NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted February 17, 2026*
Decided February 20, 2026

Before

MICHAEL B. BRENNAN, *Chief Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 25-1574

ERIC D. SMITH,
Plaintiff-Appellant,

v.

DANIEL P. DRISCOLL, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division.

No. 1:24-cv-01174-MPB-KMB

Matthew P. Brookman,
Judge.

O R D E R

Eric D. Smith, a former member of the Army Reserve, sued several Army officials in their official capacities under the Administrative Procedure Act (APA) after he was denied reenlistment. *See* 5 U.S.C. § 706(2)(A). The district court granted the Army's motion for summary judgment, concluding that the Army's decision was not

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

arbitrary or capricious. Because the Army followed valid, governing regulations, and those regulations are consistent with the governing statutes, we affirm.

Smith joined the Army Reserve in 1996. In 2001, he was convicted of Class B felony arson in Indiana state court and was sentenced to 20 years' incarceration. He separated from the Army Reserve in 2004. In 2021, his arson conviction was expunged.

In 2022, Smith attempted to reenlist in the Army Reserve. He first submitted a standard application. After a background check revealed his arson conviction, the application was denied because he did not provide the required documentation regarding his criminal record. In March 2024, Smith made another attempt to reenlist. This time, he fully disclosed his expunged arson conviction. His application was flagged by Army officials and was subsequently denied because of his prior misconduct.

Shortly thereafter, Smith filed this action against several Army officials in their official capacities, alleging that he was denied reenlistment because of his religion. The district court screened his complaint, *see* 28 U.S.C. § 1915(e)(2), and permitted Smith to proceed on claims seeking injunctive relief for religious discrimination under the APA and injunctive relief under Indiana Code § 35-38-9-10(b), which makes unlawful an employer's refusal to hire someone because of a conviction that has been expunged. Smith alleged that his reenlistment was unlawfully denied because of his religion and therefore was arbitrary and capricious under the APA, and that Indiana's expungement statute required Army officials to honor the expungement of his state arson conviction, such that it could not bar his reenlistment.

Both parties moved for summary judgment. In his motion, Smith raised an additional claim: a facial challenge to the validity of Army regulations. The court, however, noted that its screening order had not authorized a claim on this basis, so it considered only Smith's arguments concerning religious discrimination and his claim under Indiana's expungement statute. The court then granted the Army's motion.

The court first concluded that Smith failed to show that the Army denied his reenlistment application for religious reasons. It then concluded that the Army did not act arbitrarily or capriciously in denying Smith's attempt to reenlist. The court explained that Army regulations prohibit officials from waiving certain categories of major misconduct—such as arson—when determining enlistment eligibility and bar consideration of state-law variances—including expungements—in evaluating prior misconduct. The court also noted that Army officials who disregard these regulations

risk court-martial. As to Smith's claim under Indiana's expungement statute, the court concluded that the Supremacy Clause requires Army officials to follow federal military regulations over conflicting state law. Accordingly, the Army was not required to honor Smith's expungement when assessing his eligibility for reenlistment.

Smith then moved under Federal Rule of Civil Procedure 59 to vacate the judgment, arguing that the Army regulations conflict with superseding Department of Defense regulations and statutory authority in a way that placed the Army "outside the scope of any congressionally delegated authority." The court rejected this argument, adopting the Army's position that the governing statutes and regulations authorized each of the armed services to promulgate enlistment standards more exacting than the minimums contained in the governing statute and the Department of Defense's implementing regulations.

On appeal, Smith argues that the Army regulations exceed the authority granted by superior regulations and statutes, rendering the Army's decision arbitrary and capricious.[†] We review whether the Army's decision to deny reenlistment was arbitrary, capricious, an abuse of discretion, unsupported by substantial evidence, or not in accordance with law. *See Little Co. of Mary Hosp. v. Sebelius*, 587 F.3d 849, 853 (7th Cir. 2009).

We begin by outlining the statutory and regulatory framework governing enlistment eligibility. With respect to enlistment generally, 10 U.S.C. § 504(a) provides that no person convicted of a felony may enlist in the armed forces, except that the Department of Defense may authorize exceptions in "meritorious cases." With respect to enlistment in the Reserve, 10 U.S.C. § 12102(b) authorizes each service secretary to "prescribe physical, mental, moral, professional, and age qualifications for the enlistment of persons as Reserves." Pursuant to its authority under § 504(a), the Department of Defense has promulgated regulations establishing minimum enlistment standards and criteria for exceptions, including the statutorily-authorized waivers.

[†] We note that Smith does not appear to have sought relief from the Board for Correction of Military Records prior to filing suit. Generally, courts will not review internal military matters in the absence of exhaustion of available intraservice remedies. *See Woodrick v. Hunderford*, 800 F.2d 1413, 1416 (5th Cir. 1986). Nonetheless, the Army has not raised the non-jurisdictional failure-to-exhaust argument, so we proceed to the merits. *See Bradley v. Village of University Park*, 59 F.4th 887, 897 (7th Cir. 2023).

Applicants with significant criminal records are generally ineligible to enlist but may request a waiver. S*ee* 32 C.F.R. § 66.6(b)(8)(ii). Convictions for certain sexual offenses may not be waived, *see id.* § 66.6(b)(8)(iii), but Department regulations do not otherwise limit the armed forces from prohibiting waivers for other specific offenses.

