

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2025

DOCKET NUMBER: AR20240009822

APPLICANT REQUESTS:

- retroactive appointment as a commissioned officer upon entry into the Regular Army
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- St. John's University degree verification letter

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 he missed out on opportunities to serve as an officer due to his recruiter not fulfilling his duty responsibilities. He graduated college, St. John's University, in May of 1999 prior to his entry into the Regular Army on 5 August 1999. His recruiter was aware of his educational status and was provided the proper documents but failed to offer him the opportunity to enter as an officer
3. The applicant provides a letter from St. John's University, dated 9 May 2024, verifying he completed all requirements for the Bachelor of Science degree in Psychology on 15 May 1999.
4. A review of the applicant's available service record reflects the following:
 - a. On 5 August 1999, he enlisted in the Regular Army as a private (PV1)/E-1.
 - b. A DA Form 1966 (Record of Military Processing – Armed Forces of the United States) shows on Section VI – Remarks, "I understand that I have up to six months from

8/5/99 through 2/5/00 to submit proof of bachelor's degree to qualify for pay grade E-4 IAW AR 601-210."

c. A DA Form 2-1 (Personnel Qualification Record), Block 18 (Appointments and Reductions) shows the following:

- PV1, effective 5 August 1999
- private first class (PFC), effective 11 August 1999

d. On 6 March 2001, a Physical Evaluation Board was conducted finding the applicant physically unfit from a medical condition that existed prior to his enlistment and recommended separation from service without disability benefits.

e. On 19 June 2001, he was honorably discharged from active duty in the rank of specialist (SPC)/E-4. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he served 1 year, 10 months, and 15 days of net active service.

5. On 27 February 2025, the Office of the Deputy Chief of Staff, G-1, Chief, Recruiting Policy Branch provided an advisory opinion recommending disapproval of the applicant's request stating, in part:

a. Based on a review of his enlistment records, his pay grade at time of entry onto active duty is correct. Although he claimed to have a bachelor's degree during his enlistment process, he provided no proof. Accordingly, on 5 August 1999, he provided and signed a statement in writing on DD Form 1966/3 which indicated "I understand that I have up to six months from 8/5/99 through 2/5/00 to submit proof of bachelor's degree to qualify for pay grade E-4 IAW AR 601-210."

b. Regarding whether the recruiter committed an error by not ensuring that the applicant entered the Army as an officer is not supported by any documented proof. The recruiter is responsible for facilitating, for applicants, the process for a Regular enlistment or for the Officer Candidate School (OCS) enlistment option (if qualified). However, the recruiter is not responsible for steering the applicant one way or the other; that decision rests with the applicant. Based upon the review, administrative relief is not recommended.

6. On 28 February 2025, the applicant was provided a copy of the advisory opinion and provided an opportunity to respond. He replied on 6 March 2025, reiterating his initial statement and further detailing that the paperwork was delivered to Fort Knox, where he completed basic training. However, it was not processed in a timely manner and was moved between Fort Lee, where he completed advanced individual training, and Fort Campbell, for his first duty station. It was never completed and ultimately left him out of

his appropriate rank and opportunities as an officer. He also provided the following documents in support of his statement:

- Questionnaire for National Security Positions
- DA Form 4187 (Personnel Actions)
- Promotion Worksheet
- St. John's University Transcript

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the information reflected on the applicant's original DD Form 1966/3, dated 5 August 1999, as well as the other facts and recommendation outlined in the G1 advisory opinion, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's military record.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	: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.

//SIGNED//

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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 15-185 (ABCMR) 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, which is that what the Army did was correct.
 - a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
 - b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
3. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) prescribes eligibility criteria governing the enlistment of persons, with or without prior service (PS), into the Regular Army (RA), the U.S. Army Reserve (USAR), and the Army National Guard (ARNG). Chapter 2-7 (Education) states:

a. Education requirements. Applicant is eligible for enlistment if they meet the requirements of this paragraph and the trainability requirements outlined in paragraph 2 – 8 and requirements of specific MOS or option for which enlisting. The provisions of paragraph 2–7j apply for determination of clock, semester, and quarter hours. Education years (ED YRS) code is the highest grade completed. Education credentials will be accepted from any institution that is State or local Government approved, or accredited by one of the accrediting organizations recognized by the United States Department of Education. Questionable institutions will be submitted for verification to the USAREC battalion education specialist or individuals designated to conduct tier evaluations for the ARNG. Transcripts are required for verification of academic classes to qualify for specific MOS requirements. All Tier 1 education (high school diploma producing programs) must be verified using the force structure, address, and zip code realignment school database. If outside the battalion area, it must be verified with the battalion operations within that area. All education credentials must be verified using the force structure, address, and zip code realignment school database. If verification is not found within the force structure, address, and zip code realignment school database, verification must be conducted with the battalion operations or education services specialist (ESS) within the location of the educational institution prior to processing the applicant. However, the educational services specialist or designated officers in the ARNG are the only individuals that can conduct an education tier evaluation for an applicant for enlistment purposes. The educational services specialist or designated officers in the ARNG are the validating officials for all schools prior to entering into the Headquarter Support System—Force Structure, Address, and Zip Code Realignment (HSS FAZR) database. In the educational services specialist's absence, the battalion executive officer is authorized to conduct either tier evaluations or school validations (as appropriate) for entry into HSS FAZR.

b. Education verification. The area NCO in charge, first sergeant, company commander, senior operations sergeant, senior guidance counselor, commissioned officer, education specialist, equivalent contracted personnel assigned to USAREC, or personnel designated by the ARNG to conduct tier evaluations are authorized to perform telephonic or email verification for enlistment into DEP/DTP or ARNG. The telephonic or email verification for DEP/DTP or ARNG enlistment must include name of applicant, date of birth, name of school, school address, school phone number, date of graduation, name and title of individual providing verification, and the name and title of individual conducting verification. Verification of education may be obtained from the applicant's principal, registrar, school guidance counselor, or the custodian of records for enlistment in the DEP/DTP or ARNG.

c. Degree Credentials. Baccalaureate degree (ED LVL code K). A certificate conferred upon completion of a 4-year college program, other than a first professional degree.

//NOTHING FOLLOWS//