

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 March 2025

DOCKET NUMBER: AR20240006647

APPLICANT REQUESTS: reconsideration of his previous requests for:

- restoration of rank to staff sergeant (SSG)/E-6 with entitlement to back pay of all allowances
- placement on the retired list at the rank of sergeant first class (SFC)/E-7
- to be permitted to reapply for a Top Secret – Sensitive Compartmented Information (TS SCI) clearance

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Summary of Treatment, 26 September 2016
- Memorandum – Subject: Appeal of Article 15, 14 July 2016
- Memorandum – Subject: EO Complaint, 5 August 2016
- DA Form 2627 (Record of Proceedings Under Article 15, UCMJ), 11 July 2016
- DA Form 4856 (Developmental Counseling), 19 May 2016
- Memorandum – Subject: Confirmed Urinalysis Results, 17 May 2016
- Rehabilitation Team Meeting, 3 May 2016
- DD Form 2624 (Specimen Custody Document – Drug Testing)
- Enlisted Record Brief
- DA Form 268 (Report to Suspend Favorable Personnel Actions (FLAG), 19 May 2016
- Narrative Summary
- Memorandum – Subject: Summary of Treatment, 13 July 2016
- Army Substance Abuse Program (ASAP) Risks and Benefits, Program Information and Informed Consent document
- DA Form 8003 (Army Substance Abuse Enrollment)
- University of Colorado Denver letter
- Memorandum – Subject: Assumption of Command, 12 May 2016
- Electronic Copy of the DD Form 2624 (Specimen Custody Document), 16 May 2016
- Chain of Custody document

- DA Form 8003 (Army Substance Abuse Program (ASAP) Enrollment, 14 April 2016
- Memorandum – Subject: Statement, 14 July 2016
- Memorandum – Subject: Summary of Treatment, 13 July 2016
- Certificates and Citations
- Memorandum – Subject: Permanent Orders Number 121-02, 1 May 2013
- Memorandum – Subject: Army Reserve Components Achievement Medal (ARCAM), 3 March 2003
- Permanent Orders Number 008-001, 8 January 2014
- Permanent Orders Number 074-002, 14 March 2012
- Permanent Orders Number 077-05, 18 March 2010
- DA Forms 2166-8 (NCO Evaluation Report)
- Limited Use Policy Explained IAW AR 600-85
- DA Form 4465 (Patient Intake/Screening Record (PIR))
- Chronological Record of Medical Care
- Medical Evaluation Board (MEB) Narrative Summary Behavioral Health Addendum, 27 June 2016
- Self-authored letter, Ms. S_M_, 11 July 2016
- DA Form 7652 (Physical Disability Evaluation System (PDES) Commanders Performance and Functional Statement), 29 April 2016
- Administrative Separation Board document, 5 December 2016
- Pretrial Services Report – Criminal History Report

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20220000548 on 9 September 2022.

2. The applicant states the Administrative Separation Board (ASB) failed to utilize the guidance as set forth in Army Regulation 600-85 (Army Substance Abuse Program) when considering him for separation. The applicant further contests that the actions of the board were performed with malicious intent. The applicant adds that in the previous case, the ABCMR was mistaken in its application of the Army's Limited Use Policy. In contention, the applicant notes that in the previous case the documentation reflects that he tested positive for 2 substances on 28 April 2016. He argues that his command only reported 1 substance: thereby submitting a false report. As such, the applicant perceives this to mean that his command determined that marijuana usage was protected by the Limited Use Policy and since he was only tested once, the entire specimen should be protected under the same policy.

The applicant argues that if his command was following the guidance as set forth by the Limited Use Policy then they should have contacted the ASAP office. Upon doing so, they would have advised that the urinalysis testing performed was to be considered a rehabilitation test and therefore protected under the Limited Use Policy as indicated on the provided ASAP memorandum. The applicant provides that he was advised by the staff at the Warrior Transition Unit (WTU) that a test taken after a service member has enrolled in ASAP could not be used against them.

