

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 July 2024

DOCKET NUMBER: AR20240000169

APPLICANT REQUESTS: change his Reentry (RE) Code shown on his DD Form 214 (Certificate of Release or Discharge from Active Duty) from RE-4 to a more favorable code.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
Online DD Form 149 (Application for Correction of Military Record).

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 misconduct (drug abuse). It was his one and only offense. He was supposed to be retained and go through proper rehabilitation. However, that never took place. He has never had any drug charges or drug related charges as a civilian either. He is only asking the opportunity to be able to be able to re-enlist and to go back to what he loves doing. He wants to serve his country again.
3. Review of the applicant's service records shows:
 - a. He enlisted in the Regular Army on 30 May 2006 and reenlisted on 21 February 2008. He held military occupational specialty 88N, Traffic Management Coordinator.
 - b. The applicant served in Iraq from 13 July 2007 to 19 September 2008. He was advanced to specialist/E-4 on 1 June 2008.
 - c. On 8 January 2009, the applicant submitted a urine sample tested positive for marijuana during a unit urinalysis. Following this positive urinalysis, the applicant's commander referred the applicant for enrollment in the Army Substance Abuse Program. He was placed on extended evaluation.

d. On 23 February 2009, the applicant received nonjudicial punishment under Article 15 for wrongfully using illegal drugs/marijuana. His punishment included a reduction to private first class/E-3.

e. On 26 June 2009, the applicant's immediate commander notified the applicant that he intended to initiate action on him for elimination from military service under the provisions of (AR) Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 14-12c, for Commission of a serious offense, Misconduct abuse of illegal drugs-marijuana. The immediate commander recommended that the applicant be retained. The applicant acknowledged on the same day.

f. The applicant consulted with counsel on 29 June 2009. He was advised of the possible effects of a less than fully honorable discharge and the procedures and rights that were available to him.

g. On 2 July 2009, the intermediate commander recommended disapproval of the applicant's retention on active duty. Instead, the intermediate commander recommended separation with issuance of an under honorable conditions (general) discharge.

h. On 8 July 2009, the separation authority approved the applicant's discharge with an general under honorable conditions discharge. The separation authority ordered a waiver of the rehabilitative transfer.

i. On 27 July 2009, the applicant was accordingly discharged. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under the provisions of AR 635-200, Chapter 14-12c (misconduct, drug abuse) with an under honorable conditions general characterization of service. He was assigned Separation Code JKK and Reentry Code 4. He completed 3 years, 1 months, and 28 days of active service.

j. On 9 July 2014, after careful review of his application, military records and all other available evidence, the Army Discharge Review Board determined that he was properly and equitably discharged. Accordingly, his request for a change in the character and/or reason of his discharge was denied.

k. On 7 January 2020, the ABCMR considered is request for an upgrade of his discharge. 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 warranted. Based upon the lengthy period of honorable service completed prior to the isolated incident which led to the applicant's separation, the type of misconduct involved and the fact that the commander initiating the

separation recommended retaining the Soldier, the Board concluded that clemency was warranted by upgrading the characterization of service to Honorable.

I. On 23 December 2020, the applicant's DD Form 214 was voided. He was reissued a new DD Form 214 that shows he was accordingly discharged on 27 July 2009 under the provisions of AR 635-200, Chapter 14-12c (misconduct, drug abuse) with an honorable characterization of service. He was assigned Separation Code JKK and Reentry Code 4.

4. By regulations:

a. AR 635-5-1 states enlisted Soldiers involuntarily separated under chapter 14-12c of AR 635-200 for drugs abuse are assigned Separation Program Designated (SPD) Code JKK. The SPD/RE Cross Reference Table in effect at the time of his discharge stated SPD Code JKK has a corresponding RE Code of 4.

b. AR 601-210 (Regular Army and Army Reserve Enlistment Program):

- RE-1 – applied to persons who completed an initial term of active service who were fully qualified for enlistment when separated
- RE-3 – applied to persons who were not qualified for reentry or continuous service at the time of separation, but the disqualification was waivable
- RE-4 – applied to persons separated from the last period of service with a non-waiverable disqualification and ineligible for enlistment

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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. Upon review of the applicant's petition and available military records, the Board determined there is sufficient evidence to support the applicant's contentions for a change to his re-entry code. The Board found the applicant had a one-time incident with marijuana and was provided no rehabilitation process. The Board noted the applicant's 3 years of service and the previous Board decision to upgrade the applicant's characterization to honorable. Furthermore, consideration was given to the applicant's deployment to Iraq, based on the preponderance of evidence the Board granted relief to amend the applicant's re-entry code to RE-Code 1.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for 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 27 July 2009 to show in item 27 (Reentry Code): 1.

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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, 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.

1. Army Regulation 635-8 (Separation Processing and Documents) prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army. It establishes

standardized policy for preparing and distributing the DD Form 214. The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty.

2. 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 SPD codes to be entered on the DD Form 214. It states the SPD code "JKK" is the appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200, paragraph 14-12c, by reason of drug abuse. The SPD/RE Code Cross Reference Table stipulates that a RE-4 code will be assigned to members separated under these provisions with an SPD code of "JKK."

3. Army Regulation 601-210 (Active and Reserve Components Enlistment Program), covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army and the U.S. Army Reserve. Table 3-1 included a list of the Regular Army RE codes:

a. RE-1 applies to Soldiers completing their term of active service who are considered qualified to reenter the U.S. Army. They are qualified for enlistment if all other criteria are met.

b. RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. They are ineligible unless a waiver is granted.

c. RE-4 applies to Soldiers who are separated from their last period of service with a nonwaivable disqualification. They are ineligible for enlistment.

//NOTHING FOLLOWS//