

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 November 2024

DOCKET NUMBER: AR20240003060

APPLICANT REQUESTS: in effect an upgrade of his under other than honorable conditions discharge.

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

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 had served some great years before separation. He was a young man trying to figure out life. He has been a great citizen since departure and has not been in any trouble with the law. He has been a great man in the community. He has been a proud U.S. citizen and love for his country. If he could have done it all over it would not end like it did.
3. The applicant enlisted in the Alabama Army National Guard (ALARNG) on 23 May 1991.
4. He entered a period of active-duty training (ADT) on 17 June 1992. He was released from ADT on 25 September 1992. He held military occupational specialty (MOS) 63B (Light Wheeled Vehicle Mechanic). His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 3 months and 9 days net active service this period. His service was uncharacterized.
5. A review of the records is sufficient to substantiate correction of the DD Form 214 without action by the Board. Accordingly, his DD Form 214 ending 25 September 1992, will be administratively corrected to reflect honorable service due to receiving a MOS.

6. On 12 November 1992, he was honorably released from the ALARNG. His NGB Form 22 (Report of Separation and Record of Service) shows he completed 1 year, 5 months, and 20 days net service this period.

7. After a short break in service, the applicant enlisted in the Regular Army on 4 December 1992. He then reenlisted on 30 August 1995.

8. DA Form 4187 (Personnel Action) shows his duty status was changed from present for duty to absent without leave (AWOL) on 28 July 1996. His duty status was again changed from AWOL to dropped from the rolls on 26 August 1996.

9. DD Form 616 (Report of Return of Absentee) shows he was returned to military control on 8 May 1998, in Andalusia, AL (Covington County Jail).

10. The applicant's record is void of the complete facts and circumstances that led to his separation. However, his service record contains a DD Form 214 that shows he was discharged for the good of the service in lieu of trial by court martial with a characterization of service of under other than honorable conditions. It also shows he completed 4 years, 1 month, and 29 days of active service with lost time from 19950310 – 19950313 and 19960728 - 19980507. He was awarded or authorized:

- Army Achievement Medal
- National Defense Service Medal
- Army Service Ribbon
- Overseas Service Ribbon
- Sharpshooter Marksmanship Qualification Badge (Hand Grenade)
- Marksman Marksmanship Qualification Badge (M16 Rifle)

11. There is no indication he petitioned the Army Discharge Review Board for a review of his discharge within that board's 15-year statute of limitations.

12. By regulation, (AR 635-200) sets forth the basic authority for the separation of enlisted personnel. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

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

BOARD DISCUSSION:

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 not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the lengthy AWOL offense leading to the applicant's separation and no mitigation for that offense, the Board determined a change to the applicant's characterization of service was unwarranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. 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.
2. Prior to closing the case, the Board did note the administrative notes below from the analyst of record and recommended those changes be completed to more accurately reflect the military service of the applicant.

[REDACTED]

[REDACTED]

[REDACTED]

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 his DD Form 214 ending 25 September 1992, will be administratively corrected to reflect honorable service due to receiving MOS 63B
- A review of the applicant's records shows his DD Form 214 omitted administrative entries in the Remarks block. As a result, amend the DD Form 214 ending 25 November 1998, by adding in item 18 the entry "Continuous honorable service 19921204 to 19950829."

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 (AR) 635-200 (Personnel Separations-Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (1) 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. Only the honorable characterization may be awarded a member upon completion of his or her period of enlistment or period for which called or ordered to active duty or active duty for training, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

b. Paragraph 3-7b (1) 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. Paragraph 3-7b (2) states a characterization of under honorable conditions may be issued only when the reason for the member's separation specifically allows such characterization. It will not be issued to members upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

d. Chapter 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Army policy states that although an honorable or general, under honorable conditions discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

3. AR 635-8 (Separations Processing and Documents), currently in effect, provides for the preparation and distribution of the DD Form 214. It states for item 18 (Remarks) to Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except "Honorable", enter "Continuous Honorable Active Service from" (first day of service for which DD Form 214 was not issued) until (date before commencement of current enlistment).

4. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and 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. 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 on the basis of 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. 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//