The applicant notes that even though the DA Form 2624 is coded as "IU" (Inspection Unit), the test was determined to be a rehabilitation test by his prior leadership hence his successful enrollment in the ASAP on 3 May 2016. The applicant argues that when this test was performed, he was in the ASAP enrollment process but not yet enrolled. His DA Form 2624 should have reflected "RO" (Command Mandatory) since he was enrolled in ASAP. He notes that in accordance with the Limited Use Policy, a Soldier involved in the ASAP is restricted from consequences. The applicant mistakenly selected "Biochemical" rather than "Self-Referral" when he requested to be enrolled in ASAP; his intent was to be self-referred. This argument is further provided in its entirety for the board member's review within the supporting documents.

In conclusion, the applicant emphatically argues that the specimen collection was protected under the Limited Use Policy and therefore administrative separation actions should not have occurred. As such, the applicant requests his rank be restored to SSG with entitlement to all back pay and allowances. Subsequently, he should be promoted to SFC since the Non-Judicial Punishment (NJP) actions prompting his removal from the SFC promotion list were unlawful. The applicant further requests to be permitted to reapply for a TS SCI clearance since it was terminated during this process. All associated fees should be funded by the Department of the Army.

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

- a. On 15 December 1999, the applicant enlisted in the Army National Guard (ARNG).
- b. On 17 May 2006, the applicant was released from the ARNG.
- c. On 15 March 2007, the applicant enlisted in the Regular Army.
- d. On 3 April 2012, the Department of the Army issued Orders Number 094-004 announcing the applicant's promotion to SSG effective 1 April 2012.
- e. On 28 April 2016, the applicant tested positive for cocaine and THC.

f. On 19 May 2016, the applicant was counseled by his squad leader concerning his testing positive for cocaine and THC on 28 April 2016. The applicant was further informed that he would be flagged for drug use and that he would be referred for the initiation of NJP.

g. On 11 July 2016, the applicant's commander initiated NJP under Article 15 of the UCMJ in that on or about 21 April 2016 – 28 April 2016, the applicant wrongfully used cocaine, a schedule II-controlled substance in violation of Article 112a. UCMJ.

h. On 13 July 2016, the applicant's commander imposed the following punishment:

- reduction to SGT
- forfeiture of \$1,583.00 per month for one month (suspended to be automatically remitted if not vacated on or before 9 January 2017)
- 45 days of extra duty/restriction

i. On 5 October 2017, a Formal Physical Evaluation Board was convened finding the applicant physically unfit for continued military service with a recommendation that he be placed on the Temporary Disability Retired List (TDRL) with a rating of 70 percent.

j. On 23 October 2017, the Installation Management Command issued Orders Number 296-0036 releasing the applicant from assignment and duty effective 26 December 2017, and placing him on the TDRL effective 27 December 2017 at the rank of SGT.

k. On 25 February 2020, the U.S. Army Physical Disability Agency issued Orders Number D056-47 removing the applicant from the TDRL and permanently retiring him effective 25 February 2020 at the rank of SGT.

4. The applicant provides the following:

a. Memorandum – Subject: Summary of Treatment, 26 September 2016, reflective of information provided by an ASAP counselor on behalf of the applicant concerning his ASAP enrollment. Mr. L_S_ provides that the applicant self-presented himself to the ASAP office on 19 April 2016, for triage. He was subsequently enrolled in ASAP on 3 May 2016 with a diagnosis of cannabis use disorder, moderate. The applicant noted that prior to being enrolled, he tested positive for THC and cocaine on 28 April 2016. The ASAP counselor advised the applicant's leadership that a positive urinalysis test result administered after the applicant self-referred to ASAP, but before he was enrolled, should not be held against him as Soldiers are not told the requirements for sobriety until enrollment which had not occurred. Further noted is the perceived trend of punishing Soldiers who are trying to do the right thing by self-referring.

b. Memorandum – Subject: Appeal of Article 15, 14 July 2016, reflective of the applicant's submitted appeal to the NJP imposed against him due to his wrongful use of cocaine a schedule II control substance. The applicant contributes his use of THC as a form of self-medication to cope with a perceived Traumatic Brain Injury, Post-Traumatic Stress Disorder (PTSD) and the side effects associated with each. He denies knowingly utilizing cocaine. The applicant contests the positive urinalysis occurred between the time that he self-referred and was triaged into ASAP and therefore protected in the Limited Use Policy. This document is further provided in its entirety for the board members review within the supporting documents.

