

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 April 2025

DOCKET NUMBER: AR20240010687

APPLICANT REQUESTS:

- placement on the retired list in the highest grade held satisfactorily of lieutenant colonel (LTC) vice major (MAJ)
- a personal appearance before the Board via video or telephonically

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored Statement
- DA Form 67-10-2 (Field Grade Plate (O4 through O5, CW3 through CW5) Officer Evaluation Report (OER)) for rating period 2 May 2019 through 1 May 2020 shows he:
 - Was rated as a Chief of Operations at Fort Leavenworth, KS
 - Possesses the skills and qualities for battalion (BN) command
 - Demonstrated unwavering character and ethical commitment to the Army values
 - His overall performance was rated as excels
 - Selected to be the next Deputy Chief of the Operations Group
 - His overall potential was rated as most qualified
 - His maturity and professionalism were what set him apart from his peers
 - Demonstrated strong brigade command potential
- DA Form 67-10-2 for rating period 2 May 2020 through 1 May 2021 shows he:
 - Was rated as an Observer Coach Training at Fort Leavenworth, KS
 - Possesses the skills and qualities for BN command
 - His overall performance was rated as excels
 - Displayed the greatest traits of our senior leaders
 - His overall potential was rated as most qualified
 - He was a consummate professional
 - Was selected to lead a maneuver BN

- DA Form 67-10-2 for rating period 2 May 2021 through 14 June 2022 shows he:
 - Was rated as a BN commander at Fort Hood, TX
 - Was a model for the profession of arms through his commitment to the Army values
 - Fostered an environment of respect and mutual trust
 - His overall performance was rated as proficient
 - Embodies what leaders should look and act like
 - Illustrates exceptional judgement
 - His overall potential was rated as highly qualified
 - He was a natural leader and team builder
- U.S. Army Garrison Fort Leavenworth Office of the Adjutant General Orders Number 144-0002
- Vice Provost of Academic Affairs Army university provided a statement for the applicant's Army Grade Determination Review Board (AGDRB) stating the applicant was assigned as the Senior Education Systems Specialist at the Army University:
 - The applicant is a man of his word
 - The applicant exhibited a positive and energetic attitude and acted professional throughout his assignment at the Army University
- E-mail dated 28 February 2024, shows the Army Review Boards Agency (ARBA) Senior Paralegal notified the applicant the AGDRB would be making recommendations concerning his highest grade he held for retirement:
 - He could submit matters for the AGDRB to consider
 - The procedures for the AGDRB were set forth by Army Regulation (AR) 15-80 (AGDRB)
- E-mail dated 29 February 2024, the applicant acknowledged the AGDRB notification, and he intended to submit matters in his behalf, he inquired:
 - Was he allowed to know who the AGDRB panel member were
 - How were conflicts of interest handled for the AGDRB
 - Will personal information be redacted
 - Was he allowed to see the evidence the AGDRB considered
- E-mail dated 25 March 2024, the applicant submitted matters for the AGDRB to consider and resubmitted his original inquires

- E-mail dated 26 March 2024, the ARBA Senior Legal Advisor informed the applicant the Senior Paralegal was on leave, and she would respond to his e-mail upon her return
- E-mail read receipt dated 1 April 2024 shows the Senior Paralegal for ARBA read the applicant's e-mail dated 25 March 2024
- E-mail dated 1 April 2024 shows the Senior Paralegal for ARBA notified the applicant to submit his matters in one PDF document
- E-mail dated 1 April 2024; the applicant resubmitted his matter for the AGDRB to consider per the previous e-mail instructions
- E-mail dated 1 April 2024; the applicant submitted an updated version of his matters for the AGDRB
- E-mail dated 21 May 2024 from the U. S. Army Human Resources Command (AHRC), inquired about the date the applicant wanted to retire within the next 6-months and his previous request for retirement was submitted to the AGDRB
- E-mail dated 22 May 2024, from the Fort Leavenworth, KS Retirement Services Office which informed the applicant his retirement orders will state his retired grade of MAJ

FACTS:

1. The applicant essentially states:

- He served in the rank of LTC for 55-months
- He received an honorable separation from active duty with over 21-years of service
- He was relieved of command and issued a General Officer Memorandum of Reprimand (GOMOR) following the AR 15-6 investigation
- The preponderance of his 55-months was honorably and successfully served prior and after the incident
- The decision of the AGDRB was unjust for one mistake in 55-months of service
- It is unclear the standards the AGDRB uses to determine satisfactory service
- He never received a formal notification or the reasoning of the AGDRB decision
- The Army deems his service to be honorable, but the AGDRB deemed his service in the rank of LTC to be unsatisfactory
- He successfully completed two assignments and 1-year in command before he was relieved
- The AGDRB decision was illogical
- Command is a voluntary assignment, whether command was completed or not was arbitrary
- Performance in command should not be used to determine success in grade

