

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 June 2024

DOCKET NUMBER: AR20230011919

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:

- narrative reason for separation be changed from drug abuse – rehabilitation failure to alcohol abuse – rehabilitation failure
- rank changed from private (PVT)/E-1 to PVT/E-2

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- Separation documents, 4 February 1988
- Excerpt Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 9
- DD Form 214

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 discharged for alcohol rehabilitation failure or chapter 9 in AR 635-200. Which states that alcohol rehab failure shall be reported separately from drug abuse rehab failure but on his DD Form 214 it states in box 28 that he was separated for drug abuse. He would like it changed to alcohol rehab failure. He also noticed that on memorandum letter of separation document (attached) he was referred to as PV2 but his DD Form 214 he is referred to as PVT. In a self-authored letter, he states AR 635-200, chapter 9 states “separation for alcohol rehabilitation failure will be reported separately” from separation of drug abuse rehabilitation failure. His discharge was without a doubt an alcohol related failure not a drug failure as stated in the memorandum. In all of the paperwork from his 201 file it shows he was separated as a PV2 not PVT.

3. Having had prior service in the Army National Guard, the applicant enlisted in the Regular Army on 25 February 1987.

4. The applicant received nonjudicial punishment under the provisions of Article 15 of the Uniform Code of Military Justice (UCMJ) on/for:

- 28 July 1987, for being absent without leave (AWOL) from on or about 15 July 1987 until on or about 16 July 1987; his punishment included reduction to PVT/E-2, suspended until 1 December 1987)
- 28 August 1987, vacation of a suspended reduction reduced to PVT/E-1
- 9 September 1987, for on or about 17 August 1987, failed to go to his appointed place of duty; his punishment included reduction to PVT/E-1

5. On 24 September 1987, his commander initiated proceedings to bar him from reenlistment in the military service. In support of his recommendation, his commander noted his NJP under the provisions of Article 15 of the UCMJ, conduct and performance, and Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) efforts. The applicant signed a statement indicating he had read and understood the allegations and the action his commander intended to take against him. He elected not to make a statement. The bar certificate was approved on 21 October 1987.

6. On 26 December 1987, the applicant was apprehended for driving while intoxicated (DWI). He refused to take or complete a lawfully requested chemical test for blood alcohol content. His driving privilege to operate a privately owned motor vehicle on the installation was revoked for a 12-month period.

7. On 5 January 1988, the applicant received a letter of reprimand for his DWI and refusal to submit to a blood alcohol test. He acknowledged receipt of the letter of reprimand and elected not to provide statements in his own behalf.

8. On 8 January 1988, the installation alcohol and drug control officer provided the applicant's commander with a summary of the applicant's ADAPCP rehabilitation efforts. The summary, in pertinent part, stated the following:

- He had not made satisfactory progress towards rehabilitation and was declared a rehabilitation failure
- Discharge should be effected
- He failed to comply with treatment plans and goals
- The staff concurs with the commander's decision to declare the applicant a rehabilitation failure and initiate discharge action

9. On 15 January 1988, it was directed that the letter of reprimand be filed in the official military personnel file.

10. On 25 January 1988, the immediate commander notified the applicant of the initiation of proceedings to discharge him under the provisions AR 635-200, Chapter 9, for alcohol or other drug abuse rehabilitation failure. He was advised of his right to submit statements on his own behalf, to be represented by counsel, and to waive the aforementioned rights. His rank is reflected as PVT/E-2

11. On 3 February 1988, the applicant having had the opportunity to consult with counsel on the basis for the contemplated action to separate him for commission of serious offense under the provisions of AR 635-200, Chapter 9, and its effects; of the rights available to him; and the effect of any action taken by him in waiving his rights. He understood:

- He could expect to encounter substantial prejudice in civilian life in the event a general discharge under honorable conditions was issued to him
- He further indicated he understood that issuance of an under other than honorable conditions discharge would make him ineligible for many or all benefits as a veteran under Federal and State laws
- He may apply to the Army Discharge Review Board or the Army Board for correction of Military Records for upgrading

12. His immediate commander declared that he be a rehabilitation failure and recommended immediate discharged and that his character of service be general, under honorable conditions under the provisions of AR 635-200, Chapter 9. On page 2 of the recommendation, it shows the applicant was reduced from private first class (PFC) to PV2 on 28 August 1987 by reason of Article 15.

13. On 5 February 1988, the separation authority approved the applicant's discharge for alcohol or other drug abuse rehabilitation failure under the provisions of AR 635-200 and directed he receive a General Discharge Certificate. The applicant's rank reflects PVT/E-2.

