

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 April 2025

DOCKET NUMBER: AR20240008432

APPLICANT REQUESTS: removal of documents in his Army Military Human Resources Records (AMHRR).

- Army Good Conduct Medal disqualification memorandum
- Article 15, dated 9 May 2013
- Department of the Army Removal Letter

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

- DD Form 149 (Application for Correction of Military Record) dated 7 June 2024
- 10th Military Police (MP) Battalion (BN) (Criminal Investigation Division (CID)) Memorandum, 9 November 2020
- DD Form 149 dated 7 June 2024
- Enlisted Record Brief, 6 May 2013 shows his three deployments and flags for adverse action and failure of body fat standards
- DA Form 2823 (Sworn Statement), 3 May 2013, from First Lieutenant [REDACTED] who witnessed the applicant disrespecting a Noncommissioned Officer (NCO)
- DA Form 4856 (Developmental Counseling), 3 May 2013, the applicant was counseled for disrespecting an NCO, commissioned officer, and failure to be in the appropriate uniform
- DA Form 4856, 5 May 2013; the applicant was counseled that he was flagged for adverse action
- DA Form 268 (Report to Suspend Favorable Personnel Actions (FLAG), 5 May 2013, the applicant was flagged for adverse action
- DA form 268, 6 May 2013, the applicant was flagged for adverse action
- Elections of right for Article 15, 9 May 2013, the applicant understood he:
 - Had the right to counsel
 - He would be provided time to consult counsel
 - He may request an extension to seek consultation with counsel
 - He was afforded the opportunity to consult counsel
- DD Form 149 dated 26 September 2024

- DA Form 268, 7 November 2019, the applicant was flagged for adverse action
- U.S. Army CID Memorandum, Subject: Elimination from the CID Special Agent Program – Sergeant (SGT) [REDACTED] (the applicant), dated 16 January 2020
- Headquarters, 16th MP Brigade (BDE) Memorandum, Subject: Separation Under Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), paragraph 7-17, Incident of Fraudulent Enlistment, SGT [REDACTED] (the applicant), dated 25 September 2020, the separation authority retained the applicant in lieu of separation for a fraudulent enlistment

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 effect,
 - He will be considered for promotion this year; therefore, he requests the removal of several documents from his AMHRR as these documents will be detrimental to the future of his Army career
 - Soldiers who believe there is unfavorable information in the AMHRR that is untrue or unjust can request it be removed
 - His chain of command should have had the documents removed when the investigation determined the allegation to be untrue or unjust in whole or in part
3. A review of the applicant's service record shows:
 - On 24 June 2004, the applicant enlisted in the Regular Army (RA)
 - Enlisted Record Brief shows in:
 - Section I (Assignment Information):
 - Served Iraq during period 9 September 2005 through 5 September 2006
 - Served Afghanistan during period 3 January 2008 through 1 January 2009
 - Served Afghanistan during period 14 March 2010 through 14 February 2011
 - Section VI (Military Education): CID (Criminal Investigation Division) Special Agent Course; 2019
 - Section VIII (Awards and Decorations): Air Medal, Air Medal with Valor, Combat Action Badge, Army Good Conduct Medal (2nd Award)

- On 19 December 2005, the applicant reenlisted in the RA
- On 5 May 2008, the applicant was awarded the Combat Action Badge by Permanent Orders Number 347-004
- On 11 May 2008, the applicant was awarded the Air Medal with Valor by Permanent Orders Number 132-002
- On 27 October 2008, the applicant was awarded the Air Medal by Permanent Orders Number 275-077
- On 25 June 2010, the applicant reenlisted in the RA
- On 9 May 2013, the applicant accepted non-judicial punishment for:
 - One specification of disrespect towards an NCO
 - Two specifications of disobeying a lawful order from a NCO:
 - His punishment included; extra duty, forfeiture of pay suspended to be automatically remitted if not vacated before 9 November 2013
- On 11 September 2013, the applicant was honorably discharged from active duty for failure to meet height/weight standards; he completed 9-years, 2-months, and 18-days of active service
- His service record is void of his enlistment contract; however, he was ordered to active duty on 19 January 2018 and assigned to Fort Leonard Wood, MO for 20-weeks for one station unit training with a 5-year active duty commitment
- DA Form 1059 (Service School Academic Evaluation Report) shows he achieved course standards for the CID Special Agent Course during the period of 15 October 2018 through 19 February 2019
- On 16 January 2020, CID eliminated the applicant from the CID Special Agent program based on his knowingly making false statements applying for his security clearance and the CID Special Agent program and concealing he was under investigation when he signed his enlistment statement
- On 9 November 2020, his commander declined to award him the Army Good Conduct Medal due his flag for the Army Body Composition Program
- On 15 July 2021, he was assigned to Fort Sill, OK by Orders Number 022-181 dated 22 January 2021
- On 4 March 2021, the applicant was awarded the Army Achievement Medal by Permanent Orders Number 063-01 for his service while he was assigned to the 10th MP Detachment
- On 1 November 2021, the applicant was promoted to the rank of staff sergeant with the same date of rank by Orders Number 301-07 dated 28 September 2021
- On 12 January 2022, the applicant reenlisted in the RA indefinitely
- DA Form 1059 shows the applicant achieved course standards for the Drill Sergeant course during the period of 7 September through 8 November 2023

