

IN THE CASE OF: ██████████

BOARD DATE: 21 February 2024

DOCKET NUMBER: AR20230008829

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show “3” in item 27 (Reentry Code (RE)) vice “4.”

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record).

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 would like a change in his RE code from 4 to 3 to allow him to reenlist or perhaps any changes the Board deems necessary to allow him to reenlist and fix what the younger version of him “messed up.” His father got stuck and needed in-home care. The alternative was a nursing home where he could possibly lose his land and his home. The company commander told him he would not sign off on his discharge due to unit readiness levels and he chose to take a drug to allow him to get home to his father. He took care of him for 10 years until he passed away in ██████████. He is now in the best shape of his life and would very much like a second chance to serve his country. If granted, he promises not to let anyone down. He is from a military family and feels he dishonored them.
3. A review of the applicant’s service records show:
 - a. He enlisted in the Regular Army on 19 November 1996.
 - b. On 3 February 1999, the applicant’s immediate commander notified the applicant of his intent to separate him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 14-12c, for commission of a serious offense. The reason for his proposed action was for the applicant testing positive on two separate occasions for wrongful use of a controlled substance, one for

marijuana and the other for cocaine. The applicant acknowledged receipt on the same day.

c. The notification of separation identified 11 enclosures, three show the applicant received nonjudicial punishment; however, they were not included in the applicant's service record.

- DA Form 2627 (Record of Proceedings Under Article 15, UCMJ), dated 15 August 1997
- DA Form 2627, dated 27 October 1998
- DA Form 2627, dated 25 January 1999

d. On 3 February 1999, after consulting with legal counsel, he acknowledged:

- the rights available to him and the effect of waiving said rights
- he may encounter substantial prejudice in civilian life if less than honorable discharge was issued to him
- he may be ineligible for many or all benefits as a Veteran under both Federal and State laws
- he may apply to the Army Discharge Review Board or the ABCMR for upgrading
- he will be ineligible to apply for enlistment for a period of 2 years after discharge.
- he was entitled to have his case heard before an administrative separation board if considered for an under other than honorable conditions discharge
- he elected to submit a conditional waiver request and a personal statement

e. A conditional waiver, dated 3 February 1999, states the applicant waives his right to an administrative separation board contingent upon receiving a general discharge.

f. The applicant's personal statement further indicated the last 6 months had been crazy for him and it had been one thing after the other. He felt like he had no control, and he knew it was his fault. He knew that his way of life (drugs) was not compatible with the military, but he believed it was no reason to kick him out on the worst possible discharge. He asked for reconsideration to allow him to salvage something good out of being in the military, he was only ■■■, and was going to live a long and "fruitful" life. He did not deserve the chapter recommended and still believed he was one of the nicest people anyone could meet. "Its funny how when you mess up once that erases everything good you accomplished prior to that." Then you keep messing up and you're receiving a 14-12c. He ended his statement by noting, "do what you think is right!"

g. On 4 February 1999, the immediate commander initiated separation action against the applicant under the provisions of AR 635-200, Chapter 14-12c, for

commission of a serious offense. The commander recommended the characterization of service be under other than honorable conditions. The intermediate commanders recommended approval.

h. On 18 February 1999, the General Court-Martial Convening Authority (GCMCA) directed the applicant be referred to an administrative separation board to determine whether he should be discharged prior to expiration of his term of service and, if so, to recommend a characterization of service.

i. On 5 March 1999, the applicant having been advised by consulting counsel, voluntarily waived his right to an administrative separation board. He acknowledged:

- he was making the request of his own free will
- he had not been subjected to any coercion whatsoever

j. On 12 March 1999, the GCMCA approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 14, paragraph 14-12c for commission of a serious offense. He would be issued an other than honorable conditions discharge.

k. On 19 March 1999, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 shows he completed 2 years, 4 months, and 1 day of active service. He was assigned separation code JKK and the narrative reason for separation listed as "Misconduct," with reentry code 4. It also shows he was awarded or authorized:

- Army Service Ribbon
- Marksman Marksmanship Qualification Badge with Rifle Bar

4. On 10 April 2013, the applicant was notified the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

5. By regulation (AR 635-5-1), SPD code JKK is the appropriate code to assign to Soldiers separated under the provisions of AR 635-200, paragraph 14-12c for commission of a serious offense. The SPD/RE Code Cross Reference Table, in effect at the time, states that a RE-4 code will be assigned to members separated under these provisions with an SPD code of JKK.

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 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 available military records, the Board noted the applicant provided no post service accomplishments or character letters of support attesting to his honorable conduct for the Board to weigh a clemency determination. The Board found the applicant's statement of wanted to serve again in the Army for service as commendable, but the applicant has not provided anything to mitigate prior disservice. Furthermore, the Board determined there is insufficient evidence of in-service mitigating factors to overcome the misconduct of drug use that would warrant a change to the applicant's RE-Code. Based on this, the Board denied relief and voted the reentry code should remain the same.

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.

3/4/2024

X

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, 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 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It states the SPD code "JKK is the appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200, paragraph 14-12c for commission of a serious offense. The SPD/RE Code Cross Reference Table stipulates that a RE-4 code will be assigned to members separated under these provisions with an SPD code of JKK.
3. Army Regulation 601-210 (Regular Army and Army Reserve Enlistment Program), in effect at the time, governs eligibility criteria, policies and procedures for enlistment and processing of persons, with or without prior service, into the Regular Army and the U.S. Army Reserve. Reentry eligibility (RE) codes are used for administrative purposes only and are not to be considered derogatory in nature. They are codes used for identification of an enlistment processing procedure. Table 3-1 lists the following:
 - a. RE-1 applies to persons immediately eligible for reenlistment at time of separation.

b. RE-3 applies to persons who may be eligible with waiver-check reason for separation.

c. RE-4 applies to persons ineligible for enlistment.

//NOTHING FOLLOWS//