14. On 11 February 1988, he was discharged accordingly. He completed 11 months and 16 days of active service. His DD Form 214 shows in:

- Item 4a (Grade, Rate or Rank): PV1
- Item 4b (Pay Grade): E-1
- Item 12h (Effective Date of Pay Grade): 87|09|09 (9 September 1987)
- Item 24 (Character of Service): Under Honorable Conditions (General)
- Item 25 (Separation Authority): AR 635-200, chapter 9
- Item 26 (Separation Code): JPC
- Item 27 (Reenlistment Code): RE-3
- Item 28 (Narrative Reason for Separation): Drug Abuse-Rehabilitation Failure

- Item 29 (Date of Time Lost During This Period): 870715 – 870715 (15 July 1987 – 15 July 1987)

15. The applicant's available service records do not contain a DA Form 4187 (Personnel Action) promoting the applicant to PVT/E-2.

16. The applicant provides:

a. Excerpt of AR 635-200, Chapter 9, highlighting paragraph 9-1f which states separations for alcohol abuse rehabilitation failure will be reported separately from separations for drug abuse rehabilitation failure. If separation is based on both, the primary basis will be used for reporting purposes.

b. Separation documents showing his rank was PV2.

17. There is no indication he applied to the Army Discharge Review Board for an upgrade of his discharge within its 15-year statute of limitations.

18. By regulation, AR 635-200 sets forth the basic authority for the separation of enlisted personnel. Chapter 9 contains the authority and outlines the procedures for discharging Soldiers because of alcohol or other drug abuse rehabilitation failure.

19. By regulation, AR 635-8 (Separation Processing and Documents), the entry in Block 28 (Narrative Reason for Separation) is based on regulatory or other authority and can be checked against the cross reference in AR 635-5-1 (Separation Program Designator Codes). AR 635-5-1 states that Separation Code JPC applies to Soldiers separated due to drug rehabilitation failure.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was/was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

2.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 11 February 1988, to show:

- item 25 (Separation Authority): Army Regulation 635-200
- item 26 (Separation Code): no change
- item 27 (Reentry Code): no change
- item 28 (Narrative Reason for Separation): Alcohol Abuse – Rehabilitation Failure

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to amending the applicant's rank from private (PVT)/E-1 to PVT/E-2.

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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, United States 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 Army Board for Correction of Military Records (ABCMR) determines it would be in the interest of justice to do so.
2. Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), sets forth the basic authority for the separation of enlisted personnel. Chapter 9 (Alcohol or Other Drug Abuse Rehabilitation Failure) contains the authority and outlines the procedures for discharging Soldiers because of alcohol or other drug abuse. A member who has been referred to the Army Drug and Alcohol Prevention and Control Program (ADAPCP) for alcohol/drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical. Nothing in this chapter prevents separation of a Soldier who has been referred to such a program under any other provisions of this regulation. Initiation of separation proceedings is required for Soldiers designated as alcohol/drug rehabilitation failures. The service of Soldiers discharged under this chapter will be characterized as honorable or general under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required. However, an honorable discharge is required if restricted-use information was used. [NOTE: The current regulation still mentions ADAPCP; however, the program name changed a number of years ago to ASAP (Alcohol and Substance Abuse Program)].
3. AR 635-8 (Separation Processing and Documents), prescribes the separation documents that must be prepared for Soldiers upon retirement, discharge, or release from active-duty service or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214. The entry in Block 28 (Narrative Reason for Separation) is based on regulatory or other authority and can be checked against the cross reference in AR 635–5–1 (Separation Program Designator Codes).
4. AR 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 code to be entered on the DD Form 214. It identifies SPD code JPC as the appropriate code to assign to enlisted Soldiers who are administratively discharged under the provisions of chapter 9 of AR 635-200, due to drug abuse - rehabilitation failure. JPD is the appropriate code to assign to enlisted Soldiers who are administratively discharged under the provisions of chapter 9 of AR 635-200, due to alcohol abuse - rehabilitation failure.

5. AR 600-8-19 (Enlisted Promotions and Reductions) prescribes policies and procedures governing promotion and reduction of Army enlisted personnel. Chapter 2 decentralized advancements states in paragraph 2-3 (Rules for advancing enlisted soldiers to PV2. Advancement eligibility criteria to PV2 is 6 months TIS waivable to 4 months TIS. Advancement to PV2 at 6 months, TIS, except for those soldiers who are flagged or barred from reenlistment, will be executed automatically by the EMF for posting to the SPF and the master military pay file. PV1s who were flagged, denied advancement, barred from reenlistment at 6 months TIS, or previously reduced from PV2 and are later advanced to PV2, require a DA Form 4187 and GRCH transaction to be advanced.

//NOTHING FOLLOWS//