

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2025

DOCKET NUMBER: AR20240010451

APPLICANT REQUESTS:

- Upgrade his discharge from under honorable conditions (general) to honorable
- Remove Separation Code JNC
- Remove Narrative Reason for Separation of Unacceptable Conduct
- Remove all portions of block 18 (Remarks) referencing misconduct
- Remove the General Officer Memorandum of Reprimand (GOMOR) from his Army Military Human Resource Record (AMHRR)
- Remove referred Officer Evaluation Report (OER) from his AMHRR

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

- DD Forms 149 (Application for Correction of Military Record)
- Self-Authored Letter
- Attachment A - DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Attachment B - GOMOR Rebuttal
- Attachment C - Board of Inquiry (BOI) Appellate Matters
- Attachment D - GOMOR
- Attachment E - GOMOR filed in AMHRR
- Attachment F - Headquarters Department of the Army (HQDA) Evaluation Returned Email
- Attachment G - OER Draft
- Attachment H - 82nd Airborne Division Policy Letter #4
- Attachment I - 82nd Airborne Division Policy Letter #7
- Attachment J - 82nd Combat Aviation Brigade Policy Letter #5
- Attachment K - 82nd Airborne Division Inspector General (IG) Questions
- Attachment L - Army Regulation 15-6 Response
- Attachment M - Sensing Session Notes
- Attachment N - Army Regulation 15-6 Counseling Statement
- Attachment O - Adverse Action Flag
- Attachment P - European Assure, Deter, and Reinforce Temporary Change of Station Orders

- Attachment Q - BOI Initiation
- Attachment R - BOI Report of Proceedings
- Attachment S - Involuntary Separation Flag
- Attachment T - Army Review Boards Agency (ARBA) Separation Memorandum
- Attachment U - Officer Record Brief
- Enclosures (Excerpts from Attachments)

FACTS:

1. The applicant states, in pertinent part:

- The actions taken by his chain of command in processing the "wrongful touching" allegation were procedurally flawed and unjust
- The actions taken by his chain of command for the "disparaging comment regarding sexual orientation" allegation were procedurally flawed, unjust, and inequitable
- The actions taken by his chain of command for the "inappropriate comment regarding the sister of a fellow officer " allegation were procedurally flawed and unjust
- The GOMOR, 5 October 2022, was illegitimate, procedurally flawed, and unjust
- The referred OER for the period of 16 July 2021 to 14 June 2022 was inaccurate and unjust
- The BOI and subsequent separation from the Army was procedurally flawed, unjust, and inequitable
- He was the subject of two investigations for alleged misconduct
- Following the investigation, in June 2022, he was removed from his position
- A GOMOR was issued on 13 July 2022 and a referred OER was submitted to U.S. Army Human Resources Command (AHRC) on 19 September 2022
- On 15 February 2023, a BOI determined he should be eliminated from the Army with an under honorable conditions (general) discharge
- On 12 March 2023, he submitted appellate matters for consideration by the Secretary of the Army's Ad Hoc Review Board
- On 18 September 2023, he received notification that the Ad Hoc Review Board concurred with the BOI Findings and Recommendations
- He was discharged from the Army on 2 October 2023
- The GOMOR rebuttal and BOI appellate matters clearly prove his innocence and seriously question if they were reviewed by the chain of command
- The allegations against him were based on inconsistent and unreliable testimonies
- Witness testimony in his BOI were inconsistent and contradictory, undermining the credibility of the accusations

- Evidence of potential collusion among primary accusers and signs of bias within the BOI suggest an unfair and prejudiced process
- Through an examination of the procedural errors, inaccuracies, and the overall unjust nature of the actions taken against him, his self-authored letter demonstrates how the command's decisions were fundamentally flawed
- In light of these issues and the overall context, he respectfully requests that his service record be weighed against the nature of his case in reevaluating his characterization of service

2. The applicant provides, and his service record contains:

- On 10 May 2009, he took the oath of office as a Reserve Commissioned Officer
- On 15 July 2021, he received an OER, which shows he was rated as proficient and highly qualified
- On 13 June 2022, orders were published ordering him to Wiesbaden, Germany in support of Operation European Assure, Deter, and Reinforce for a period of 89 days with a proceed date on or about 5 July 2022
- On 14 June 2022 he received a Developmental Counseling Form regarding investigation follow-up and expectations
- On 14 June 2022, he received a referred OER and was rated as proficient and highly qualified; the OER states he was removed from his duty position following a substantiated Equal Opportunity complaint and promote to lieutenant colonel and continue to groom for battalion command
- On 13 July 2022, he received a GOMOR for wrongfully touching another paratrooper without his consent, referring to another Soldier with disparaging comments regarding sexual orientation, and using inappropriate language when referring to a sister of a fellow officer; the GOMOR includes the Agent's Investigation Report
- On 11 August 2022, he submitted a rebuttal to the GOMOR
- On 19 September 2022, an email from AHRC states there were error(s) in his OER that must be corrected prior to HQDA processing to the AMHRR
- On 5 October 2022, the GOMOR issuing authority directed the GOMOR filed in his AMHRR
- On 5 October 2022, his commander-initiated elimination action against him for having substantiated derogatory activity resulting in a GOMOR and conduct unbecoming an officer
- The BOI found the allegations of the applicant wrongfully touching another paratrooper without his consent, referring to another Soldier with disparaging comments regarding sexual orientation, engaging in substantiated derogatory activity, and conduct unbecoming of an officer were supported by a preponderance of the evidence; the allegation of him using inappropriate language referring to the sister of a fellow officer was not supported by a

preponderance of the evidence; the BOI recommended he be separated from the Army with an under honorable conditions (general) discharge