- The AGDRB process lacks transparency, and its communication eroded his confidence in the system
- The AGDRB process challenged his belief in the Army's "People First" slogan
- He is concerned his matters were not received and/or reviewed by the AGDRB
- The ARBA Senior Paralegal was non-communicative
- The AGDRB decision was illogical and punitive, unjust and a continuation of unfair treatment he suffered from the Army under the cover of non-punitive
- There was no official notification from ARBA or AGDRB of the decision of the board
- His requests for information from ARBA was not acknowledged or answered
- The original notification of the AGDRB did not include how to submit matters to the board
- There was no indication his matters had been received or submitted to the board
- The Senior Paralegal's conduct was unhelpful
- He will be penalized for the remainder of his life with the reduction of \$400.00 in retired pay
- The entire process was mentally taxing, and he has sought counseling to discuss his past mistakes, reconcile his identity and make sense of the Army's actions
- He was unprofessionally treated by those who should be helpful
- He was punished and dismissed without the courtesy of a formal notification or an explanation of the AGDRB reasoning
- He admitted his guilt and took responsibility for his mistake
- He cooperated with the AR 15-6 investigation
- The true injustice and maltreatment occurred post-retirement, which has caused him to relive and suffer the mistake

2. A review of the applicant's service record shows:

- With prior enlisted U. S. Army Reserve service, on 29 May 2003, he was ordered to active duty to accept his appointment by Orders Number 129-10-A-1500 dated 9 May 2003
- On 10 May 2003, he executed his oath of office and was appointed a Reserve commissioned officer
- On 1 January 2013, he was promoted to the rank of MAJ, effective on with a Date of Rank (DOR) of 1 January 2013 by Orders Number 353-016 dated 18 December 2012
- On 1 December 2019, he was promoted to the rank of LTC, effective on with a DOR of 1 December 2019 by Orders Number 326-914, dated 22 November 2019
- On 12 June 2022, he was assigned to 2nd BN, 12th Cavalry, Fort Hood, TX by Orders Number 025-351 dated 25 January 2021, additional instructions stated he was a geo-bachelor, his family remained at Fort Leavenworth, KS
- DA Form 67-10-2 for rating period 15 June 2022 through 26 April 2023 shows he:

- Rated as a BN commander
- The evaluation was a referred report for an inappropriate relationship which he submitted a rebuttal:
 - He took full responsibility for the fact he may not have used the best judgement in communication with a Soldier
 - He was trying to help the Soldier
 - He was naïve to see the Soldier attempted to blackmail him
 - The OER does not list all his accomplishments and contributions
 - He takes his career in the Army seriously
 - He strives to uphold the Army values in all he does
 - He would never intentionally do anything to discredit himself or the Army
 - He served honorably including three deployments
 - His evaluations have always been exemplary
- His overall performance was unsatisfactory
- He was relieved based on his loss of trust in his ability to command
- AR 15-6 investigation substantiated he engaged in an inappropriate relationship and fraternized
- His actions resulted in an actual or perceived impact on the discipline and his ability to command
- His overall potential was not qualified
- He was a tremendous team builder
- However, his poor decision making was substantiated by the AR 15-6 investigation which made him unsuited for promotion or school
- On 11 May 2023, he was assigned to 1st Armor Replacement, Fort Cavazos, TX by Orders Number 4717914 dated 12 May 2023
- On 30 May 2023, he was assigned to the U.S. Army Combined Arms Center at Fort Leavenworth, KS by Orders Number 4095639 dated 2 June 2023
- On 1 June 2023, he was assigned to the Army University, Fort Leavenworth, KS by Orders Number 4924323 dated 2 June 2023
- On 16 May 2024, ARBA notified AHRC, the AGDRB recommended the applicant be placed on the retired list in the rank of MAJ due to unsatisfactory service in the rank of LTC which was approved by the Deputy Assistant Secretary of the Army (Review Boards)
- On 31 July 2024, he was assigned to the Fort Leavenworth, KS transition center for retirement by Orders Number 144-0002 dated 23 May 2024:
 - He was placed on the retired list on 1 August 2024
 - He was placed on the retired list in the rank of MAJ

- Calculation of retired pay will be in accordance with Title 10 United States Code, section 1407(f)
- Service in the grade of LTC was not satisfactory
- DA Form 67-10-2 for rating period 27 April 2023 through 31 June 2024 shows he:
 - Was rated as the Professional Military Education Training Developer at the Army University
 - He exemplifies the Army values
 - His overall performance was proficient
 - He was a consummate professional whose infectious enthusiasm inspired morale and promoted excellence among the team
 - His overall potential was qualified
 - He was an excellent leader and professional
 - He had the potential to continue to serve in his current grade
- On 31 July 2024, he was honorably retired from active duty with 21-years, 2-months, and 2-days of active service, DD Form 214 (Certificate of Release or Discharge from Active Duty) shows his retired list grade was MAJ

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, 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 applicant's petition, the Board determined the applicant did not provide evidence that shows that there was an error or injustice. The Army Grade Determination Review Board (AGDRB) reviewed the applicant's retirement and his request for a grade determination submitted by the U.S. Army Human Resources Command. The AGDRB directed the applicant be placed on the retired list in the grade of major (MAJ)/O-4.

