

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 February 2024

DOCKET NUMBER: AR20230006378

APPLICANT REQUESTS: His uncharacterized discharge for the period ending 20 July 2004 be changed to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Two certificates of training
- Three documents related to his separation
- DD Form 214 (Certificate of Release or Discharge from Active Duty) dated 20 July 2004

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 graduated Basic Combat Training (BCT) on 17 June 2004. His security clearance was not adjudicated at the time he graduated BCT, which was a requirement for attendance at his Advanced Individual Training (AIT). Approximately one month after graduation from Basic Combat Training, he was offered a Release from Active Duty (REFRAD) to return home to his civilian job, Reserve Unit, and wife. There was no wrongdoing, and hence no documentation or investigations. There are no derogatory documents in his personnel file or elsewhere. His security clearance was subsequently adjudicated, and he commissioned as an officer in the Army Reserve thereafter.
3. The applicant's Official Military Personnel File contains only information related to his 20 plus years of service as an officer. However, the applicant has provided documentation of his enlisted service in support of his request.
4. A review of the applicant's service record shows he enlisted in the U.S. Army Reserve (USAR) on 30 June 2003.

5. He was ordered to initial active duty for training on 29 March 2004. He completed BCT and participated in the Basic Combat Training Interim Program of Instruction/Pilot Program.

6. While being held over awaiting the completion of his security clearance to attend AIT, he received a Red Cross message indicating his wife and father-in-law were both hospitalized.

7. A Memorandum for the Trainee/Student Processing Center Director notes that the applicant had completed BCT on 17 June 2004 and was on a security holdover. The applicant's wife had recently undergone an open-heart surgery. While waiting for his security clearance, the Soldier requested to be REFRAD to take care of his wife and to return to his civilian practice as a lawyer. He agreed to return to active duty to complete AIT, as soon as the security clearance is approved. The request for REFRAD was approved on 12 July 2004.

8. The U.S. Army Human Resources Command memorandum , dated 13 July 2004, directed the applicant be REFRAD based on the Fort Jackson liaison's authorization, due to extreme hardship and the applicant being a security holdover. He was REFRAD, transferred to his USAR unit with directions for discharge should he not return to active duty.

9. The applicant was REFRAD on 20 July 2004. His DD Form 214 shows he was REFRAD under Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 4. The DD Form 214 shows he had 3 months and 20 day of active service this period with 8 months and 29 days of inactive service. His character of service is shown as "uncharacterized", the narrative reason for separation as Completion of Required Active Service, the Separation Code as MBK (Completion of Required Active Service) and the Reentry Code as "NA".

10. The available records do not include an order for his AIT or a copy of a DD Form 214 showing his completion of AIT and return to his USAR unit.

11. The applicant executed an oath of office and was appointed a Reserve commission officer on 14 December 2006.

a. He served in a variety of assignments, including multiple periods of active service (mobilization and/or training), and he attained the rank of major. ,

b. On 29 September 2023, the U.S. Army Human Resources Command issued him a Notification of Eligibility or Retired Pay at e 60 (20-Year Letter).

c. On 5 December 2023, his higher headquarters issued him orders transferring him to the Retired Reserve effective 31 December 2023.

d. The applicant's Retirement Accounting Statement shows he had several periods of active duty service between 14 December 2006 and 31 December 2023.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The evidence shows the applicant was released from active duty on 20 July 2004 under AR 635-200, Chapter 4, after completing 3 months and 20 days of active service with his character of service shown as "uncharacterized" and the narrative reason for separation as Completion of Required Active Service. He did not complete initial entry training and was not awarded an MOS. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service.

b. However, the Board noted that a series of unfortunate events, beyond his control, led to his separation from initial entry training: the applicant's wife had recently undergone open-heart surgery, and while he was in training, his security clearance processing was delayed. While waiting for his security clearance, the Soldier requested to be separated to take care of his wife and to return to his civilian practice as a lawyer. He agreed to return to active duty to complete AIT, as soon as the security clearance is approved. His request was approved.

c. Given the applicant's unique circumstances, the Board determined that a characterization of service as honorable is warranted by the presence of unusual circumstances involving personal conduct and performance of military duty, and as a result, determined an honorable characterization of service is appropriate.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing him a DD Form 214 for the period ending 20 July 2004 showing his character of service as Honorable:

- Separation Authority: No Change
- Separation Code: No Change
- Reentry Code: No Change
- Narrative Reason for Separation: No Change

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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 635 – 200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality

of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A characterization of under honorable conditions may be issued only when the reason for the Soldier's separation specifically allows such characterization.

c. Chapter 4 (Chapter 4 Separation for Expiration of Service Obligation) provides that:

(1) Soldiers of the USAR ordered to active duty for a period in excess of 90 days will, upon REFRAD, revert to control of the appropriate RC.

(2) A Soldier being separated upon expiration of enlistment or fulfillment of service obligation will be awarded a character of service of honorable, unless the Soldier is in entry-level status and service is uncharacterized.

2. Army Regulation 135-178 (Separation where service is uncharacterized - Entry level status.), service will be described as uncharacterized if separation processing is initiated while a Soldier is in an entry level status, except in the following circumstances:

a. When characterization under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case;

b. The Secretary of the Army, or the Secretary's designated representative, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of military duty. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligations.

//NOTHING FOLLOWS//