

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 May 2025

DOCKET NUMBER: AR20240009215

APPLICANT REQUESTS: Removal of a General Officer Memorandum of Reprimand (GOMOR), 14 August 2018, from the restricted portion of his Army Military Human Resource Record (AMHRR).

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Letter in Support of Application
- Memorandum Subject: Space Command Evaluations Authorized to have Intermediate Raters
- Notification of Disposition of Allegations Regarding Sexual Harassment
- DA Form 7279 (Equal Opportunity and Harassment Complaint Form)
- Formal Sexual Harassment Complaint
- DD Form 2873 (Military Protection Order (MPO))
- Memorandum Subject: Incident Involving Alleged Misconduct by Officers
- Memorandum Subject: Commander's Reprisal and Whistleblower Protection Notification for Major (MAJ) S. D.
- Memorandum Subject: Commander's Reprisal and Whistleblower Protection for Captain (CPT) A. L. (applicant)
- Testimony Affidavit MAJ. S. D.
- Email Correspondence
- Witness Statement Affidavit Lieutenant Colonel (Lt. COL) J. A.
- Affidavit Captain (Capt.) M. L.
- Affidavit Lieutenant Colonel (LTC) J. T.
- Affidavit Mr. D. G.
- Affidavit Colonel (COL) D. M.
- Affidavit CPT A. L.
- Affidavit MAJ. S. D.
- Memorandum Subject: Restricted Access of CPT A. L.
- Picture of a Door
- Case Background
- Findings, Analysis, Conclusion and Recommendations of Case
- Memorandum Subject: Appointing Authority Approval

- Affidavit COL B. Y.
- DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag))
- Officer Record Brief (ORB)
- Six Character References
- GOMOR
- Memorandum Subject: Acknowledgement of Receipt of Reprimand
- Memorandum Subject: Request for Extension for Rebuttal of GOMOR for CPT A. L.
- Memorandum Subject: Decision on Request for Extension
- Memorandum Subject: Rebuttal to GOMOR, CPT A. L.
- Chain of Command Recommendations
- Memorandum Subject: Recommendation for Action, CPT A. L.
- Memorandum Subject: Filing Determination on Reprimand
- Summarized Record of Proceedings Board of Inquiry (BOI)
- Memorandum Subject: Promotion Review Board, Fiscal Year 2018 (FY18), MAJ, Operations Support (OS), Promotion Selection Board (PSB)
- Memorandum Subject: Request for Removal of GOMOR for MAJ A. L.
- Department of the Army Suitability Evaluation Board (DASEB) Docket Number AR20210005507
- DASEB Docket Number AR20240004616
- Five DA Forms 67-10-1 (Officer Evaluation Report (OER))
- Ten Training Certificates and Awards

FACTS:

1. The applicant states, in effect, he is requesting removal of a GOMOR, dated 14 August 2018, from the restricted portion of his AMHRR. He received a GOMOR for sexual harassment allegations, by a superior officer that he worked with while deployed. The recommended form of punishment was for him to receive a verbal counseling as well as re-training on Sexual Harassment/Assault Response and Prevention (SHARP), however the GOMOR was filed in his AMHRR. A BOI convened and determined that the basis for the GOMOR were not supported by a preponderance of the evidence and voted to retain him in the Army. He was later promoted to MAJ and applied to the DASEB requesting the removal of the GOMOR, his application was denied. He applied to the DASEB a second time, and the Board agreed to move the GOMOR to the restricted portion of his AMHRR.

2. The applicant provides and the service record shows:

- On 12 September 2005, he enlisted in the U.S. Army Reserve as a Cadet, and was honorably discharged on 7 May 2009, for the purpose of accepting a commission in the United States Armed Forces

