

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 October 2024

DOCKET NUMBER: AR20240002251

APPLICANT REQUESTS:

- an upgrade of his general, under honorable conditions discharge to an honorable
- correction of his DD Form 214 (Report of Separation from Active Duty) to add his missing award

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- Enlisted Evaluation Report
- Three DA Form 2627 (Record of Proceedings Under Article 15, UCMJ)
- DA Form 2496 (Disposition Form)
- Fort Leonard Wood (FLW) Form 461 (Character of Service Checklist)
- DA Form 2496 dated 7 August 1979
- Memorandum for Record (MFR)
- DD Form 214 (Report of Separation from Active Duty)
- Orders 04-1019127
- National Personnel Records Center (NPRC) Letter to Applicant
- Two Letters from the Defense Threat Reduction Agency
- DA Form 2-1 (Personnel Qualification Record)
- Photo
- Enlisted Evaluation Report
- DA Form 215 (Correction to DD Form 214, Certificate of Release or Discharge from Active Duty)
- Veterans Information Solution
- Certificate of Achievement
- Atomic Veterans Service Certificate

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 believes that his discharge should be classified as fully honorable rather than "honorable under conditions." He notes that none of his medals were listed on his discharge paperwork; his wife had to research his decorations for him to know what he earned. His DD Form 214 states that his last overseas assignment was in Korea from 1977 to 1978, but he points out that his actual last overseas duty was with the Enewetak Project, where he participated in Atomic Cleanup from September 1978 to February 1979.

a. He observes that there is no mention of his time as a Military Police (MP) while in Korea. He feels it is unjust that his discharge characterization reflects only the three Article 15s he received, all of which occurred after he returned from Enewetak, a deployment he was sent to by the same commander who consistently harassed him.

b. He emphasizes that this negative characterization of his service has impacted his benefits, and he is requesting reconsideration for an honorable discharge based on the service he has rendered. He argues that the factors affecting the evaluation of his disability claims must be thoroughly reviewed, as each element can significantly influence the rating decisions made by the Department of Veterans Affairs. He asserts that the board should ensure equitable and just decisions in accordance with the law.

3. The applicant provides:

a. The applicant requests an updated DD Form 214/ DD Form 215 to include the medals and certificates he has earned.

b. An Enlisted Evaluation Report dated 9 November 1978 shows, the applicant was one of the most outstanding E-4s in the platoon. He was very knowledgeable in his military occupational specialties (MOS). When given a task he carries it out without any supervision. He would make an outstanding non-commissioned officer (NCO) and it was recommended he be promoted immediately. He could step in and run a squad of combat engineers without any troubles.

c. A DA Form 2496 dated 23 May 1979, shows the applicant was assigned to A Company 5th Engineer Battalion effective date 1 November 1978.

d. A FLW Form 461 dated 12 July 1979, shows in item 5 (Article 15 Actions (dates/offenses))

- 1 May 1979, article 86 (absence without leave)
- 14 May 1979, article 134 (misconduct)
- 6 July 1979, article 86

e. Orders 04-1019127, dated 28 April 1982, discharged the applicant from reserve duty with an effective date of 28 May 1992. His was discharge with an honorable.

f. On 15 July 2022, the NPRC sent a letter to the applicant informing him that the following awards were sent to the applicant.

- Army Commendation Medal
- Good Conduct Medal
- Humanitarian Service Medal
- Expert Marksmanship Qualification Badge with Rifle Bar
- Korea Defense Service Medal

g. On 22 December 2022, the Defense Threat Reduction Agency, awarded and provided the applicant the Atomic Veterans Commemorative Service Medal.

h. A DA Form 2-1 shows the applicant wrote, he is wondering why his duty position does not show that he served as a MP while in Korea and his time during Enewetak Atomic Cleanup from 15 September 1978 to 10 February 1979.

i. A picture dated around or about 19 March 1977, shows three services members.

j. An Enlisted Evaluation Report, illegible document.

k. A DA Form 215 dated 24 February 2022, shows the Humanitarian Service Medal was added.

l. A Veterans Information Solution shows, the applicant's service record.

m. A Certificate of Achievement for Enewetak Project was awarded to the applicant.

n. On 29 September 2022, the applicant was awarded the Atomic Veterans Service Certificate.

o. The applicant provides the below listed document to be referenced in the service record:

- DA Form 2627
- DA Form 2496
- MFR, dated 7 August 1979

- DD Form 214

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

a. He enlisted in the Regular Army on 31 August 1976.

b. Permanent Orders 57-2 dated 26 April 1978, shows the applicant was awarded the Army Commendation Medal.

c. A DA Form 2627 shows, the applicant accepted nonjudicial punishment on 1 May 1979. On or about 21 April 1979 the applicant was absent from his place of duty. His punishment was reduction to private first class (E-3) and forfeit \$100 pay per month for one month (Suspended until 29 June 1979). The applicant appeal without submitting matters. The appeal was considered and denied.

d. A DA Form 2627 shows, the applicant accepted nonjudicial punishment on 14 May 1979. On or about 20 April 1979, the applicant was disorderly in quarters. His punishment was reduction to private second class (E-2) (Suspended until 13 July 1979). and correctional custody facility (CCF) for seven days (Suspended until 13 July 1979).