c. Memorandum – Subject: EO Complaint, 5 August 2016, reflective of the applicant's request for the assistance of the Equal Opportunity (EO) office regarding perceived racial discrimination. The applicant alleges that punishments referred against some similarly situated white Soldier(s) were less severe than that imposed against Soldiers of color (black). This document is further provided in its entirety for the board members review within the supporting documents.

d. Rehabilitation Team Meeting, 3 May 2016, reflective of the applicant's participation in 90-120 days (minimum) outpatient rehabilitative treatment. The applicant would be required to participate in monthly mandatory drug urinalysis testing.

e. DD Form 2624 (Specimen Custody Document – Drug Testing) reflective of the chain of custody information pertaining to a urinalysis conducted on 28 April 2016.

f. Enlisted Record Brief reflective of the applicant's pertinent personnel information to include assignment, promotion and awards history.

g. Narrative Summary reflective of information pertaining to the applicant's diagnosed PTSD and the side effects (anxiety, insomnia) associated with it. This document is further provided in its entirety for the board members review within the supporting documents.

h. Memorandum – Subject: Summary of Treatment, 13 July 2016, reflective of the applicant's treatment status since being enrolled in ASAP on 3 May 2016. The applicant reported sobriety since being enrolled in the program and has not presented any indication of continued use.

i. Army Substance Abuse Program (ASAP) Risks and Benefits, Program Information and Informed Consent document reflective of information pertaining to the service provided by ASAP. Admissions and other information concerning alcohol or other drug abuse incidental to personal use occurring prior to the date of initial referral to the ASAP and provided by Soldiers as part of their initial entry into ASAP.

j. DA Form 8003 (Army Substance Abuse Enrollment), reflective of the applicant's enrollment in rehabilitative (Track II) effective 15 May 2016; screened on 3 May 2016 and referred on 14 April 2016.

k. University of Colorado Denver letter reflective of the applicant's application for enrollment in the Fall 2016 semester being received.

l. Memorandum – Subject: Assumption of Command, 12 May 2016, reflective of major (MAJ) S_T_ assuming command of the WTU effective 12 May 2016.

m. Electronic Copy of the DD Form 2624 (Specimen Custody Document), 16 May 2016, reflective of the applicant testing positive for cocaine and THC being reported on 16 May 2016; specimen collected on 28 April 2016.

n. Chain of Custody document reflective of the legal handling of the urinalysis samples obtained on 28 April 2016 and shipped to the processing lab on 29 April 2016.

o. DA Form 8003 (Army Substance Abuse Program (ASAP) Enrollment, 14 April 2016, reflective of the applicant being self-referred to ASAP.

p. Memorandum – Subject: Statement, 14 July 2016, reflective of a character statement as provided by the Assistant Operations Officer, U.S. Army 71st Ordnance Group (EOD) regarding the applicant's professional performance. Captain (CPT)S_K_ provides that he is aware of the applicant's pending NJP under Article 15, UCMJ for substance abuse. He notes that the applicant exercised poor judgment but is otherwise a hardworking Soldier with a fantastic attitude. The applicant's work ethic was in fact contagious as he made his peers and subordinates better due to his presence.

q. Memorandum – Subject: Summary of Treatment, 13 July 2016, reflective of the applicant's treatment status since being enrolled in ASAP on 3 May 2016. The applicant reported sobriety since being enrolled in the program and has not presented any indication of continued use.

r. Certificates and Citations, reflective of numerous accolades and awards received by the applicant during his military service to include the Purple Heart, Bronze Star Medal (w/ "V" device), Army Commendation Medals, Army Achievement Medals etc.

s. Memorandum – Subject: Permanent Orders Number 121-02, 1 May 2013, reflective of the applicant being authorized the Meritorious Unit Citation.