- On 12 March 2023, he submitted BOI appellate matters
- On 13 September 2023, the Ad Hoc Review Board determined he would be involuntarily eliminated from the Army with an under honorable conditions (general) discharge
- On 2 October 2023, he was discharged from the Army for unacceptable conduct; he received an under honorable conditions (general) discharge; his separation code was JNC

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition and the available military records, the Board determined the applicant did not demonstrate, by a preponderance of evidence, that a procedural error occurred which was prejudicial to the applicant. Further, the applicant failed to establish by a preponderance of evidence that the contents of the referred Officer Evaluation Report (OER) and the General Officer Memorandum of Reprimand (GOMOR) were substantially incorrect or unjust to the degree necessary to warrant their removal from his Army Military Human Resource Record (AMHRR).

2. The Board noted that a Board of Inquiry (BOI) found multiple allegations against the applicant—including wrongfully touching another paratrooper without consent, using disparaging language regarding a soldier's sexual orientation, engaging in derogatory conduct, and demonstrating conduct unbecoming of an officer—were supported by a preponderance of the evidence. Although one allegation, concerning inappropriate language about a fellow officer's sister, was not substantiated, the BOI recommended separation with a characterization of service as under honorable conditions (general). The Board took into account the applicant's prior service, favorable OERs, and letters of support. However, the applicant's overall pattern of toxic behavior leading to receipt of a GOMOR, referred OER, and subsequent separation outweighed mitigating factors. The Board determined the contested documents were appropriately filed in his AMHRR, were not untrue or unjust, and reflected conduct inconsistent with Army values and standards.

3. During deliberation, the Board concurred that the applicant was discharged for unacceptable conduct under honorable conditions (general), and that this characterization of service remains appropriate. The evidence of record at the time of separation does not support the correctness of the separation code and narrative

reason for separation as shown on the applicant's DD Form 214. In light of these findings, the Board concluded that there is no basis for relief. Liberal consideration was applied; however, a change to the applicant's service record is not warranted. Based on the preponderance of evidence, the Board denied relief.

4. The purpose of maintaining the Army Military Human Resource Record (AMHRR) is to protect the interests of both the U.S. Army and the Soldier. In this regard, the AMHRR serves to maintain an unbroken, historical record of a Soldier's service, conduct, duty performance, and evaluations, and any corrections to other parts of the AMHRR. Once placed in the AMHRR, the document becomes a permanent part of that file and will not be removed from or moved to another part of the AMHRR unless directed by an appropriate authority.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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.

X [Redacted Signature]

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. Army Regulation 600-8-24 (Officer Transfers and Discharges), chapter 4, establishes policy and prescribes procedures for eliminating officers in the Active Army for substandard performance of duty, misconduct, moral or professional dereliction, and in the interests of national security. It states, in part, that an officer identified for elimination may at any time during or prior to the final action in the elimination case, elect to submit a resignation in lieu of elimination.
2. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation code to be entered on the DD Form 214. It identifies the separation code "JNC" as the appropriate code to assign to officers under the provisions of AR 600-8-24, paragraph 4-2b, based on the narrative reason of unacceptable conduct.
3. 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.

4. Army Regulation 623-3 (Evaluation Reporting System), prescribed the policies for completing evaluation reports and associated support forms that are the basis for the Army's Evaluation Reporting System.

a. Paragraph 2-12 (The Rater) stated the rater will provide a copy of his or her support form, along with the senior rater's support form, to the rated Soldier at the beginning of the rating period. For officers in grades warrant officer 1 through COL, the DA Form 67-10A is mandatory for use throughout the rating period.

b. Paragraph 2-14 (The Senior Rater) stated senior raters and reviewing officials will ensure support forms are provided to all rated Soldiers they senior rate at the beginning of and throughout the respective rating periods.

c. Paragraph 3-4 (The Support Form Communication Process) stated the initial and follow-up counseling between the rater and the rated Soldier that is documented in the support forms assures a verified communication process throughout the rating period.

(1) The support form communication process is characterized by initial and follow-up face-to-face counseling between the rater and the rated Soldier throughout the rating period. The initial face-to-face counseling assists in developing the elements of the rated Soldier's duty description, responsibilities, and performance objectives. The follow-up counseling enhances mission-related planning, assessment, and performance development.

