

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 September 2024

DOCKET NUMBER: AR20240000484

APPLICANT REQUESTS:

- a change in his reentry (RE) code
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Orders 086-22 (Promotion) dated 27 March 2017
- Two Army Commendation Medals (ARCOM) Certificates
- Three Letters of Support

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 that after his expiration term of service (ETS) he tried to get his reentry code changed to RE-1 but was told by his S1 that he would have to apply to get an exception to policy or a waiver for a possible upgrade. He believes he has a lot to offer the U.S. Army and after his break in service he is physically and mentally prepared to re-enter and make the Army a better place than when he left. He wanted to allow for ample time to work on his marriage and issues that held him back. He states they have resolved their issues and their marriage is stronger than ever and after many conversations, he has decided that re-entering the Army is what is best for their family.

3. The applicant provides:

a. Orders 086-22 dated 27 March 2017 showing he was promoted from Corporal to the rank of Sergeant with an effective date of 1 April 2017.

b. Two ARCOM certificates for his outstanding efforts, performance and dedication to his unit and for quick reaction as a lifeguard assisting in a rescue of another Soldier.

c. Three letters of support:

- [REDACTED] wrote, as his wife for 17 years, she saw how the Army changed and made him an amazing leader. He took care of Soldiers even before becoming a Sergeant. She acknowledged the mistakes he made and shared how they have worked on themselves and their marriage. She feels he was made to be a leader; is dedicated and ready to rejoin the Army. He will thrive and excel and hopes her letter shows he is an amazing father, husband, and Soldier.
- Sergeant First Class [REDACTED] stated, he served with the applicant for three years and throughout that time he showed a level of motivation, maturity, and work ethic that any military branch would benefit from. He is an honest man, father and husband and he recommend his discharge is upgraded with the possibility of reentry into the military. He has earned it.
- Chief Warrant Officer Three [REDACTED] supervised the applicant for 3 years and witnessed his exceptional performance, unwavering dedication, exemplary conduct, proficiency, reliability, and leadership, all which contributed to the success of the unit. The discharge code does not reflect his overall character or potential and his character far outweighs the circumstances leading to RE code 4. His return to active duty would be a significant gain for the Army and a just recognition of his potential and dedication to serving our nation.

4. A review of the applicant's service record shows:

a. He enlisted in the Regular Army on 16 July 2013.

b. The service record includes the applicant's medical evaluations for the purpose of administrative separation, which indicated he was qualified for separation.

- DD Form 2807-1 (Report of Medical History) dated 28 August 2018
- DD Form 2808 (Report of Medical Examination) dated 28 August 2018
- SF 88 (Report of Medical Examination) dated 28 August 2018
- SF 93 (Report of Medical History) dated 20 August 2018

c. On 29 August 2018, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 9, Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) for Alcohol or Other Drug Abuse Rehabilitation Failure. The specific reason for his proposed recommendation was on 26 July 2018, he failed the Army Substance Abuse Program (ASAP). He acknowledged receipt of the notification on 12 September 2018.

d. On 12 September 2018, after waiving his right to legal counsel, he acknowledged:

- the rights available to him and the effect of waiving said rights
- he may encounter substantial prejudice in civilian life if a discharge under other than honorable conditions is issued to him
- he may be ineligible for many or all benefits as a Veteran under both Federal and State laws
- he may apply to the Army Discharge Review Board or the ABCMR for upgrading
- he is ineligible to apply for enlistment in the Army for 2 years after discharge
- he elected not to submit a statement/matters on his behalf

e. The immediate commander initiated separation action against the applicant for alcohol or other drug abuse failure. He recommended that his period of service be characterized as honorable.

f. On 13 September 2018, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation under the provisions of Chapter 9, AR 635-200, Alcohol or Other Drug Abuse Rehabilitation Failure. He would be issued an honorable discharge.

h. On 23 October 2018, he was discharged from active duty with an honorable conditions discharge. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 5 years, 3 months and 8 days of active service. He served in the United Arab Emirates from 18 December 2015 through 14 December 2016. He was assigned separation code JPD and the narrative reason for separation listed as "Alcohol Rehabilitation Failure," with reentry code 4. It also shows he was awarded or authorized:

- Army Commendation medal (2nd Award)
- Army Good Conduct Medal
- National Defense Service Medal
- Noncommissioned Officer Professional Development Ribbon
- Army Service Ribbon
- Overseas Service Ribbon
- Parachutist Badge

5. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

6. By regulation (AR 601-210):

- 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
- RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at the time of separation, but the disqualification is waivable; those individuals are ineligible unless a waiver is granted
- RE-4 applies to Soldiers ineligible for reentry

7. By regulation (AR 635-8), the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

8. AR 635-200, chapter 9, 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.

9. The Separation Program Designator/Reentry Codes Cross-Reference Table shows RE code 4 is applicable to separation code JPD.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found partial relief is warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The Board carefully considered the applicant's record of service and the letters of support he provided. The Board did not find that the evidence supports assigning the applicant an RE code that would make him fully qualified to enlist; however, the Board

did find the evidence supports giving the applicant an opportunity to enlist again if he can obtain a waiver. The Board determined the applicant's record should be corrected to show he was assigned RE code 3.

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 a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by correcting his DD Form 214 to show he was assigned RE code 3.
2. The Board further determined 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 correction of the record to show he was assigned RE code 1.

3/4/2025	
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. 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 ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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 601-210 (Regular Army and Army Reserve Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the RA and the United States Army Reserve. Table 3-1 included a list of the RA RE codes. RE codes are numbered 1, 3, and 4.

- 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
- RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at the time of separation, but the disqualification is waivable; those individuals are ineligible unless a waiver is granted
- RE-4 applies to Soldiers ineligible for reentry

4. Army Regulation 635-8 (Separations Processing and Documents) DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. Block 27, Reentry Code, AR 601-210 determines reentry eligibility and provides regulatory

guidance on reentry codes. These codes are not applicable to officers, USMA cadets who fail to graduate, or to RC Soldiers being separated for other than cause.

5. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) chapter 9 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. 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.

//NOTHING FOLLOWS//