documentation filed in the AMHRR.
- initiation of elimination action under the provisions of AR 600–8–24.
- failure to make satisfactory progress in the Army Body Composition Program in accordance with AR 600–9.
- other adverse information received by HQDA but not filed in the AMHRR, if the referral authority finds that the information is substantiated, relevant, and might reasonably and materially affect a promotion recommendation

i. A PRB will consider the following:

- an officer's official MILPER record, consisting of the AMHRR (including relevant portions of the restricted file), DA Form 4037, and DA official photo, as those records exist when the review board convenes
- adverse information received by HQDA but not filed in the AMHRR, which the referral authority finds is substantiated and relevant, and might reasonably and materially affect a promotion recommendation, provided the information has properly been referred to the officer for comment
- any submission to the board by an officer under consideration

//NOTHING FOLLOWS//