

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 July 2024

DOCKET NUMBER: AR20230014565

APPLICANT REQUESTS: correction of his NGB Form 22 (Report of Separation and Record of Service) show his character of service in the Army National Guard as honorable vice general.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 7 August 1981
- NGB Form 22, 1 July 1992

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 his DD Form 214 (active duty for training, U.S. Army Reserve) shows an honorable discharge. His NGB Form 22 on the other hand shows general., under honorable discharge from the Army National Guard (ARNG). His Veterans Representative stated in order to move forward with his claim, both separation documents must show honorable.
3. The applicants complete service records are not available for review. An exhaustive search was conducted to locate his records, but they could not be found. The applicant provides sufficient documents for the Board to conduct a fair and impartial review of his case.
4. The applicant's available service records show he enlisted in the U.S. Army Reserve Army National Guard (ARNG) on or about 14 April 1980.

5. He entered initial active duty for training (IADT) on 3 June 1981 and completed training for award of military occupational specialty 76P, Materiel Control and Accounting Specialist.
6. He was honorably released from active duty for training on 7 August 1981 to the control of his U.S. Army Reserve unit. His DD Form 214 shows he completed 2 months and 5 days of active duty this period.
7. He served through extensions or reenlistments, in various units of the U.S. Army Reserve. He was separated from the U.S. Army Reserve around February 1992.
8. He enlisted in [REDACTED] Army National Guard ([REDACTED] ARNG) on 19 February 1992. He was assigned to the Service Battery, 3rd Battalion, 178th Field Artillery, [REDACTED] ARNG.
9. His NGB Form 22 shows he was discharged from the [REDACTED] ARNG on 1 July 1992 with a general, under honorable conditions characterization of service due to civil conviction by civil court. The authority is listed as National Guard Regulation 600-200 (Enlisted Personnel Separations), paragraph 6-36p. His NGB Form 22 also shows:
 - He completed 4 months and 13 days of ARNG service during this period
 - He had 11 years, 10 months, and 4 days of prior Reserve service
10. There is no indication he addressed the character of service shown on his NGB Form 22 to The Adjutant General, State [REDACTED]
11. There is no indication the applicant applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the short term of honorable service completed prior to the misconduct leading to the applicant's civilian conviction and military separation, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

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.

1/6/2025

X

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. National Guard Regulation 600-200, Enlisted Personnel Management, prescribes the criteria, policies, processes, procedures, and responsibilities to classify, assign, utilize, and transfer within and between states, enlisted Soldiers of the Army National Guard. Paragraph 6-36 lists reasons for separation from the State ARNG not listed in paragraph 6-35. All involuntary administrative separations require commanders to notify Soldiers concerning intent to initiate separation procedures. All Soldiers being

involuntarily separated will be afforded a reasonable opportunity to provide a written response for consideration by the separation authority. Paragraph 6-36p provides for the separation of ARNG Soldiers due to conviction by civil court.

3. Army Regulation 135-178 (Army National Guard and Army Reserve – Enlisted Administrative Separations), sets forth the basic authority for the separation of enlisted personnel of the U.S. Army Reserve and the Army National Guard:

a. An honorable characterization of service is appropriate when the quality of the Soldier'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.

b. A general (under honorable conditions) characterization of service is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

4. 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/NRs) 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. 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. 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//