

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 August 2024

DOCKET NUMBER: AR20240001257

APPLICANT REQUESTS: an upgrade of his general, under honorable conditions discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Airborne Course Diploma
- Honorable Discharge Certificate
- Good Conduct Medal
- Certificate of Completion for Primary Leadership Development Course
- Certificate of Achievement
- Joint Readiness Training Center Certificate of Achievement
- Certificate of Graduation for Mentor Training
- Certificate of Completion N. Arizona VA Health Care Systems (residential treatment)
- Department of Veterans Affairs (VA) Decision Letter
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 is requesting to have his discharged upgraded to honorable. More than two years have passed since his discharge, and he has completed a VA approved alcohol rehabilitation program on 20 January 2012. The nature of his discharge did not have anything to do with his performance as he was rated 90% on all skill level and physical fitness. His discharge was due to not successfully completing an approved alcohol rehabilitation program. He believes his DD Form 214 indicates he must wait a period of no less than three years and complete a VA approved alcohol/substance abuse program which he completed on 20 January 2012. The correction is requested because he just became aware of the eligibility under

Department of Defense (DOD) guidelines to have his discharge upgraded since he now meets all the conditions required by DOD.

3. The applicant provides:

- A diploma for successful completion of the Airborne Course, 27 November 1986.
- An Honorable Discharge Certificate from the U.S. Army with a discharge date of 27 March 1989.
- A certificate shows he was awarded the Good Conduct Medal for his service from 16 July 1986 to 15 July 1989.
- A certificate for his successful completion of the Primary Leadership Development course from 15 March to 12 April 1991.
- A Certificate of Achievement dated 18 May 1990 awarded for his meritorious service while assigned to the Protocol Office.
- A Certificate of Achievement, 22 February 1991, from the Joint Readiness Training Center given for meritorious achievement during his annual skill qualification test.
- A Certificate of Graduation dated 12 May 2011 show the applicant met the requirements for graduation from the Mentor Training program.
- A Certificate of Completion dated 16 May 2012, for his successful completion of a VA health care system residential treatment program.
- A VA decision letter dated 30 July 2023, shows the applicant is receiving a 30% rating for service-connected disability effective 1 December 2022.
- A DD Form 214 for the service period ending 8 November 1991.

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

- a. He enlisted in the Regular Army on 25 July 1986 and reenlisted on 28 March 1989.
- b. On 29 May 1991, he accepted nonjudicial punishment for the operation of a vehicle while drunk. His punishment included reduction to private (PFC)/E-3.
- c. On 1 August 1991, an abstract of a narrative summary of the alcoholism rehabilitation was provided for the applicant indicating a final diagnosis and recommendations for treatment. The disposition noted the applicant completed the four-week program and was returned to resume his duties.
- d. The AF Form 2731 (Substance Abuse Reorientation and Treatment Program Disposition) shows in Section III (Treatment Final Disposition) the applicant was deemed a program failure on 2 August 1991 and was being processed for discharge.
- e. The service record includes the applicant's medical examination dated

16 September 1991, for the purpose of administrative separation which indicated he was generally in good health. The applicant was marked qualified for separation.

- Standard Form (SF) 88 (Report of Medical Examination),
- SF 93 (Report of Medical History)

f. On 20 October 1991 the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 9-2a, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel) for alcohol, abuse-rehabilitation failure. The specific reason for his recommendation was the applicant's refusal to participate in the alcohol rehabilitation program and he had been declared a rehabilitation failure. He acknowledged receipt on the same day.

g. After waiving consultation with 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 honorable conditions is issued to him
- he may apply to the Army Discharge Review Board or the ABCMR for upgrading
- he may be ineligible to apply for enlistment for a period of 2 years following discharge
- he elected not to submit statements on his own behalf

h. On 1 November 1991, the immediate commander initiated separation action against the applicant for alcohol, abuse-rehabilitation failure. He recommended that his period of service be characterized as general discharge.

i. On 3 November 1991, 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, paragraph 9-2a for alcohol, abuse-rehabilitation failure. He would be issued a general, under honorable conditions discharge.

j. On 8 November 1991, he was discharged from active duty. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under the provisions of chapter 9 of AR 635-200 with a general, under honorable conditions characterization of service. He completed 5 years, 3 months, and 14 days of active service. He was assigned separation code JPD and the narrative reason for separation listed as "Alcohol Abuse-Rehabilitation Failure," with reentry code 3. It also shows he was awarded or authorized:

(1) His DD Form 214 did not list his continuous honorable service or whether he completed his first term of service.

(2) He was awarded or authorized: Army Service Ribbon, Parachutist Badge, Army Good Conduct Medal, Overseas Service Ribbon, National Defense Service Medal, NCO Professional Development Ribbon-1, Marksman Marksmanship Qualification Badge with Rifle Bar (M-16), and Expert Marksmanship Qualification Badge with Hand Grenade Bar.

5. There is no evidence the applicant has applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

6. By regulation (AR 635-200), a member who has been referred to 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.

7. In reaching its determination, the Board can consider the applicants petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests.

a. Discharge upgrade: Deny. The evidence shows the applicant refused to participate in the alcohol rehabilitation program and his commander declared him a rehabilitation failure and initiated separation action against him. He was discharged with a general discharge. The Board found no error or injustice in his available separation processing. Also, the applicant provided no evidence of post-service achievements or letters of reference of a persuasive nature in support of a clemency determination. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

b. Continuous Honorable Service: Grant. The Board noted that the applicant's service from first date of enlistment to the date before his last reenlistment was honorable. For enlisted Soldiers with more than one enlistment period during the time covered by this DD Form 214, in addition to listing immediate reenlistment(s), an entry

is required for continuous honorable service from first day of service for which DD Form 214 was not issued until date before commencement of current enlistment.

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 amending his DD Form 214 for the period ending on 14 April 1986 to show:

- SOLDIER HAS COMPLETED FIRST FULL TERM OF SERVICE
- CONTINUOUS HONORABLE SERVICE FROM 1986-07-25 to 1989-03-27

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 upgrading the characterization of his discharge.

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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.

2. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor. 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.

b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 9 of the regulation states 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.

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/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.

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 based on 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//