(2) Through the communication process, rated Soldiers are made aware of the specifics of their duties and may influence the decision on what is to be accomplished. Thus, the rated Soldier is better able to: direct and develop their subordinates plan for accomplishing the mission gain valuable information about the organization find better ways to accomplish the mission

(3) Although the support or form is an official document covered by regulation, it will not become part of the official file used by selection boards or career managers. Failure to comply with any or all support form or counseling requirements will not constitute the sole grounds for appeal of an evaluation report. The senior rater will

ensure that a completed support form is returned to the rated Soldier when the OER is forwarded to Headquarters, Department of the Army (HQDA).

d. Paragraph 3-36 (Modifications to Previously Submitted Evaluation Reports) addressed requests for modifications to both completed evaluation reports that are filed in a Soldier's AMHRR and evaluation reports that are being processed at HQDA prior to completion.

(1) An evaluation report accepted by HQDA and included in the official record of a rated Soldier is presumed to be administratively correct, to have been prepared by the properly designated rating officials who meet the minimum time and grade qualifications, and to represent the considered opinions and objective judgment of the rating officials at the time of preparation.

(2) Requests for modifications to evaluation reports already posted to a Soldier's AMHRR require use of the Evaluation Report Redress Program.

(3) Requests that a completed evaluation report filed in a Soldier's AMHRR file be altered, withdrawn, or replaced with another report will not be honored if the request is based on the following:

- statements from rating officials that they underestimated the rated Soldier
- statements from rating officials that they did not intend to assess the rated Soldier as they did
- requests that ratings be revised
- statements from rating officials claiming administrative oversight or typographical error in checking blocks on forms for professional competence, performance, or potential
- statements from rating officials claiming OERs were improperly sequenced to HQDA by the unit or organization
- a subsequent statement from a rating official that he or she rendered an inaccurate evaluation of a rated Soldier's performance or potential in order to preserve higher ratings for other officers (for example, those in a zone for consideration for promotion, command, or school selection)

(4) For evaluation reports that have been completed and filed in a Soldier's AMHRR, substantive appeals will be submitted within 3 years of an evaluation report "THRU" date. Administrative appeals will be considered regardless of the period of the evaluation report; decisions will be made based on the regulation in effect at the time reports were rendered.

(5) An exception is granted for evaluation reports when information that was unknown or unverified when the evaluation report was prepared is brought to light or verified and this information is so significant that it would have resulted in a different

evaluation of the rated Soldier. The following actions will be accomplished in an effort to modify the evaluation report:

(a) if the information would have resulted in a higher evaluation, the rated Soldier may appeal the evaluation report and rating officials may provide input to support this point; or

(b) if the information would have resulted in a lower evaluation, rating officials may submit an addendum to be filed with the OER.

e. Chapter 4 (Evaluation Report Redress Program) stated the program is both preventive and corrective, in that it is based upon principles structured to prevent and provide a remedy for alleged injustices or regulatory violations, as well as to correct them once they have occurred.

(1) Paragraph 4-3 (Applicability) stated that upon receipt of a request for a Commander's or Commandant's Inquiry, the commander or commandant receiving the request will verify the status of the OER in question. If the evaluation has been submitted and received at HQDA for processing, but has not been filed in the Soldier's AMHRR, the commander or commandant will notify the Evaluations Appeals Office via email with a request to have the evaluation placed in a temporarily administrative holding status until completion of the inquiry.

(2) Paragraph 4-8a (Timeliness) stated because evaluation reports are used for personnel management decisions, it is important to the Army and the rated Soldier that an erroneous report be corrected as soon as possible. As time passes, people forget and documents and key personnel are less available; consequently, preparation of a successful appeal becomes more difficult.

(3) Paragraph 4-11 (Burden of Proof and Type of Evidence) stated the burden of proof rests with the applicant. Accordingly, to justify deletion or amendment of an evaluation report, the applicant will produce evidence that establishes clearly and convincingly that:

(a) the presumption of regularity referred to in paragraphs 3-36a and 4-7a will not be applied to the report under consideration; or

(b) action is warranted to correct a material error, inaccuracy, or injustice.

(4) Paragraph 4-11d stated for a claim of inaccuracy or injustice of a substantive type, evidence will include statements from third parties, rating officials, or other documents from official sources. Third parties are persons other than the rated officer or rating officials who have knowledge of the applicant's performance during the rating period. Such statements are afforded more weight if they are from persons who served

in positions allowing them a good opportunity to observe firsthand the applicant's performance as well as interactions with rating officials. Statements from rating officials are also acceptable if they relate to allegations of factual errors, erroneous perceptions, or claims of bias. To the extent practicable, such statements will include specific details of events or circumstances leading to inaccuracies, misrepresentations, or injustice at the time the evaluation report was rendered. The results of a Commander's or Commandant's Inquiry may provide support for an appeal request.

5. Army Regulation 600-8-104 (Army Military Human Resource Records Management), prescribed 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.

a. Paragraph 3-6 provided 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.

b. Appendix B (Documents Required for Filing in the Army Military Human Resource Record and/or Interactive Personnel Electronic Records Management System) contains the list of all documents approved by Department of the Army and required for filing in the AMHRR and/or interactive Personnel Electronic Records Management System and shows the DA Form 67-10-2 is filed in the performance folder.

//NOTHING FOLLOWS//