

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 October 2024

DOCKET NUMBER: AR20240003489

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)
- Self-Authored Note
- Department of Veteran Affairs Letter
- DD Form 214 (Armed Forces of the United States Report of Transfer of Discharge)

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 it was his understanding that President [REDACTED] forgave US Vietnam Veterans and gave them honorable discharge status. He cannot even get a military identification card. Please remove the under honorable status.
3. The applicant provided a Department of Veteran Affairs (VA) letter certifying that he is an honorably discharged Veteran of the Army and receives benefits at the 100% rate due to service-connected disabilities.
4. A review of the applicant's service record shows:
 - a. he was inducted into the Army of the United States on 21 April 1969. He held military occupational specialty 67U, Helicopter Repairer.
 - b. He served in Vietnam from around 31 March 1970 to around 31 March 1971. He also served in Germany from around 26 June 1971 to around January 1972.

c. On 18 June 1971, he accepted nonjudicial punishment for being absent without authority (AWOL) the following dates: 15 April 1971 until 8 May 1971 and 24 May 1971 until 18 June 1971. His punishment included reduction to private/E-2.

d. Around August 1971, he was convicted by a special court-martial of one specification of failing to go to work formation and one specification of failing to get a haircut and disrespecting a commissioned officer. The court sentenced him to 32 days of hard labor and reduction to private/E-1.

e. On 3 November 1971, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 6b2, Army Regulation (AR) 635-212 (Personnel Separations – Discharge Unfitness) for Unsuitability/Character and Behavior Disorders. The specific reasons for his proposed recommendation are his non-performance in assigned tasks. His noticeable lack of motivation which he has demonstrated to his various supervisors indicating that he is unreliable and unsuitable for further military duty.

(1) During the period July 1971, to date, the applicant has been assigned to the 56th Aviation Detachment, with three duty assignments under different officers and non-commissioned officers. In every instance, his performance of duty has been far below the standards which normally could be expected of a soldier of his grade and experience. Changes of duty positions within this organization have failed to make an effective soldier of this individual.

(2) He has been counseled on multiple occasions concerning failure to pay just debts and inability to properly manage personal finances, failure to show for prescribed duties, poor job performance and unsatisfactory military appearance, personal and uniform appearance, job performance and financial obligations. His performance is characterized by a continuous lack of appropriate interest in the performance of military duties, which is the direct result of defective attitudes toward the military in general. These attitudes render him unsuitable for further military duty and incapable of satisfactory performance.

f. The applicant acknowledged receipt of the notification on the same day. After consulting 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 an other than honorable conditions discharge is issued to him
- he elected not to submit matters

g. The immediate commander-initiated separation action against the applicant for unsuitability. He recommended that his period of service be characterized as general under honorable conditions. The intermediate commanders recommended approval.

h. On 14 December 1971, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation, under the provisions of Chapter 6, AR 635-212, paragraph 6b2 for Unsuitability/ character and behavior disorders. He would be issued an general under honorable conditions characterization of service.

i. On 4 January 1972, he was discharged from active duty in accordance with AR 635-212 with an under honorable conditions characterization of service (Separation Code 246 and Reenlistment Code 3B). His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 2 years, 2 months, and 21 days of active service with 48 days lost time. It also shows he was awarded or authorized the following: National Defense Service Medal, Vietnam Campaign Medal, and Vietnam Service Medal.

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

6. By regulation (AR 635-212), Those persons who are best described as inapt, due to lack of general adaptability, want of readiness of skill unhandiness, or inability to learn. An individual discharged for unsuitability will be furnished DD Form 256A (Honorable Discharge Certificate) or DD Form 257A (General Discharge Certificate) as directed by the convening authority.

7. 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.

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 DoD guidance for liberal consideration of discharge upgrade requests. The evidence shows, the applicant served in Vietnam. However, following a series of misconduct (court-martial conviction, Article 15s, multiple counseling), the applicant's chain of command initiated separation action against him. The applicant was discharged for unsuitability, with an under honorable conditions characterization of service. The Board found no error or injustice in his separation processing. Also, the applicant provided insufficient evidence of post-service achievements or letters of

reference in support of a clemency determination. Therefore, based on a preponderance of available evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

2. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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 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.

10/31/2024

X

CHAIRPERSON

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 service records show he is authorized additional campaign credit not annotated on his DD Form 214. As a result, amend his DD Form 214 to show the following:

- Republic of Vietnam Civil Actions Honor Medal, First Class Unit Citation
- three bronze service stars with his previously awarded Vietnam Service 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 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.

3. Army Regulation 635-212 (Discharge Unfitness and Unsuitability), Those persons who are best described as inapt, due to lack of general adaptability, want of readiness of skill unhandiness, or inability to learn. An individual discharged for unsuitability will be furnished DD Form 256A (Honorable Discharge Certificate) or DD Form 257A (General Discharge Certificate) as directed by the convening authority.

4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) assist commanders and personnel officers in determining or establishing the eligibility of individual members for campaign participation credit, assault landing credit, and unit citation badges awarded during the Vietnam Conflict.

Department of the Army General Orders Number 24, dated 1970, awarded the Republic of Vietnam Civil Actions Honor Medal to the 196th Aviation Company for service in Vietnam for the period of 31 March 1970 to 30 March 1971

//NOTHING FOLLOWS//