

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 October 2024

DOCKET NUMBER: AR20240002868

APPLICANT REQUESTS:

- an upgrade of his under honorable conditions (General) discharge
- amendment of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show completion of Air Assault Course

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

- DD Form 149 (Application for Correction of Military Record)
- Two DD Forms 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 in effect add his Air Assault course to his DD Form 214. Please upgrade his general, under honorable conditions discharge to honorable.
3. A review of the applicant's service record shows:
  - a. He enlisted in the Regular Army on 3 June 1986.
  - b. The applicant's DD Form 214 indicates continuous honorable service from 3 June 1986 to 9 April 1986.
  - c. The applicant's available service record is void the fact pertaining to completion of an Air Assault course.
  - d. The available service record is void of the facts and circumstances surrounding the applicant's pattern of misconduct and discharge in addition to the DD Form 214 provided by the applicant for the service period ending 25 October 1991.

e. On 25 October 1991, the applicant was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 shows he completed 5 years, 4 months, and 23 days of active service. He was assigned separation code JKM and the narrative reason for separation listed as "Misconduct-Pattern of Misconduct." It also shows he was awarded or authorized:

- Good Conduct
- National Defense Medal
- Army Service Ribbon
- Overseas Service Ribbon
- Sharpshooter Qualification Badge (M-16)

4. 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.

5. By regulation (AR 635-200), action will be taken to separate a Soldier for misconduct, such as commission of a serious offense, when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

6. 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.

7. By regulation (AR 635-8), Block 14: Military Education, a list of all formal, in-service (full time attendance) training courses successfully completed during the period of service covered by the DD Form 214 of at least 1 week or 40 hours duration.

#### 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 request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was separated for a pattern of misconduct. The Board found no error or injustice in the separation proceedings and designated characterization of service assigned during separation. The Board noted the applicant provided no documentation to support his request, including post-service achievements or letters of reference to support clemency. Based on a preponderance of the evidence,

the Board concluded that the characterization of service the applicant received upon separation was appropriate.

2. The evidence of record is void of documentation and the applicant does not provide evidence to support the completion of Air Assault Course during his service. Based on this, the Board denied relief.

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.

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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 635-5 (Separation Documents) 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.

3. 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 3-7a (Honorable Discharge) states 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. Paragraph 3-7b (General Discharge) states 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 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

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.

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.

5. By regulation (AR 635-8), Block 14: Military Education, a list of all forma, in-service (full time attendance) training courses successfully completed during the period of service covered by the DD Form 214 of at least 1 week or 40 hours duration.

//NOTHING FOLLOWS//