

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 August 2024

DOCKET NUMBER: AR20230013553

APPLICANT REQUESTS: his uncharacterized service be characterized as honorable.

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

- DD Form 149 (Application for Correction of Military Record), 13 October 2023
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 23 November 1988
- character reference, from [REDACTED] (U.S. Air Force Veteran)
- Article on service discharges, DD Form 214 Explained

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 feels the type of discharge is a true assessment of his time in the Army. He enlisted with hopes of making the Army a career; however, due to his weight issues he was unable to pass the Army Physical Fitness Test (APFT) and subsequently was discharged after 89 days of honorable service.
3. The applicant enlisted in the Regular Army on 26 August 1988, for a period of 4 years.
4. Numerous DA Forms 4856 (General Counseling Forms), dated between 19 September and 9 November 1988, show he was counseled for multiple failures to pass the APFT.
5. The applicant's immediate commander notified the applicant on 17 November 1988, that he was initiating actions to separate him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11 (Entry Level Status Performance and Conduct). As the specific reason, the commander cited the applicant's lack of motivation and self-discipline.

6. The applicant acknowledged receipt of the proposed separation notification on the same date. He was advised of the reasons for separation and of the rights available to him; he waived his rights and elected not to submit a statement in his own behalf. Additionally, he did not desire a separation physical.
7. The applicant's immediate commander formally recommended his separation under the provisions of AR 635-200, Chapter 11, prior to his expiration term of service. The separation authority approved the recommendation on 21 November 1988, waived rehabilitative transfer and directed the issuance of an entry level separation (uncharacterized).
8. The applicant was discharged on 23 November 1988, under the provisions of AR 635-200, paragraph 11-3a, by reason of entry level status. His DD Form 214 confirms his service was uncharacterized with separation code JGA and reenlistment code RE-3. He was credited with 2 months and 28 days of net active service. He was not awarded a military occupational specialty.
9. The applicant provides:
 - a. A character reference statement, written by his father, an Air Force Veteran. His father summarizes his son's military experience as being unable to pass the APFT due to weight issues. He as a father, knows he son made every effort to pass as he wanted a career in the Army. His son is a proud individual with strong character, and he believes he should be rewarded with a document that attests to his true time of service in the Army.
 - b. A news article, Service Discharges; DD Form 214 Explained, summarizing discharge types from entry level discharges, to honorable, under honorable conditions (general) and under other than honorable conditions.
10. 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.
11. 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, 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 records, the Board determined that the applicant completed only 2 months and 28 days of net active-duty service and did not complete initial entry training. He was released under entry-level status, which is appropriately reflected on his DD Form 214 as an uncharacterized discharge.

2. An uncharacterized discharge is not considered derogatory. It is issued when a Soldier separates prior to completing 180 days of continuous active duty and simply indicates that the member's period of service was too brief to assess character of service as honorable or otherwise. The Board found no error or injustice in the characterization, which aligns with regulatory guidance applicable at the time of separation. Therefore, the Board concluded that the applicant's request to upgrade his discharge to honorable lacks merit, and relief is denied.


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.

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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. AR 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.

3. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and 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//