

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 January 2025

DOCKET NUMBER: AR20240003701

APPLICANT REQUESTS:

- an upgrade of his characterization of service from under conditions other than honorable to under honorable conditions (General)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record), 29 January 2024
- self-authored statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 11 March 1981
- certificate of Core Values Award, 13 December 2016
- letter of retirement, 27 December 2023
- letter of recommendation, from A.L.A., 1 February 2024
- letter of recommendation, from A.B., 1 February 2024
- character reference statement, from C.H., 1 February 2024

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 was young and immature when was discharged from the Army. He knows he was ill equipped to deal with certain demands of the military life and his adulthood in general. These factors and his unwillingness to conform to authority led to rebellious acts and the demise of his military aspirations. Because of his actions, he was incarcerated, and it was the wake-up call that turned his life around, he is forever grateful for those who chose to give him a second chance at a productive life by allowing him to exit the military without a criminal record.

- a. Since his discharge, he chose to pursue a career in law enforcement, he became a drug and alcohol counselor, and devoted his life to being an example, a leader and mentor to the youth. He has recently retired from his position with over 31 years' experience working with the Department of Youth Services, he is in the process of obtaining credentials to work as a drug and alcohol counselor so he can devote the therapeutic aspect of mentorship to young people.
- b. He knows he squandered an opportunity early in life; however, he was able to complete a considerable amount of his military commitment to the military and our great country. He humbly requests a discharge upgrade so he may be offered the benefits which would ease some of his burdens that come along with his semi-retirement.
3. The applicant enlisted in the Regular Army on 30 September 1978, for a 4-year period. He was awarded the military occupational specialty of 71M (Chapel Activities Specialist). The highest rank he attained was private first class/E-3.
4. On 13 February 1980, the applicant accepted nonjudicial punishment (NJP), under the provisions of Article 15, of the Uniform Code of Military Justice (UCMJ) for unlawfully striking another Soldier in the mouth with his fist on or about 26 January 1980. His punishment imposed was reduction to private (PVT)/E-2, forfeiture of \$100.00 a month for 2 months, and extra duty for 45 days.
5. On 21 November 1980, he accepted NJP, under the provisions of Article 15, of the UCMJ, for being derelict in his performance of his duties when he failed to clean the hallway on or about 1 November 1980. His punishment imposed was 14 days of extra duty.
6. A DA Form 3822-R (Report of Mental Status Evaluation), dated 11 March 1981, shows the applicant was psychiatrically cleared to participate in any administrative action deemed appropriate by the command.
7. The available record is void of a separation packet containing the specific facts and circumstances surrounding the applicant's discharge processing. However, his DD Form 214 shows he was discharged on 11 March 1981, under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), Chapter 10 (Discharge for the Good of the Service), by reason of conduct triable by court-martial, in the grade of E-1. He received an under conditions other than honorable characterization of service, a separation code of JFS, and reenlistment code RE- 3. He completed 2 years, 5 months, and 12 days of active service with no time lost.
8. The applicant additionally provides:

- a. His certificate of core values awards, his retirement letter from the Director of the Department of Youth Services A.L.A., dated 27 December 2023, showing he was presented with the Director's coin in honor of his retirement after 30 years of serving as an operations manager.
- b. A letter of recommendation from the Director of the Department of Youth Services, dated 1 February 2024, summarizing the applicant as a dedicated and committed employee with a strong character. The applicant is described as a tremendous advocate for children, who had gone above and beyond expectations in helping the youth face difficult situations. The applicant was a true asset and team player and the Director, said he would be beneficial in the organization he was applying for.
- c. A letter of recommendation, from the Operations Administrator of the Department of Youth Services, summarizing the applicant as a natural leader who is able to process information, apply the information, and communicate said information to others. He was a leader in his position with great communication skills while working with a diverse population and workforce. The Operations Administrator recommended the applicant would be a great asset to any organization.
- d. A character reference, from C.H., dated 1 February 2024, a co-worker of the applicant, who described him as someone with great character and passion in his job, self-motivated, a leader, who C.H. had the pleasure of witnessing firsthand the positive impact he had on some of their most troubled youths.

9. Discharges under the provisions of Army Regulation 635-200, Chapter 10 are voluntary requests for discharge for the good of the service from the Soldier to avoid a trial by court-martial. An under other than honorable conditions character of service is normally considered proper.

10. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

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 some of the misconduct in the record showing violent behavior towards others (assault) and the lack of specific information related to the misconduct directly related to the applicant's separation, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

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.

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 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, provided guidance for the administrative separation of enlisted personnel:
  - a. Chapter 10 of this regulation provided a member who has committed an offense or offenses, the punishment for which, under the Uniform Code of Military Justice and the Manual for Courts-Martial, includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the Service. The discharge request may be submitted after court-martial charges are preferred against the member, or, until final action on the case by the court-martial convening authority. A member who is under a suspended sentence of a punitive discharge may also submit a request for discharge for the good of the Service. An under other than honorable conditions discharge certificate normally is appropriate for a member who is discharged for the good of the Service. However, the separation authority may direct a general discharge certificate if such is merited by the member's overall record during the current enlistment.
  - b. An honorable discharge is a separation with honor. The 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.
  - c. An under honorable conditions (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.
3. 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/NR) 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 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.

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.

//NOTHING FOLLOWS//