e. A DA Form 2627 shows, the applicant accepted nonjudicial punishment on 6 July 1979. On or about 18 June 1979 the applicant was absent from his place of duty until on or about 19 June 1979. His punishment was forfeit \$119 pay per month for 1 month and to be reduced to the grade of private second class (E-2) (suspended until 26 July 1979).

f. A DA Form 2496 dated 7 Aug 1979 shows, the commanding officer of the applicate recommends at the time of the applicant's expiration of term of service (ETS). That the applicant should receive a general discharge for the following reasons:

- Record of non-judicial punishments: 15 May 1979 and 26 June 1979
- Counselling Statements: 12 June 1979 late to formation; 19 June 1979 missed battalion formation and work call; 20 June 1979 absent from place of duty; 18 July 1979 missed company formation; 18 July 1979 disrespect to a non-commissioned officer.
- The applicant was a rehabilitative transfer, and his overall performance was satisfactory on occasion. However, it took constant supervision. He recommended approval on characterization due to past record.

g. Permanent Orders 62-2 dated 9 August 1979, shows the applicant was awarded the Good Conduct Medal.

h. A memorandum for record (MFR) dated 10 August 1979 shows, the battalion commander concurs with the company commander's recommendation for the applicant's characterization of service discharge.

i. A MFR dated 30 August 1979 shows, the applicant will separate from active duty on 30 August 1979 as completion of required service (ETS) per chapter 2 of AR 635-200 (Personnel Separations – Enlisted Personnel). The applicant was not eligible for reenlistment unless wavier consideration is permissible and is granted.

j. Orders 207-22 dated 26 July 1979, shows the applicant will be relief from active duty on 30 August 1979.

k. On 30 August 1979, he was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 shows he completed 3 years of active service with no lost time. He was assigned separation code LBK and the narrative reason for separation listed as "Relief from Active Duty," with a reentry code of 3. Block 18 shows his last overseas serves was Korea from 9 January 1977 to 9 January 1979 It also shows she was awarded or authorized: Expert Marksmanship Qualification Badge with Rifle (M16)

5. A review of the applicant's record confirms he is eligible for an award and campaign credits that are not recorded on his DD Form 214. The entries will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

6. By regulation (AR 635-5), 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.

7. Service medals and awards are not issued by the Army Board for Correction of Military Records (ABCMR). However, the applicant may obtain his medals by submitting his request in writing to: National Personnel Records Center, ATTN: Army Reference Branch, 1 Archives Drive, St. Louis, Missouri 63138. This issue will not be further addressed in this Record of Proceedings.

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

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, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. One potential outcome was to grant relief based the minor misconduct over the applicant's three length of service. However, upon review of the applicant's petition, available military records, the Board determined there is insufficient evidence of mitigating factors to overcome the pattern of misconduct.
2. The Board noted, the applicant was discharged for relief from active duty and was provided an under honorable conditions (General) characterization of service. The Board agreed that the applicant's discharge characterization is warranted as he did not meet the standards of acceptable conduct and performance of duty for Army personnel to receive an Honorable discharge. Therefore, the Board denied relief.
3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction be completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, the Board found 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.

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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's records shows he is authorized an additional award not listed on his DD Form 214. As a result, amend his DD Form 214 to show award of the:

- Army Commendation Medal
- Good Conduct Medal

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. 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.

3. AR 601-280 (Personnel Procurement – Army Reenlistment Program), in effect at the time, prescribes the eligibility criteria and options currently available in the Army Reenlistment Program. For those persons serving in the Active Army, it outlines procedures for immediate reenlistment or extension of enlistment. Chapter 6 (Bar to Reenlistment Procedures) prescribes procedures to deny reenlistment to soldiers whose immediate separation under administrative procedures is not warranted, but whose reentry into, or service beyond ETS with, the Active Army is not in the best interest of the military service. Policies and procedures prescribed herein apply to the field commander's bars to reenlistment. Soldiers may not be reenlisted without the recommendation of the unit commander.

4. 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. Paragraph 1-13 (1) (Honorable Discharge) states an honorable discharge is a separation with honor. Issuance of an honorable discharge certificate is predicated upon proper military behavior and proficient performance of duty during the member's current enlistment or period of obligated service with due consideration for the member's age, length of service, grade, and general aptitude. Where a member has served faithfully and performed to the best of his ability and there is no derogatory information in his military record, he should be furnished an honorable discharge certificate.

b. Paragraph 1-13 (4b) (General Discharge) states A general discharge is a separation from the Army under honorable conditions. It is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. The recipient of a general discharge is normally a member whose military record and performance is satisfactory. The member may have had frequent nonjudicial punishments but not for serious infractions. He may be a troublemaker, but his conduct is not so bad as to require discharge for cause or a discharge under less than honorable conditions. When a member's service is characterized as general, except when discharged by reason of unsuitability, misconduct, or security, the specific basis for such separation will be included in the member's military personnel record.

5. Army Regulation 635-8 (Separation Processing and Documents), in effect at the time, states 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.

6. 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. 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//