

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 October 2024

DOCKET NUMBER: AR20230007539

APPLICANT REQUESTS: an upgrade of his uncharacterized discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- NGB Form 22 (Report of Separation and Record of Service)
- Department of Veterans Affairs (DVA) letter, 3 April 2024

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 needs his DD Form 214 changed to honorable discharge so that he can use it with that designation. The ones that he has only show uncharacterized. Please fix and send a correct version to him. He shows honorable on all other papers at the VA. He believes that the DD Form 214 was made in hast and not put his honorable status, because he was going through disability with the DVA.
3. The applicant's service records are not available for review. An exhaustive search was conducted to locate the service records, but they could not be found. The only documents available were the documents provided by the applicant. These documents are sufficient for the Board to conduct a fair and impartial review of this case.
4. The applicant enlisted in the Oklahoma Army National Guard (OKARNG) on 24 October 1998.
5. He entered a period of active-duty training on 31 January 1999. He did not complete initial entry training and was not awarded a military occupational specialty.

6. The completed facts of his discharge are unavailable at this time. His DD Form 214 shows he received an uncharacterized discharged under the provisions of Army Regulation (AR) 635-40 (Physical Evaluation for Retention, Retirements, or Separation), paragraph 4-24B (3). He completed 9 months and 28 days net active service this period. He received severance pay in the amount of \$1,918.80. It also shows:

- Item 26 (Separation Code): JFL
- Item 27 (Reentry Code): 3
- Item 28 (Narrative Reason for Separation): Disability, Severance Pay

7. His NGB Form 22, shows he was discharged from the OKARNG on 8 November 1999. He completed 1 year and 15 days total service for pay.

8. The applicant provides DVA letter dated 3 April 2024, showing he is receiving 70% combined service-connected disability rating.

9. By regulation, (AR 635-200):

a. An uncharacterized separation is an entry-level separation; for Soldiers ordered to initial ADT, entry-level status terminates 180 days after beginning training. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active duty service.

b. Current guidance states Reserve Component Soldiers completing active duty that results in the award of an MOS, even when the active duty period was less than 90 days (for example, completion of the advanced individual training component of Army National Guard (ARNG) Alternate Training Program or USAR Split Training Program) will receive a character of service of Honorable unless directed otherwise by the separation approval authority.

10. By regulation, (AR 635-40) sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his or her office, grade, rank, or rating. If a Soldier is found unfit because of physical disability, this regulation provides for disposition of the Soldier according to applicable laws and regulations.

11. In reaching its determination, the Board can consider the applicant's petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant's records are not available for review. Other evidence shows he entered active duty for training as a member of the ARNG; however, he did not complete training and was not awarded an MOS. Based on his DD Form 214, he appears to have incurred a medical condition that led to his consideration by a physical evaluation board which found such condition unfitting and recommended his separation for disability with severance pay. In the absence of his disability separation documents, the Board cannot establish if would have completed training and would have been awarded an MOS. The burden of proof rests with the applicant. If the applicant has a complete copy of his disability documents, he may reapply to this Board for reconsideration.

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.

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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. 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 (AR) 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel. The regulation stated in:

a. Paragraph 3-7a – an honorable discharge was a separation with honor. The honorable characterization was appropriate when the quality of the member's service generally had met the standards of acceptable conduct and performance of duty for Army personnel, or was otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Paragraph 3-7b – a general discharge was a separation from the Army under honorable conditions. When authorized, it was issued to a member whose military record was satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Paragraph 3-9 – a separation would be described as an entry level separation with service uncharacterized if processing was initiated while a Soldier was in entry level status. During the first 180 days of continuous active military service, a member's service was under review. When separated within the first 180 days, service was usually not characterized unless the circumstances of the separation warranted a discharge under other than honorable conditions (misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial).

3. AR 635-40) sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his or her office, grade, rank, or rating. If a Soldier is found unfit because of physical disability, this regulation provides for disposition of the Soldier according to applicable laws and regulations. Paragraph 4-24b (3) states separation for physical disability with severance pay (10 USC 1203 or 1206).

4. AR 635-8 (Separation Processing and Documents), currently in effect, prescribes policy and procedural guidance relating to transition management. Specifically, it references instruction related to the preparation of the DD Form 214. The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. It provides a

brief, clear-cut record of active duty service at the time of release from active duty, retirement, or discharge.

a. Paragraph 5-1f states that a DD Form 214 will be prepared for Reserve Component (RC) Soldiers completing active duty that results in the award of an MOS, even when the active duty period was less than 90 days (for example, completion of the advanced individual training component of ARNGUS Alternate Training Program or USAR Split Training Program).

b. Paragraph 5-6 states: "When a RC Soldier successfully completes initial active duty training the character of service is Honorable unless directed otherwise by the separation approval authority."

//NOTHING FOLLOWS//