- On 8 May 2009, he was appointed as Reserve Commissioned Officer
- On 25 February 2018, he allegedly made unwelcomed comments of a sexual nature toward MAJ. S. D. (a superior officer that he worked with); he alleges that MAJ. S. D. started the conversation by discussing a previous sexual relationship
- On 17 March 2018, he allegedly made unwelcomed verbal advances and unwelcomed physical touching toward MAJ. S. D.; he alleges that MAJ. S. D. was telling him things that "turned her on" and often made sexual innuendos
- On 8 April 2018, he allegedly made unwelcomed comments of a sexual nature toward MAJ. S. D.; he alleges that MAJ. S. D., stated her butt was her best feature, due to DNA results showing she was 3 percent (%) African American
- On 15 April 2018, MAJ. S. D. reported that the applicant was hitting on her to LTC J. T.
- On 17 April 2018, MAJ. S. D. was informed that to address her concerns, a command directed investigation (CDI) was ordered due to her allegations against the applicant
- On 24 April 2018, MAJ. S. D. submitted a DA Form 7279 to the Equal Opportunity (EO) office
- On 26 April 2018, through the Army SHARP office, MAJ. S. D. filed a formal sexual harassment complaint
- On 27 April 2018, an MPO was issued to the applicant, protecting MAJ. S. D.
- On 30 April 2018, MAJ. S. D. provided additional details regarding her allegations against the applicant
- On 5 May 2018, the applicant also alleged that MAJ. S. D. showed him a video of her pole dancing, she had a door mat with "nice underwear" written on it, she named her bike a stripper name, and referred to him as her work husband
- On 9 May 2018, the applicant was restricted from certain duty functions in the workplace until he was to depart from his deployed location
- The CDI was completed and based on the preponderance of evidence the accusation was substantiated
- The investigating officer (IO) recommended the applicant receive verbal counseling, additional SHARP training, and leadership monitoring of his professional interactions with coworkers in the future
- The IO additionally recommended that MAJ. S. D. receives a frank conversation about balancing social and professional interactions, and ideally, if willing she is a follow-on conversation from a female graduated squadron commander
- On 17 May 2018, the CDI findings and recommendations, were provided to the applicant's administrative chain of command
- On 14 August 2018, the applicant was issued a GOMOR, for repeated unwelcome verbal comments of a sexual nature to a senior officer, while married to another person

- On 22 August 2018, the applicant received and acknowledged the GOMOR, he elected to submit written matters within seven calendar days; he subsequently was granted an extension, and submitted a rebuttal on 4 September 2018
- In the rebuttal he apologized for his behavior, acknowledged his mistakes although it was mutual between him and MAJ. S. D.; he asked the GOMOR be revoked immediately, or at least filed locally so as to not harm his career
- His chain of command unanimously recommended the GOMOR be filed locally
- His deputy commanding general also concurred with his chain of command
- On 20 November 2018, the GOMOR issuing commander, directed it be filed in the applicant's AMHRR
- On 1 May 2019, a BOI found that derogatory activity resulting in a GOMOR, and his engagement in conduct unbecoming an officer as indicated by the GOMOR was unsubstantiated and recommended that he be retained in the Army
- On 1 March 2020, the applicant was promoted to MAJ
- On 7 January 2021, he applied to DASEB requesting his GOMOR be removed from his AMHRR; his request was denied on 25 May 2021
- He petitioned DASEB a second time, and on 7 May 2024, the Board directed the GOMOR be transferred to the restricted portion of his AMHRR
- The applicant provides character references, OERs, and military education that highlights his potential, his character and his knowledge

3. On 29 April 2025, the Department of the Army, Criminal Investigation Division (DACID), provided a letter that shows a search of the Army criminal file indexes, revealed no results pertaining to a sexual harassment investigation pertaining to the applicant.

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 General Officer Memorandum of Reprimand, issued on 14 August 2018 is substantially incorrect and supports removal. The Board noted the applicant's assertion of injustice based on the results of the Board of Inquiry; however, determined the issuance of the GOMOR reflects the circumstances as they existed and therefore, 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.

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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 15-185 (Army Board for Correction of Military Records (ABCMR)), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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.

2. Army Regulation 600-37 (Unfavorable Information), in effect at the time, 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. 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. A memorandum of reprimand may be filed in a Soldier's Official Military Personnel File (OMPF) 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 OMPF, the recipient's submissions are to be attached. Once filed in the OMPF, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 1-1 states, in relevant part, that the intent of Army Regulation 600-37 is to ensure that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and, to ensure that the best interests of both the Army and the Soldiers are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

d. Paragraph 1-4 stipulates that the objectives of Army Regulation 600-37 are to apply fair and just standards to all Soldiers; protect the rights of individual Soldiers and, at the same time, permit the Army to consider all available relevant information when choosing Soldiers for positions of leadership, trust, and responsibility; to prevent adverse personnel action based on unsubstantiated derogatory information or mistaken identity; to provide a means of correcting injustices if they occur; and, to ensure that Soldiers of poor moral character are not continued in Service or advanced to positions

of leadership, trust, and responsibility.