- The applicant's AMHRR contains the documents in his performance file named DA Form 2627 and titled Record of Proceedings Under Article 15, Uniform Code of Military Justice, 3 pages is the Article 15 document, disqualification memorandum, and Department of the Army removal letter
- The applicant's AMHRR contains documents in his restricted file named Article 15 and titled Article 15 Allied Document are the supporting documents for the DA Form 2627 in his performance file

BOARD DISCUSSION:

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. Upon review of the applicants petition and military records, the Board determined that the applicant did not demonstrate by a preponderance of evidence that procedural error occurred prejudicial to the applicant and by a preponderance of evidence that the contents of the DA Form DA Form 2627 (Record of Proceedings Under Article 15, UCMJ), DA Disqualification Memorandum (Army Good Conduct Medal), and the U.S. Army Criminal Investigation Command Elimination Memorandum are substantially incorrect and support removal. The Board noted he does not provide proof of being cleared against the infractions and provides no mitigation. Therefore, 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.

4/16/2025

X

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

a. Paragraph 3-6 (Authority for filing or removing documents in the Army Military Human Resource Record folders), only documents pertaining to a Soldier's military career per appendices B and C will be filed in the AMHRR. No more than one copy of a document will be uploaded into the AMHRR, although a document may be viewed from different folders within iPERMS. Once properly filed in the AMHRR (as defined in table 3-1), the document will not be removed from the record unless directed by one of the following:

- Boards of the Army Review Boards Agency
- U.S. Army Physical Disability Agency for physical evaluation board documents only
- Chief, Appeals and Corrections Section of the Evaluations, Selections, and Promotions Division
- ORC for administrative purposes; this includes, but is not limited to deleting or moving mistakenly filed documents from the performance or service folder to the restricted folder and vice versa
- upon end of retention period for nonpermanent documents contained in table 4-1 folder structure

3. 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.

a. Paragraph 6-2 (Department of the Army Suitability Evaluation Board (DASEB) Filing Determinations), f, the DASEB makes determinations, upon appeal, on requests to transfer unfavorable information from the performance to the restricted portion of the AMHRR. The DASEB may recommend the transfer of those administrative memoranda of reprimand when such transfer would be in the best interest of the Army.

b. Paragraph 6-3b (2), the DASEB will presume that once an official document has been properly filed in the AMHRR, it is administratively correct and was filed pursuant to

an objective decision made by a competent authority. Thereafter, the burden of proof rests with the recipient responsible for providing clear and convincing evidence to support the document is either untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the AMHRR; or has served its intended purpose, and it is in the best interest of the Army to transfer it to the restricted portion of the AMHRR.

c. Paragraph 7-1 (Appeal authority), the DASEB is the initial appeal authority and makes recommendations for removal, alteration, or transfer of unfavorable information entered in the AMHRR. This chapter sets forth the policies and procedures whereby a person may seek removal of unfavorable information from his or her AMHRR, or transfer of unfavorable information from the performance file to the restricted file of his or her AMHRR.

d. Paragraph 7-2 (Policies and Standards), an officer who directed the filing in the AMHRR of an administrative memorandum of reprimand, admonition, or censure, may request its revision, alteration, or removal if later investigation determines such information is untrue/unjust in whole or in part. The basis for such determination must be provided to the DASEB in sufficient detail to justify the request. Subparagraph d, (Burden of proof and level of evidence required), (1) 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 a competent authority. (2) (Removals), There is no time restriction for submitting an appeal for removal of unfavorable information from the AMHRR. The recipient has the burden of proof to show, by clear and convincing evidence, to support assertion that the document is either untrue or unjust, in whole or in part. Evidence submitted in support of the appeal may include but is not limited to an official investigation showing the initial investigation was untrue or unjust; decisions made by an authority above the imposing authority overturning the basis for the adverse documents; notarized witness statements; historical records; official documents; and/or legal opinions. The DASEB will not consider appeals that merely allege an injustice or error without supporting evidence or a compelling argument. Appeals such as these will be returned without action. The DASA (RB) is the final decision authority for removal of unfavorable information from the AMHRR. This authority will not be further delegated.

//NOTHING FOLLOWS//