t. Memorandum – Subject: Army Reserve Components Achievement Medal (ARCAM), 3 March 2003, reflective of the applicant being authorized the Army Reserve

Components Achievement Medal for his service in the ARNG from 15 December 1999 – 14 December 2002.

u. Permanent Orders Number 008-001, 8 January 2014, reflective of the applicant being authorized the Senior Explosive Ordnance Disposal Badge.

v. Permanent Orders Number 074-002, 14 March 2012, reflective of the applicant being authorized his second award of the Army Good Conduct Medal.

w. Permanent Orders Number 077-05, 18 March 2010, reflective of the applicant being authorized his first award of the Army Good Conduct Medal.

x. DA Forms 2166-8 (NCO Evaluation Report), reflective of an assessment of the applicant professional performance as documented by members of his immediate leadership between October 2012 – April 2016.

y. Limited Use Policy Explained IAW AR 600-85, reflective of an excerpt of the Army's Limited Use Policy. This document is void of any endorsements.

z. DA Form 4465 (Patient Intake/Screening Record (PIR)), reflective of the applicant's request for self-referral into ASAP on 14 April 2016; screened on 3 May 2016.

aa. Chronological Record of Medical Care, reflective of the applicant being scheduled for an ASAP screening on 19 April 2016, with a full assessment to be completed on 3 May 2016.

bb. Self-authored letter, Ms. S_M_, 11 July 2016, reflective of her account of the applicant's participation in an outpatient course offered by the Warrior Recovery Center concerning his pending Medical Evaluation Board. Ms. S_M_ was able to corroborate information provided by the applicant's leadership concerning his removal from all positions of responsibility based upon a declining level of performance following his return from an April 2014 deployment and October 2013, Improvised Explosive Device (IED) exposure. The lasting effects of these incidents impacted the applicant's ability to effectively supervise and train subordinates.

cc. DA Form 7652 (Physical Disability Evaluation System (PDES) Commanders Performance and Functional Statement), 29 April 2016, reflective of the commander's assessment of the impact of the applicant's medical impairment on his ability to perform his military duties.

dd. Administrative Separation Board document, 5 December 2016, reflective of the report of proceedings associated with the applicant being administratively separated

from military service. The board recommended that based on the applicant's wrongful use of cocaine on or about 21-28 April 2016, he should be separated from the Army prior to reaching his expiration term service date.

ee. Pretrial Services Report – Criminal History Report, reflective of the applicant's criminal record history from 22 May 2004 – 11 July 2016. On 11 July 2016, the applicant was charged with the wrongful use of a controlled substance (cocaine). He was therefore reduced in grade, required to forfeit a portion of his pay, restricted and placed on extra duty.

5. On 9 September 2022, Docket Number AR20220000548, the board denied the applicant's request noting that his contentions, the military record, and regulatory guidance were carefully considered. Based upon a preponderance of the evidence, the Board determined the UCMJ action that reduced the applicant in rank was just and would not be upset by this Board. There is insufficient evidence to grant relief.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy, and regulation.

a. Restoration of Rank to SSG/E-6. Deny. The evidence of records shows on 13 July 2016, the applicant's commander reduced the applicant from SSG/E-6 to SGT/E-5 by nonjudicial punishment for wrongful use of cocaine under the provisions of the Uniform Code of Military Justice. The Board determined there was no error or injustice in the reduction of the applicant and therefore denied relief.

b. Placement on the retired list at the rank of SFC/E-7. Deny. The Board determined the applicant was properly reduced to SGT/E-5 and found no evidence to support the applicant was promoted to SFC/E-7 and therefore denied relief.

2. With respect to the applicant's request to reapply for a TS/SCI security clearance, the Board notes that such matters fall outside its statutory authority. The Army Board for Correction of Military Records (ABCMR) is empowered to direct corrections to military records when appropriate; however, it does not have jurisdiction over the security clearance adjudication process. Therefore, the applicant's request to apply for or reinstate a security clearance is not within the purview of the ABCMR.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XX	:XX	:XX	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 amendment of the ABCMR decision rendered in Docket Number AR20220000548 on 9 September 2022.



