

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 March 2025

DOCKET NUMBER: AR20240007275

APPLICANT REQUESTS:

- Removal of a General Officer Memorandum of Reprimand (GOMOR) from his Army Military Human Resource Record (AMHRR)
- Personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Letter from Attorney
- GOMOR, 31 August 2016
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 2 September 2016
- Chain of Command Recommendations, 9 September 2016
- Acknowledgement of Receipt of GOMOR, 3 October 2016
- Filing Determination, 27 October 2016
- Memorandum for Record (MFR) Failure to Submit Rebuttal Matters, 24 March 2017

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 pertinent part, his command tracked him down to sign for the GOMOR after he was discharged from active duty. He was told he could not get assistance, since he was already out of the Army. The Office of the Staff Judge Advocate (OSJA) from Fort Hood uploaded the GOMOR. By the time he acknowledged receipt of the GOMOR, he had cleared post and was on leave in another state. Only after he was discharged did his chain of command contact him and demanded he fly back to Texas and sign the acknowledgement. Fort Hood OSJA did not have jurisdiction

to make him fly to Texas, on his own dime, to sign for his GOMOR after he was already released from active duty; however he was threatened and made to return.

3. The applicant provides a letter from his legal assistance attorney, 1 May 2024, which states in pertinent part on 31 August 2016, Major General [REDACTED] issued the applicant a GOMOR. At the time of issue, the applicant was already on leave due to his expiration term of service. The applicant was separated from the Army on 2 September 2016. He was ordered back to Fort Hood OSJA to "handle" the reprimand, at his own expense, since he was no longer on active duty. On 3 October 2016, he acknowledged receipt of the GOMOR, after he was no longer on active duty. Fort Hood OSJA had no jurisdiction to order the applicant's return to Fort Hood, nor was there jurisdiction to force him to sign the acknowledgement. He was not entitled to assistance through Trial Defense Services or Legal Assistance because he was not on active duty, a fact the OSJA would know, at that time.

4. The applicant's service record contains the following documents:

a. He enlisted in the Regular Army and entered active duty on 12 March 2013. On 13 August 2016, he was arrested by civilian police for driving under the influence (DUI). On the same day, he was flagged for adverse action.

b. On 31 August 2016, a GOMOR for DUI was completed. On 2 September 2016, he was honorably transferred to U.S. Army Reserve Control Group (Reinforcement). On 9 September 2016, two members of his chain of command recommended the GOMOR be locally filed and one recommended it be filed in his AMHRR.

c. On 3 October 2016, the applicant acknowledged receipt of the GOMOR and elected to submit matters in his own behalf. On 27 October 2016, the GOMOR was filed in his AMHRR. On 24 March 2017, an MFR was completed stating the applicant failed to submit matters.

BOARD DISCUSSION:

1. After reviewing the application, supporting documents, the applicant's military records, and applicable regulations, the Board found that relief was not warranted and that the General Officer Memorandum of Reprimand (GOMOR), dated 31 August 2016, will not be removed from the applicant's record. The Board determined that the officer who issued the reprimand had the appropriate authority, per Army Regulation (AR) 600-37, based on the applicant's continued status in the Individual Ready Reserve after he completed active service. The Board also considered the applicant's contentions that he was unable to obtain legal representation through the military but noted that AR 600-37 provides that a respondent to an administrative reprimand is not guaranteed legal counsel; due process was satisfied by allowing the applicant a reasonable amount of

time to respond, and the applicant did not submit a response. The Board further noted the applicant's contention that his unit's insistence that he return post-discharge to acknowledge the GOMOR was unjust. The Board minority found the applicant's contention compelling and voted to grant relief. Ultimately, the Board majority determined that the applicant did not demonstrate by a preponderance of evidence that prejudicial error occurred or that the contents of the GOMOR is substantially incorrect or unjust.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:XXX	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:	:XXX	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

X //SIGNED//

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, 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. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to authorize placement of unfavorable information about Army members in individual official personnel files; ensured that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and ensured that the best interests of both the Army and the Soldier are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

a. Chapter 3 (Unfavorable Information in Official Personnel Files) states an administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

b. Paragraph 3-5 (Filing of Nonpunitive Administrative Memoranda of Reprimand, Admonition, or Censure) states nonpunitive administrative letters of reprimand, admonition, or censure in official personnel files, such as a memorandum of reprimand, may be filed in a Soldier's AMHRR only upon the order of a general officer-level authority and is to be filed in the performance folder. The direction for filing is to be contained in an endorsement or addendum to the memorandum. If the reprimand is to be filed in the AMHRR, the recipient's submissions are to be attached. Once filed in the AMHRR, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states once an official document has been properly filed in the AMHRR, 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 AMHRR.

3. Army Regulation 600-8-104 (Army Military Human Resource Records Management), 7 April 2014, prescribes policies governing the Army Military Human Resource Records Management Program. The AMHRR includes, but is not limited to, the Official Military Personnel File, finance-related documents, and non-service-related documents deemed necessary to store by the Army. Paragraph 3-6 (Authority for Filing or Removing Documents in the AMHRR Folders) provides that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or other authorized agency.

//NOTHING FOLLOWS//