The Army implements these standards through its own regulations, supplementing them where appropriate. Under AR 601-210 ¶ 4-7(d)(5), the Army cannot consider waivers for applicants convicted of "major misconduct"—any felony-level offense punishable by imprisonment exceeding one year—during or after prior military service. *Id.* ¶ 4-7(d). To ensure consistent application across jurisdictions, the Army treats convictions as valid notwithstanding expungement unless new findings in the case would have resulted in an original verdict of not guilty. *Id.* ¶ 4-30(b)(1)(B).

Smith first contends that the Army's categorical prohibition on waivers for convictions involving major misconduct—¶ 4-7(d)(5)—conflicts with its statutory and regulatory authority to promulgate enlistment standards. *See* 10 U.S.C. § 504(a); 32 C.F.R. § 66.6(b). He argues that the Army's rule exceeds its authority by extending ineligibility beyond the sexual offenses identified in § 66.6(b)(8)(ii), rather than permitting waivers in "meritorious cases," as § 504(a) allows.

Smith is correct that § 66.6(b)(8) and § 504(a) set baseline criteria; however, the Army may adopt more restrictive eligibility standards and waiver procedures. *See Gulomjonov v. Bondi*, 131 F.4th 601, 609–10 (7th Cir. 2025) (regulations promulgated within the scope of delegated authority may establish detailed service-level criteria consistent with—but broader than—departmental minimum standards). The plain language of § 66.6(b)(8), which establishes the "minimum" ineligibility criteria, expressly authorizes the military services to impose additional or tailored restrictions. Section 66.5(c) further directs the services to "[u]se the standards in § 66.6 to determine the entrance qualifications for all individuals being enlisted, appointed, or inducted into any component of the Military Services" and to establish procedures to grant waivers under § 504(a). And § 504(a) vests the Army with discretion to grant exceptions in meritorious cases without limiting the Army's authority to issue regulations establishing eligibility standards and waiver procedures. We therefore reject Smith's contention that the Army regulations exceed the authority granted by Congress in § 504(a) or by the Department in § 66.6(b)(8).

In any event, Smith sought to enlist in the Army Reserve. Congress has provided the Army independent statutory authority under § 12102(b) to prescribe moral qualifications for enlistment in the Reserve. Accordingly, even if the challenged Army

regulation extended beyond what § 504(a) alone would authorize, it would not be unauthorized by law, because it is independently authorized by § 12102(b).

Smith next contends that the Army's policy of not recognizing expungements (absent new evidence establishing a not guilty verdict) when assessing major misconduct—¶ 4-30(b)(1)(B)—conflicts with Indiana's expungement statute and that the Army is therefore required to conform its enlistment regulations to Indiana law. But "Congress shall have Power … To make Rules for the Government and Regulation of the land and naval Forces." U.S. CONST. art. I, § 8, cl. 14. And "it is clear that the Constitution contemplated that the Legislative Branch has plenary control over rights, duties, and responsibilities in the framework of the military establishment." *See Chappell v. Wallace*, 462 U.S. 296, 301 (1983).

To the extent that ¶ 4-30(b)(1)(B) is authorized by § 504(a), Smith's argument fails: the Supreme Court has recognized that federal law may disregard state expungements to maintain nationwide consistency. *See, e.g.*, *Dickerson v. New Banner Institute*, 460 U.S. 103, 119–20 (1983). And to the extent that ¶ 4-30(b)(1)(B) is also authorized by § 12102(b) as it applies to enlistment in the Reserve, the expungement is immaterial. The Army, exercising congressionally delegated authority, has imposed a bar to enlistment in the Reserve for major misconduct—a standard of its own creation. Smith's arson conviction is evidence of major misconduct. Expungement of that conviction may affect legal disabilities imposed under Indiana law but, absent evidence that he would have been found not guilty, the expungement cannot afford Smith the relief he seeks. Regardless of the source of statutory authority, the bar to enlistment in ¶ 4-30(b)(1)(B) is valid.

Smith's final challenge to the regulations asserts that the Army failed to comply with notice-and-comment procedures when promulgating them and that the regulations should therefore be set aside. But because Smith did not raise this argument in the district court, it is waived. *See Henry v. Hulett*, 969 F.3d 769, 785 (7th Cir. 2020) (en banc).

Because the Army's regulations are valid, the Army's decision to deny Smith reenlistment is not arbitrary and capricious. "The APA allows us to discard an agency's conclusion if the path it took cannot be discerned." *St. Vincent Med. Grp., Inc. v. United States Dep't of Just.*, 71 F.4th 1073, 1076 (7th Cir. 2023). Here, the path is straightforward. Smith was convicted of arson, which qualifies as major misconduct under ¶ 4-7(d)(5) and disqualifies him from reenlistment. His expungement is immaterial because ¶ 4-30(b)(1)(B) requires expunged convictions to be treated as convictions absent new

evidence that he would have been found not guilty, which Smith has not presented. Accordingly, the Army reasonably applied its enlistment regulations to Smith's request, and its refusal was neither arbitrary nor capricious.

AFFIRMED