X //SIGNED//

CHAIRPERSON

Signed by:

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 (AR) 600-8-19 (Enlisted Promotions and Reductions) prescribes the enlisted promotions and reductions function of the military personnel systems.

a. Paragraph 1-11 (Non-Promotable Status) provides that Soldiers (Specialist (SPC) through Master Sergeant (MSG) except as noted) are non-promotable to a higher rank when they have an approved retirement, a field or Headquarters Department of the Army bar to continued service or has a pending or approved administrative separation. Further, Soldiers punished under the Uniform Code of Military Justice (UCMJ), Article 15, including suspended punishment are also non-promotable. Summarized proceedings imposed are excluded and will not result in non-promotable status. The Soldier regains promotion eligibility on the day of completion of the period of correctional custody, suspension, restriction, extra duty, and/or suspended forfeiture of pay, whichever occurs later. Soldier is denied favorable personnel actions under the provisions of AR 600-8-2 (Suspension of Favorable Personnel Actions (Flag)) (applicable for promotion to PV2 through SGM). Failure to initiate DA Form 268 (Report to Suspend Favorable Personnel Actions (FLAG)) does not affect the Soldier's non-promotable status if a circumstance exists that requires imposition of a suspension of favorable personnel actions (Flag) under the provisions of AR 600-8-2. When a Soldier is command-referred and enrolled in the Army Substance Abuse Program (ASAP), the Soldier becomes non-promotable. Self-referred Soldiers are eligible for promotion while enrolled in ASAP, provided otherwise qualified in accordance with the other provisions of this paragraph. A self-referral who is later command-referred to ASAP based on evidence not protected by the limited-use policy becomes non-promotable upon command referral to ASAP.

b. Paragraph 1-21 (Promotion of Soldiers in the Disability Evaluation System) provides that Soldiers in the Disability Evaluation System (DES) process who are pending a medical fitness determination i.e., referral to a MEB, or PEB remain otherwise eligible for promotion consideration, selection, and pin-on. Per the provisions of Title 10, USC, section 1372, Soldiers on a promotion list who are retired for physical disability (Title 10, USC, sections 1201 or 1204) or who are placed on the TDRL (Title 10, USC, sections 1202 or 1205) at the time of retirement for disability will be retired for disability at the promotion list grade. The Soldier will be promoted effective the day before placement on the retired list or TDRL regardless of cutoff scores, sequence numbers, or position availability. In all cases, the Soldier must otherwise be eligible for promotion in accordance with paragraph 1-11.

c. Section VI (Reduction Orders and Restoration to Former Rank) provides that Administrative reductions are announced in orders for SGT and above or on a DA Form 4187 for CPL and/or SPC and below. These will be filed in the individual Soldier's personnel file. Reduction instruments will cite the basis for reduction (such as

inefficiency or failure to complete training) and the authority for the action. When reduction is for other than misconduct or misconduct based on civil conviction, the reduction instrument will cite the basis, authority, and the appropriate paragraph.

2. AR 600-85 (Army Substance Abuse Program) provides that commanders may initiate administrative or UCMJ action against Soldiers who test positive for illegal drugs or for illicit use of legal drugs when an Medical Review Officer determines the Soldier has no legitimate medical purpose for taking the drug. Paragraph 10-11 (Limited Use Policy) provides the objectives of the Limited Use Policy are to facilitate the identification (ID) of Soldiers, who abuse alcohol and other drugs by encouraging ID through self-referral to facilitate the rehabilitation of those abusers who demonstrate the potential for rehabilitation and retention. When applied properly, the Limited Use Policy does not conflict with the Army's mission or standards of discipline. It is not intended to protect a member who is attempting to avoid disciplinary or adverse administrative action. Limited Use Policy prohibits the use by the government of protected evidence against a Soldier in actions under the UCMJ or on the issue of characterization of service in administrative proceedings. Protected evidence under this policy is limited to:

