

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230011761

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 27 January 1988, to show his service was characterized as honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Diploma, U.S. Army Military Police School, dated 2 March 2007
- DD Form 214 for the period ending 4 April 2022

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 served honorably in the Army National Guard (ARNG) and U.S. Army Reserve (USAR) for over 22 years, earning his 20-year retirement letter. He has proven he can adapt to military life. He now has the maturity, aptitude, ability, motivation, and self-discipline he did not have at 18 years of age. With the correction of his uncharacterized service to honorable, he would be able to buy back this period of military service with his federal employer.

3. The applicant enlisted in the Regular Army on 30 July 1987. Evidence shows completion of initial entry training, however, there is insufficient evidence to support the applicant was awarded military occupational specialty 95B (Military Police). The highest rank he attained was private/E-1.

4. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing. However, his DD Form 214 shows he was discharged from active duty on 27 January 1988, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11, by reason of entry level performance and conduct, with separation code JGA and reentry

code NA. His service was uncharacterized. He was credited with 5 months and 28 days of net active service this period.

5. 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.

6. Following the approval of an enlistment waiver, the applicant enlisted in the ARNG of the United States on 26 April 1990. A National Guard Bureau (NGB) Form 22 (NGB – Report of Separation and Record of Service) shows the applicant was honorably discharged from the ARNG of Missouri on 28 October 1998, by reason of expiration term of service, in the rank/ grade of sergeant/E-5. He was credited with 8 years, 6 months, and 3 days of net service.

7. The applicant provides the following:

a. A diploma from the U.S. Army Military Police School, dated 2 March 2007, shows he successfully completed the Apprentice Criminal Investigation Division (CID) Special Agent Course - Reserve Component, Phase 2.

b. A DD Form 214 shows he was honorably released from active duty on 4 April 2022, in the rank/grade of chief warrant officer/W03 and returned to the control of the USAR following the completion of his required active service. He was credited with 1 year, 1 month, and 4 days of net active service, with 21 years, 4 months, and 18 days of total prior inactive service. He was awarded or authorized the following:

- Joint Service Commendation Medal
- Army Commendation Medal
- Joint Service Achievement Medal
- Army Good Conduct Medal
- Army Reserve Component Achievement Medal (2nd award)
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal with two campaign stars
- Noncommissioned Officer Professional Development Ribbon
- Army Service Ribbon
- Overseas Service Ribbon
- Armed Forces Reserve medal with 20 year device
- Armed Forces Reserve Medal with "M" device
- North Atlantic Treaty Organization (NATO) Medal

- Sharpshooter Marksmanship Qualification Badge with Grenade bar
- Marksman Marksmanship Qualification Badge with Rifle bar

8. The Board should consider the applicant's argument and/or evidence in accordance with the published equity, injustice, or clemency determination guidance.

BOARD DISCUSSION:

1. 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. 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. Upon review of the applicant's petition and available military record, the Board determined the applicant did not complete his military occupational specialty (MOS) 95B (Military Police) training. The applicant's DD Form 214 dated 27 January 1988 shows 1 month and 26 days, the course curriculum is a 9 week and 1 day course.

2. The Board noted, applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing. Furthermore, the Board determined the applicant completed 5 months and 28 days and did not receive a military occupational specialty (MOS), he was discharged under Chapter 11, by reason of entry level performance and conduct. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty 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. Therefore, relief is denied.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.



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, USC, 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. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of

administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. AR 635-200, in effect at the time, sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 3 states a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.

b. Paragraph 3-7a provides that 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.

c. Paragraph 3-9, in effect at the time of the applicant's separation, provided that a separation would be described as entry level with uncharacterized service if processing was initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions was authorized, due to the reason for separation and was warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, determined a characterization of service as honorable was clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization was authorized when the Soldier was separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

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.

4. The Under Secretary of Defense for Personnel and Readiness issued guidance to Service DRBs and Service BCM/NRs on 25 July 2018 [Wilkie Memorandum], 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 court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

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, Boards 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//