

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 November 2024

DOCKET NUMBER: AR20240003339

APPLICANT REQUESTS: reinstate his rank/grade to private first class (PFC)/E-3.

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

- DD Form 149 (Application for Correction of Military Record)
- Report of Proceedings (ROP) for Army Board for Corrections of Military Records (ABCMR) Docket Number AR20220000302
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 28 January 1983

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 on 29 April 2022, the ABCMR upgraded his character of service to general under honorable conditions. Because of this upgrade he is requesting his rank be restored to PFC/E-3, what it was prior to his discharge from active duty.
3. A review of the applicant's service record shows:
 - a. On 5 May 1981, the applicant enlisted in the Regular Army.
 - b. DA Form 2-1 (Personnel Qualification Record) shows in:
 - Item 18 (Appointments and Reductions), the applicant was advanced to the rank/grade of:
 - private PV2/E-2 effective 5 November 1981
 - PFC/E-3 effective 1 March 1982
 - reduced to the rank/grade of private PVT/E-1 effective 14 January 1983

- Item 21 (Time Lost):
 - Absent without Leave (AWOL) during the period of 20 November through 18 December 1982
 - Dropped from Rolls (DFR) during the period of 19 December 1982 through 3 January 1983
- Item 35 (Record of Assignments):
 - AWOL effective 20 November 1982
 - DFR effective 19 December 1982
 - assigned to Company Alpha, U.S. Army Personnel Control Facility effective 4 January 1983
 - assigned to U.S. Army Transition Point effective 28 January 1983
 - discharged effective 28 January 1983

c. On 22 November 1982, the applicant's duty status was changed to AWOL effective 20 November 1982.

d. On 20 December 1982, the applicant's duty status was changed to DFR effective 19 December 1982.

e. On 5 January 1983, the applicant was charged with being AWOL during the period on or about 18 November 1982 through on or about 4 January 1983.

f. On 6 January 1983, the applicant's duty status was changed to present for duty effective 4 January 1983.

g. The applicant's request for discharge under the provisions of AR 635-200, chapter 10 is unavailable for the Board to review.

h. On 12 January 1983, the applicant's commander and battalion commander recommended approval of his request for discharge in lieu of court-martial with an other than honorable conditions discharge due to his lack of motivation for continued service and he would not respond to counseling or rehabilitation.

i. On 14 January 1983, general court-martial convening authority approved the applicant's request for discharge in lieu of court-martial and directed his discharge with an under other than honorable conditions discharge and reduction in rank/grade to PVT/E-1.

j. On 28 January 1983, the applicant was discharged from active duty under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted

Personnel), chapter 10 (For the good of the service in lieu of court-martial) with an under other than honorable conditions discharge. DD Form 214 shows the applicant completed 1-year, 7-months, and 10-days of active service. It also shows in:

- Item 4a (Grade, Rate or Rank): PV1
- Item 4b (Pay Grade): E1
- Item 12h (Effective Date of Pay Grade): 14 January 1983
- Item 24 (Character of Service): under other than honorable conditions
- Item 29 (Date of Time Lost During This Period): 20 November 1982 through 3 January 1983

l. National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows the applicant enlisted in the Army National Guard (ARNG) on 10 June 1985 in the rank/grade PVT/E-1 and he was honorably released for immediate reenlistment. He completed 2-months and 28-days of service.

m. NGB Form 22 shows the applicant reenlisted in the ARNG and he was discharged from the ARNG effective 6 September 1986 in the rank/grade of PV2/E-2. He completed 1-year of service.

n. On 23 June 1987, the Army Discharge Review Board (ADRB) determined the applicant was properly and equitably discharged, therefore his request for the upgrade of his character of service was denied.

o. On 28 September 1988, the ABCMR determined the applicant did not present and his service records did not contain sufficient justification to grant his request for the upgrade of his character of service.

p. On 8 February 2022, the ABMCR reconsidered his previous request for the upgrade of his character of service to honorable and change the narrative reason for discharge to completion of requested active service. The Board determined a partial relived was warranted. Based upon the misconduct which led to his separation and the findings of the medical advisory, the Board concluded there was sufficient evidence to upgrade his characterization to general under honorable conditions and change the narrative reason for separation to Secretarial Authority.

q. On 11 January 2023, the applicant's original DD Form 214 was voided, and a new DD Form 214 was published showing he was discharged from active duty effective 28 January 1983 under the provisions of AR 635-200, paragraph 5-3 (Secretarial Authority) with an under honorable conditions (General) characterization of service. DD Form 214 shows the applicant completed 1-year, 7-months, and 10-days of active service. It also shows:

- Item 4a: PV1
- Item 4b: E1
- Item 12i (Effective Date of Pay Grade): 14 January 1983
- Item 24: general under honorable conditions
- Item 28 (Narrative Reason): Secretarial Authority
- Item 29: 20 November 1982 through 3 January 1983

BOARD DISCUSSION:

After reviewing the application and all supporting documents, 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 review based on law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined his record is absent evidence that shows he was promoted to private first class (PFC)/E-3 prior to his release from active duty on 28 January 1983. 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, USC, 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) AR 600-200 (Enlisted Personnel Management System), in effect at the time, prescribes policies and procedures for promotions and reductions. Paragraph 8-11 (Approved for discharge from service under other than honorable conditions), when the general court-martial authority determines a Soldier is to be discharged from the service under other than honorable conditions, he will be reduced to the lowest enlisted grade.

3. AR 635-200 (Personnel Separations – Enlisted Personnel) in effect at the time, sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

a. Paragraph 1-14 (Reduction in grade), when a Soldier is to be discharged under other than honorable conditions, the separation authority will direct an immediate reduction to the lowest enlisted grade per AR 600-200, chapter 8, section IV.

b. Paragraph 5-1 (Characterization of service or description of separation), a member being separated for the convenience of the Government will be awarded a character of service of honorable, general under honorable conditions.

c. Paragraph 10-1, a member who has committed an offense or offenses, the punishment for which, includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service.

//NOTHING FOLLOWS//