- results of command-directed drug or alcohol testing that are inadmissible under the Military Rules of Evidence (MRE)
- results of a drug or alcohol test collected solely as part of a safety mishap investigation
- Information concerning drug or alcohol abuse or possession of drugs incidental to personal use, including the results of a drug or alcohol test, collected as a result of a Soldier's emergency medical care solely for an actual or possible alcohol or other drug overdose
- self-referral to ASAP
- admissions and other information concerning alcohol or other drug abuse or possession of drugs incidental to personal use occurring prior to the date of initial referral to the ASAP and provided by Soldiers as part of their initial entry into the ASAP
- drug or alcohol test results, if the Soldier voluntarily submits to a Department of Defense (DOD) or Army rehabilitation program before the Soldier has received an order to submit for a lawful drug or alcohol test
- The results of a drug or alcohol test administered solely as a required part of a DOD or Army rehabilitation or treatment program

a. This limited use protection will not apply to test results, which indicate alcohol or other drug abuse occurring after the voluntary submission to the rehabilitation program. Examples: The unit commander has ordered a urinalysis on Monday for all members of the unit (an inspection under MRE 313). Before receiving an order (or having knowledge of a pending test) to appear for the urinalysis, a Soldier approaches the platoon sergeant, admits having used illegal drugs over the weekend, and indicates a desire to

receive help. Later that day, the Soldier is ordered to and provides a specimen for the urinalysis, which results in a positive report for cocaine use. Those results are protected by the limited use policy unless there is some evidence that demonstrates the use reflected by the test occurred after the admission was made to the platoon sergeant. Later that week, the commander orders another unit inspection for the following Monday. The inspection is conducted properly under MRE 313, and the Soldier once again has a positive result for cocaine. These test results, as interpreted by an Army Forensic Toxicology Drug Testing Laboratory (FTDTL) expert, indicate the Soldier had used cocaine after admitting use to the platoon sergeant. This test result is not protected by the Limited Use Policy.

b. The Limited Use Policy does not preclude the initiation of disciplinary or other action based on independently derived evidence, including evidence of continued drug abuse after initial entry into the ASAP. If the command is made aware of a Soldier's illegal drug use through the Soldier's self-referral and admissions, the requirement to initiate separation proceedings pursuant to the appropriate enlisted or officer separation regulation will not apply. The unit commander may initiate a separation action; however, the information is protected by the Limited Use Policy.

c. Specimens which are collected in compliance with MRE (for example, inspection by command policy, search, seizure, or consent) may be used for any lawful purpose. If specimens do not satisfy the standards of admissibility, these tests will be protected by the Limited Use Policy.

3. Army Regulation 380-67 (Personnel Security Program) Section VII (Reinvestigation) provides that DOD policy prohibits unauthorized and unnecessary investigations. There are, however, certain situations and requirements that necessitate reinvestigation of an individual who has already been investigated under the provisions of this regulation. It is the policy to limit reinvestigation. Reinvestigation, generally, is authorized only as follows:

a. To prove or disprove an allegation relating to the criteria set forth in paragraph 2–15 of this regulation with respect to an individual holding a security clearance or assigned to a position that requires a trustworthiness determination;

b. To meet the periodic reinvestigation requirements of this regulation with respect to those security programs enumerated below; and

c. Upon individual request, to assess the current eligibility of individuals who did not receive favorable adjudicative action after an initial investigation, if a potential clearance need exists and there are reasonable indications that the factors upon which the adverse determination was made no longer exists.

d. Paragraph 3-57 (Allegations Related to Disqualification) provides that whenever questionable behavior patterns develop, derogatory information is discovered, or inconsistencies arise related to the disqualification criteria outlined in paragraph 2-15 that could have an adverse impact on an individual's security status, a SII, psychiatric, drug, or alcohol evaluation, as appropriate, may be requested to resolve all relevant issues in doubt. If it is essential that additional relevant personal data is required from the investigative subject and the subject fails to furnish the required data, the subject's existing security clearance or assignment to sensitive duties shall be terminated in accordance with paragraph 8-5 of this regulation.

4. Army Regulation (AR) 15-185 (ABCMR) paragraph 2-9 states 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.

5. Title 10, USC, section 1552 states, the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.

//NOTHING FOLLOWS//