2. The Board noted the applicant's contention that he served satisfactorily as a LTC for 55 months, received an honorable discharge after 21 years of service and that this was a singular event in his career; however, the Board determined as a senior officer, his conduct was unacceptable. The Board determined that an AR 15-6 investigation substantiated the allegations that he engaged had an inappropriate relationship as a LTC, while married, and appropriately received the repercussions of his actions. The Board further agreed with the AGDRB that the applicant's service as a LTC/O-5 was unsatisfactory.

3. The Board determined the AGDRB's decision to retire the applicant as a MAJ/O-4 was not in error or unjust and found no basis to reverse the decision. The Board denied relief.

4. 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

:	:	:	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.

5/5/2025

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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 United States Code (USC), section 1407 (Retired pay base for members who first became members after 7 September 1980: high-36 month average), (f) (Exception for Enlisted Members Reduced in Grade and Officers Who Do Not Serve Satisfactorily in Highest Grade Held) (1) Computation based on pre-high-three rules. In the case of a member or former member, the retired pay base or retainer pay base is determined under section 1406 of this title in the same manner as if the member or former member first became a member of a uniformed service before 8 September 1980. (2) Affected members: a member or former member is a member or former member who by reason of conduct occurring after 30 October 2000: (B)in the case of an officer, is retired in a grade lower than the highest grade in which served pursuant to Title 10 USC, section 1370 or 1370a of this title that the officer served on active duty satisfactorily in that grade.
2. Title 10 USC, section 1370 (Regular commissioned officers), (a) Retirement in Highest Grade in Which Served Satisfactorily: (1) Unless entitled to a different retired grade under some other provision of law, a commissioned officer of the Army who retires under any provision of law other than chapter 61 or 1223 of this title shall be retired in the highest permanent grade in which such officer is determined to have served on active duty satisfactorily. (2) Determination of satisfactory service: The determination of satisfactory service of an officer in a grade shall be made as follows: (A) By the Secretary of the military department concerned, if the officer is serving in a grade at or below the grade of major general or rear admiral.
3. Army Regulation (AR) 15-80 (Army Grade Determination Review Board and Grade Determinations (ADGRB)), established policies, procedures and responsibilities of the AGDRB and other organizations delegated authority to make grade determinations on behalf of the Secretary of the Army.
 - a. Paragraph 2-2, the AGDRB considers individuals that are referred to it in accordance with this regulation. It directs or recommends the final grade determination that affects an individual's separation or retired pay. The AGDRB decides cases on the evidence of record. It is not an investigative body. AGDRB discussions and individual votes of members are privileged and confidential and will be disclosed only to those individuals in the decision making process with a need to know.
 - b. Paragraph 2-4 (Grade determination considerations), a grade determination is an administrative decision to determine appropriate retirement grade, retirement pay or other separation pay. Although a lower grade determination may affect an individual adversely, such determinations are not punitive. The AGDRB will consider each case on its own merits. Generally, determinations will be based on the Soldier's overall service in the grade in question, either on active duty or other service qualifying the Soldiers for

retirement, receipt of retired pay or separation for physical disability. Circumstances pertinent to whether such service is found satisfactory include but not limited to, the length of otherwise satisfactory service in the grade in question, before and after the misconduct. Performance level, as reflected in evaluation reports and other portions of the service record that reflect performance. In reviewing these matters, the AGDRB will consider whether reporting officials were aware of the performance giving rise to the grade determination. The nature and severity of misconduct; although the punishment an individual has received may be one factor in determining the seriousness of misconduct, the amount of punishment will not be considered in determining whether the individual has been punished enough. Grade determinations are not considered punitive and the standard for grade determinations is highest grade satisfactorily served, not whether the individual has been sufficiently punished.

c. Paragraph 2-5 (Unsatisfactory Service), service in the highest grade or an intermediate grade normally will be considered to have been satisfactory when a reversion to a lower grade was:

- Expressly for prejudice or cause
- Owing to misconduct
- Caused by non-judicial punishment
- A result of the sentence of a court-martial

The underlying misconduct and/or substandard performance can result in a determination that service in grade was unsatisfactory.

d. Paragraph 2-8 (Information to be considered), the Soldier whose case is being considered is not entitled to appear before the AGDRB. The AGDRB may consider any evidence relevant to the grade determination regardless of whether or not the information is part of the Soldier's Army Human Resource Record (AMHRR). Any evidence not contained in the Soldier's AMHRR will be referred to the Soldier for review and comment, unless the Soldier has previously been provided the evidence or the Soldier is known to possess it. Before the AGDRB may consider an evidence, the individual will be advised:

- That their grade will be considered by the AGDRB
- Of what evidence will be considered
- Of the right to consult with a military lawyer or seek private civilian counsel at no expense to the Government
- Of the opportunity within a reasonable period of time to submit matters in writing for consideration by the AGDRB

4. AR 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 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.

//NOTHING FOLLOWS//