e. Paragraph 3-2c states that unfavorable information that should be filed in official personnel files include indications of substandard leadership ability, promotion potential, morals, and integrity. These traits must be identified early and shown in permanent official personnel records that are available to personnel managers and selection board members for use in making decisions that may result in selecting Soldiers for positions of public trust and responsibility, or vesting such persons with authority over others. Other unfavorable character traits of a permanent nature should be similarly recorded.

f. Paragraph 3-5 (Filing of Nonpunitive Administrative Memoranda of Reprimand, Admonition, or Censure) states:

(1) Authority to issue and direct the filing of such memoranda in an officer's local file is restricted to:

(a) The recipient's immediate commander or a higher-level commander in the chain of command (if such commander is senior in grade or date of rank to the recipient).

(b) The designated rater, intermediate rater, or senior rater, under the officer evaluation reporting system.

(c) The general officer (to include one frocked to the rank of brigadier general) who is senior to the recipient, or an officer who exercises general court-martial jurisdiction over the recipient.

(2) A memorandum, regardless of the issuing authority, may be filed in the AMHRR, and managed by the U.S. Army Human Resources Command or the proper State Adjutant General (for Army National Guard personnel) upon the order of a general officer (to include one frocked to the rank of brigadier general). The general officer directing filing must exercise general court-martial convening authority over the recipient, be the designee or delegate of the individual exercising general court-martial convening authority over the recipient, be a filing authority from the recipient's losing command pursuant to paragraph (f)(1) below, or be the chief of any designated special branch pursuant to Title 10, U.S. Code, section 3064, acting pursuant to their statutory authority over members of their respective special branches. Memoranda filed in the AMHRR will be filed in the performance folder.

g. Paragraph 6-3b Case analysis.

(1) The DASEB will review and evaluate the records of each case referred to the board to determine if:

(a) Documents that contain unfavorable information submitted for filing considerations have sufficient credible evidence to support a finding, by preponderance of the evidence, that the unfavorable information is valid.

(b) Unfavorable information is of such a serious nature that it should be made a part of the AMHRR. In doing so, the DASEB will consider serious individual incidents, as well as a pattern of lesser incidents, that may reflect unfavorably on the Soldier's character, integrity, trustworthiness, or reliability.

(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.

(3) The DASEB will review all cases, regardless of prior decisions made by commanders, courts-martial, elimination boards, or other authorities.

h. 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.

i. Paragraph 7-2a, states that once an official document is properly filed in the AMHRR, it is presumed to be administratively correct and 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. Appeals that merely allege an injustice or error without supporting evidence are not acceptable and will not be considered.

j. Paragraph 7-2d (2), burden of proof and level of evidence required.

- 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 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
- Department of the Army Suitability Evaluation Board (DASEB) will not consider appeals that allege injustice/error without supporting evidence or compelling argument, such appeals will be returned without action
- The Deputy Assistant Secretary of the Army (Review Boards) (DASA (RB)) is the final decision authority for removal of unfavorable information from the AMHRR; this authority will not be further delegated

k. Paragraph 7-3c (Filing Authority to Redress Actions) states an officer who directed filing an administrative memorandum of reprimand, admonition, or censure in the AMHRR may request its revision, alteration, or removal, if evidence or information indicates the basis for the adverse action was untrue or unjust, in whole or in part. An officer who directed such a filing must provide the DASEB a copy of the new evidence or information to justify the request.

4. Army Regulation 600-8-104 (Army Military Human Resource Records Management), in effect at the time, prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the AMHRR. The AMHRR includes, but is not limited to the OMPF, finance-related documents, and non-service-related documents deemed necessary to store by the Army.

a. 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 another authorized agency.

b. Appendix B (Documents Required for Filing in the AMHRR and/or Interactive Personnel Electronic Records Management System) states memoranda of reprimand, censure, and admonition are filed in accordance with Army Regulation 600-37.

