

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 16 July 2024

DOCKET NUMBER: AR20230012901

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his service as "Honorable" rather than "Uncharacterized"
- appear before the Board either in person or via video/telephone.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 5 February 1990
- DD Form 214 for the period ending 2 July 1991
- Reserve Order CA-006895 issued by Headquarters, Air Reserve Personnel Center, Buckley Air Force Base (AFB), CO on 10 April 2012

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, in effect, he enlisted in the Army to serve during the first Gulf War, but the war was over in a couple of days. His service was no longer needed, and the military was cutting back on personnel so, he took advantage of the Early Out Program. During his 5 months of service, classified as "Uncharacterized," he successfully completed Army Basic Combat Training, Infantry School, and Airborne School. He also led other Soldiers as an Army specialist (SPC)/E-4 and was awarded the Army Service Ribbon, Parachutist Badge, and military occupational specialty 11B (Infantry Rifleman). Subsequent to his Army service, he received an honorable discharge upon completing 4 years of active duty service in the U.S. Air Force (USAF) in February 2000; an honorable discharge from the California Air National Guard in 2012; and an honorable discharge from the USAF Reserve (USAFR) in 2014. Uncharacterized service cannot be included in the Federal Government Military Service

Deposit (MSD) buyback program which allows creditable military service to be counted towards civilian retirement eligibility and in annuity computations. He believes he served honorably during the Persian Gulf War and deserves to have an honorable discharge.

3. A DD Form 214 shows the applicant served in the USAF from 6 February 1986 until he was released from active duty (REFRAD) upon expiration of his term of active obligated service on 5 February 1990. He was transferred to the USAFR for the remainder of his statutory obligation. His service during this period was characterized as honorable. He was awarded or authorized the Air Force Outstanding Unit Award, Air Force Good Conduct Medal, Air Force Longevity Service Award Ribbon, Small Arms Expert Marksmanship Ribbon, and Air Force Training Ribbon.

4. On 30 April 1990, the applicant enlisted in the U.S. Army Reserve (USAR) for a period of 4 years beginning in the rank/pay grade of private first class/E-3.

5. On 3 January 1991, the applicant requested a conditional release from the USAR for the purpose of enlisting in the Regular Army under the Airborne enlistment option for training in military occupational specialty (MOS) 18XA (Special Forces Candidate). His request was approved on 7 January 1991.

6. On 4 February 1991, the applicant enlisted in the Regular Army for 3 years.

7. On 3 June 1991, the applicant rendered a Special Forces Volunteer Statement wherein he volunteered for Special Forces and Airborne training. He also rendered a Prior Service Statement wherein he acknowledged his understanding that he enlisted under the Special Forces Prior Service (SFPS) enlistment option. The SFPS enlistment option required that he successfully complete Special Forces Assessment and Selection (SFAS). He further understood that if he failed to successfully complete SFAS, he would be discharged from the Army in accordance with the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11, Entry Level Status.

8. On 10 June 1991, the applicant was formally notified that he was relieved from further Special Forces training because he did not meet Special Forces Qualification Course (SFQC) prerequisites. Prior to attending SFQC, he must successfully complete the SFAS program. He was advised that in keeping with the provisions of his enlistment contract, he would be separated in accordance with AR 635-200, Chapter 11.

9. On 17 June 1991, the applicant's immediate commander notified him that he was initiating actions to separate him under the provisions of AR 635-200, Chapter 11, for failure to complete SFAS School. He further advised the applicant he was recommending that he receive an entry level separation.

10. The applicant acknowledged receipt of the separation notification and rendered his election of rights wherein he stated he understood he had the absolute right to consult with consulting counsel; and, in conjunction with consulting counsel, submit his election of rights. He elected to waive his right to consult with counsel and not to provide statements in his own behalf.

11. On 17 June 1991, the applicant's immediate commander formally recommended his separation under the provisions of AR 635-200, Chapter 11, with an uncharacterized service characterization.

12. On 20 June 1991, the separation authority directed the applicant be REFRAD and that his period of service be uncharacterized. He further directed that the applicant be transferred to the Individual Ready Reserve.

13. Orders and the applicant's DD Form 214 show the applicant was REFRAD on 2 July 1991 and transferred to USAR Control Group (IRR) under the provisions of AR 635-200, Chapter 11, paragraph 3a, with Separation code "LGA" and Reentry code "2." His narrative reason for separation was "Entry Level Status." He was credited with completion of 4 months and 29 days of net active service this period. He was not awarded a military occupational specialty. During this period of service, he was awarded or authorized the Parachutist Badge and Army Service Ribbon.

14. In addition to the previously discussed documents, the applicant provides Reserve Order CA-006895 issued by Headquarters, Air Reserve Personnel Center, Buckley Air Force Base (AFB), CO on 10 April 2012, which show he was relieved from assignment and honorably discharged from the USAFR effective 8 April 2012. The applicant did not provide any documentation in support of his stated honorable discharges from the USAF in February 2000, California Air National Guard in 2012, and USAFR in 2014.

15. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition. By regulation, an applicant is not entitled to a hearing before the Board.

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. 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 served on active duty from 4 February 1991 to 2 July 1991. The applicant was separated for entry level status due to failure to complete training. He completed 4 months and 29 days of net active service. He did not complete initial entry training and was not awarded an MOS. His service was uncharacterized. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. The Board found no error or injustice in his separation processing. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier did not serve on active duty long enough for her or her character of service to be rated. Based on a preponderance of available evidence, the Board determined that the character of service the applicant received upon separation were not in error or unjust.

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]

[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 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 has occurred by a preponderance of the evidence. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
3. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel.
 - a. Chapter 3 provides that 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. 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 separation codes to be entered on the DD Form 214. At the time, this regulation prescribed the separation code "LGA" as the appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200, based on entry level status.

5. The Under Secretary of Defense for Personnel and Readiness issued guidance to Service Discharge Review Boards and Service Boards for Correction of Military/Naval Records (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//