

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 December 2024

DOCKET NUMBER: AR20240003737

APPLICANT REQUESTS: reconsideration of his previous requests for an upgrade of his characterization of service.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record), 13 February 2024

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous considerations of the applicant's cases by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20140016600 on 4 May 2015 and AR20160009879 on 8 November 2018.
2. The applicant states he went to a friend's house who was having a party to drop off his friend's keys. While there, he saw his friend handling a shotgun. The shotgun discharged, and statements were written by others present who involved him in the incident. He believes he was a victim of circumstances, in the wrong place at the wrong time, and was lured into a bad situation because he had only gone to the house to drop off the keys. He has previously tried to upgrade his discharge however was told he did not qualify. Since his discharge, he serves the Lord, practices his religion, serves on his school board, and is a sterling example in his community. He is the youth pastor in his congregation and is a proud grandfather of 6 children. He feels he served his country proudly and did not deserve his discharge because he was an outstanding Soldier.
3. The applicant enlisted in the Regular Army on 9 October 1984 for a period of 4 years. He was awarded military occupational specialty 63B (Light Wheel Vehicle Mechanic). The highest rank he attained was specialist four/E-4.
4. Orders 102-14, dated 27 May 1988, show he was reduced in rank from specialist fourth class/SP4 to private/E-1, with an effective date of 24 May 1988.

5. The applicant's official military personnel file is void of the complete facts and circumstances leading to his discharge. However, his records contain a duly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty).

6. The applicant's DD Form 214 shows he was discharged on 3 June 1988 under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10 (Discharge for the Good of the Service) in the grade of E-1. His service was characterized as under other than honorable conditions (UOTHC). He completed 3 years, 7 months, and 26 days of net active service with no time lost. He was awarded the following decorations, medals, badges, citations, and campaign ribbons:

- Good Conduct Medal
- Army Service Ribbon
- Sharpshooter Badge (Rifle)
- Expert Badge (Hand Grenade)
- Driver and Mechanic Badge (Driver-W)

7. The ABCMR reviewed the applicant's request for an upgrade of his UOTHC character of service on 28 April 2014 and 8 November 2018. After careful consideration of the applicant's requests the Board found the evidence presented did not demonstrate the existence of a probable error or injustice and determined the overall merits of the case were insufficient as a basis for correction of the applicant's records. The Board denied the applicant's request for an upgrade of his character of service in cases AR20140016600 and AR20160009879.

8. 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 UOTHC character of service is normally considered proper.

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

#### 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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition and available military records, the Board found insufficient

evidence of in-service mitigating factors to overcome the misconduct. The Board applauds the applicant's post service achievements since his discharge however, he provided no character letters of support for the Board to weigh a clemency determination.

2. The Board noted the applicant's official military personnel file is void of the complete facts and circumstances leading to his discharge. The Board agreed the applicant has not demonstrated by a preponderance of evidence an error or injustice warranting the requested relief, specifically an upgrade of the under other than honorable conditions (UOTHC) discharge. Therefore, the Board found reversal of the previous Board determination is without merit and 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 Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20140016600 on 4 May 2015 and AR20160009879 on 8 November 2018.

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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. 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 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.

2. 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 court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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//