5. Army Regulation 600-20 (Army Command Policy) prescribes the policies and responsibilities of command, which include the Army Ready and Resilient Campaign Plan, military discipline and conduct, the Army Military Equal Opportunity (MEO) Program, the Army Harassment Prevention and Response Program, and the Army Sexual Harassment/Assault Response and Prevention (SHARP) Program.

a. The SHARP Program implements Department of Defense (DoD) and Army policy regarding sexual harassment and sexual assault. The Army does not tolerate or condone sexual harassment, sexual assault, or associated retaliatory behaviors. The SHARP Program enhances Army readiness by fostering a culture free of sexual harassment and sexual assault through prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety, well-being, readiness. This regulation implements DoDD 1350.2, DoDD 6495.01, DoDI 1020.03, DoDI 5505.18, DoDI 6400.07, DoDI 6495.02, and DoDI 6495.03.

b. Responsibilities. Commanders, supervisors, and managers at all levels are responsible for the effective implementation of SHARP Policy and execution of the SHARP Program. Military and DA Civilian officials at each management level will advocate a strong SHARP Program and provide education and annual training that will enable them to prevent and appropriately respond to sexual harassment and sexual assault. Commanders are the center of gravity for execution of the SHARP Program. Commanders and leaders are responsible for the climate in their organizations. Other agencies and individuals, including the inspector general (IG), MEO, provost marshal officer (PMO), Staff Judge Advocate (SJA), or chaplain, will refer Soldiers to a servicing full-time brigade Sexual assault response coordinator (SARC), to file a formal complaint.

c. Sexual harassment. Title 10 USC 1561 defines the term “sexual harassment” to mean any conduct that involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature. Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a member of the Armed Forces or a Civilian employee of the DoD. Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature by any member of the Armed Forces or Civilian employee of the DoD.

(1) Hostile environment. A hostile environment, to include the work environment, can occur when Soldiers or DA Civilians are subjected to offensive, unwanted, and unsolicited comments, or conduct of a sexual nature. An abusive or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive. A hostile environment brings the topic of sex or gender into the environment in any one of a number of forms. Conduct considered under the hostile environment definition generally includes nonviolent, gender-biased sexual behaviors (for example, the use of derogatory gender-biased terms, comments about body parts, suggestive pictures, and explicit jokes).

(2) Verbal. Examples of verbal sexual harassment may include telling sexual jokes; using sexually explicit profanity, threats, sexually oriented cadences, or sexual comments; whistling in a sexually suggestive manner; and de-scribing certain attributes

of one's physical appearance in a sexual manner. Verbal sexual harassment may also include using terms of endearment such as "honey," "babe," "sweetheart," "dear," "stud," or "hunk" in referring to Soldiers, DA Civilian coworkers, or Family members.

(3) Nonverbal. Examples of nonverbal sexual harassment may include cornering or blocking a passageway; in-appropriately or excessively staring at someone; blowing kisses; winking; or licking one's lips in a suggestive manner. Nonverbal sexual harassment also includes offensive printed material (for example, displaying sexually oriented pictures or cartoons); using electronic communications; or sending sexually oriented faxes, notes, or letters.

6. Army Regulation 600-8-24 (Officer Transfers and Discharges) prescribes the officer transfers from active duty to the Reserve Component (RC) and discharge functions for all officers on active duty for 30 days or more. It provides principles of support, standards of service, policies, tasks, rules, and steps governing all work required to support officer transfers and discharges.

a. The Board of Inquiry's (BOI) purpose is to give the officer a fair and impartial hearing determining if the officer will be retained in the Army. Through a formal administrative investigation conducted under AR 15-6 and this regulation, the BOI establishes and records the facts of the Respondent's alleged misconduct, substandard performance of duty, or conduct incompatible with military service. Based upon the findings of fact established by its investigation and recorded in its report, the board then makes a recommendation for the officer's disposition, consistent with this regulation.

b. The Government is responsible to establish, by preponderance of the evidence, that the officer has failed to maintain the standards desired for their grade and branch or that the officer's Secret-level security clearance has been permanently denied or revoked by appropriate authorities acting pursuant to DODD 5200.2-R and AR 380-67. In the absence of such a showing by the Government, the board will retain the officer. However, the respondent is entitled to produce evidence to show cause for his retention and to refute the allegations against him. The Respondent's complete OMPF will be entered in evidence by the Government and considered by the BOI.

//NOTHING FOLLOWS//