

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 September 2024

DOCKET NUMBER: AR20230011000

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

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States), 6 July 2023
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 23 May 1990

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 was informed after 6 months from his discharge date his characterization would be upgraded to reflect honorable if he did not have incidents or bad behavior. He is requesting a discharge upgrade to have the ability to receive a driver's license showing "Veteran" on it.
3. He enlisted in the U.S. Army Reserve (USAR) on 14 June 1989 and entered active duty for training on 28 November 1989.
4. On 19 March 1990, while attending the dental specialist basic course, the class advisor recommended the applicant be relieved from the course for failure of a crucial practical examination with a score of 116 out of a possible 200 points. He was retaught and administered a retest, which he failed with a score of 138 out of 200. He failed three out of six written examinations with an accumulated score of 491 out of 650.
5. On the same date, the applicant received formal notification for recommendation of relief from the dental specialist course by the Class Advisor. The applicant acknowledged the receipt of the memorandum and requested an appointment with the

Branch Chief. After meeting with the Branch Chief, the applicant did not request an appointment with the Course Director.

6. On 21 March 1990, the applicant was recommended for further training in the Career Management Field of 91.

7. On 19 April 1990, the applicant underwent a mental evaluation. The DA Form 3822-R (Report of Mental Status Evaluation) shows he underwent evaluation due to his marginal past performance, poor academia, and moodiness. Prior to entry into the service, he had numerous troubles with parents and civil authorities (runaway, theft, suicidal gesturing, etc.) He received a diagnoses of personality disorder not otherwise specified, mixed antisocial, borderline, and impulsive. Additionally stating, the problems presented by the applicant are not in the opinion of the examiner, amenable to hospitalization, brief treatment, a rehabilitative transfer, disciplinary action, retraining or reclassification to another type of duty within the military and it was unlikely that efforts to rehabilitate or develop this soldier into a satisfactory member of the military will be successful.

8. On 24 April 1990, a DA Form 4856 (General Counseling Form) shows the applicant received counseling from the company commander to initiate separation action.

9. On 9 May 1990, 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 11 (Trainee Discharge Program), paragraph 11-3a (Entry Level Status Performance and Conduct). The specific reasons for the proposed action were based on the applicant's relief from the military occupational specialty course of 91E (Dental Specialist).

10. On 10 May 1990, the applicant acknowledged receipt of the proposed separation notification, and acknowledged understanding, if approved, he would be receiving an entry level separation with uncharacterized service. He was advised of the reasons for separation and of the rights available to him and elected not to submit a statement in his own behalf.

11. The applicant's immediate commander formally recommended his separation under the provisions of Army Regulation 635-200, paragraph 11-3a, on 10 May 1990.

12. The separation authority approved the recommendation on 11 May 1990 and directed an entry level separation (uncharacterized) from service.

13. The applicant was discharged on 23 May 1990, under the provisions of AR 635-200, paragraph 11-3a, by reason of entry level status performance and conduct. His DD Form 214 shows his service was uncharacterized, with separation code LGA and

reentry code RE-3. He completed 5 months and 26 days of active service. He was not awarded a military occupational specialty.

14. The applicant was honorably discharged from the USAR effective 18 September 1991.

15. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active-duty service. The evidence of record shows the applicant was in an entry-level status at the time of his separation. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

16. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

#### BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. Soldiers in the U.S. Army Reserve are authorized an honorable discharge while in entry-level status only if they complete their active duty schooling and earn their designated military occupational specialty. The applicant did not complete training and was released from active duty due to entry level status performance and conduct. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

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.

[REDACTED]

[REDACTED] [REDACTED]

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[REDACTED]

[REDACTED]

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 635-200, in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. 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. A general discharge was a separation from the Army under honorable conditions. The regulation authorized separation authorities to issue a general discharge to Soldiers whose military record was satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Paragraph 3-9 (Uncharacterized Separations). Separation authorities were to describe a separation as entry-level, with service uncharacterized, if commanders-initiated separation processing while a Soldier was in entry-level status. The regulation additionally specified the Secretary of the Army, or designee, could grant a Soldier an honorable character of service, on a case-by-case basis, when clearly warranted by unusual circumstances involving personal conduct and performance of military duties.

(1) Effective 28 January 1982, the Department of Defense (DOD) established "entry-level status" in DOD Directive 1332.14 (Enlisted Administrative Separations).

(2) For active-duty service members, entry-level status began on the member's enlistment and continued until he/she had served 180 days of continuous active duty.

d. Chapter 11 provides for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. When separation of a Soldier in an entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, he or she will normally be separated per this chapter. Service will be uncharacterized for entry-level separation under the provisions of this chapter.

e. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

3. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Service Boards for Correction of Military/Naval Records (BCM/NR) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//