

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 December 2024

DOCKET NUMBER: AR20240003810

APPLICANT REQUESTS: upgrade of his undesirable discharge to under honorable conditions (general) or to honorable.

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

- DD Form 149 (Application for Correction of Military Record), 27 February 2024
- Self-authored Statement, undated
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), 29 September 1967
- High School Diploma, 1981
- Respiratory Therapy Technician Diploma, August 1987
- Resume, undated (1973 to present)

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 is 75 years old and a Veteran. He regrets the actions of his youth and the times of his political views and political uprisings during his time in the Army. He is ashamed the actions he took at that time. His father fought in the Pacific during WWII. His older brother completed two tours in Vietnam. After his active service he was a firefighter, EMT, and a search and recovery diver for 15 years. He spent 32 years in the healthcare field taking care of people. Before he dies, he would like to be considered a good and loyal patriot of this country.

3. He provides copies of his DD Form 214, a Community High School Diploma, a Respiratory Therapy Technician Diploma, and a Resume showing his work experience after his active service. His diploma shows extensive employment and training in the healthcare field and extensive voluntary service experience.

4. A review of the applicant's service record reflects:

a. On 16 November 1966, he was inducted into the Army of the United States. On 2 February 1967 he was promoted to the rank of private 2/E-2.

b. On 13 July 1967, he was reported absent without leave (AWOL) from Valley Forge General Hospital (VFGH).

c. A DD Form 553 (Absentee Wanted by the Armed Forces) reflects he was AWOL from his unit on 23 July 1967 and dropped from the rolls (DFR) on 1 August 1967.

d. On 28 August 1967, he underwent a mental health evaluation. The examining psychiatrist diagnosed passive aggressive personality with antisocial features and recommended separation from the military service through administrative channels. The examiner's certificate of evaluation noted there were no disqualifying mental defects sufficient to warrant disposition through medical channels; he was mentally responsible; and he had the mental capacity to understand and participate in board proceedings.

(1) The examiner noted the past history of a serviceman who, while home on leave, shot himself with a .22 caliber pistol on purpose so that he could get out of the Army; but whether or not this was true was unclear.

(2) While at VFGH he went AWOL for approximately a month. Since then, on two other occasions, he went AWOL for approximately a month and was confined at Fort Carson Post Stockade on two different occasions.

(3) His difficulties seem of a life-long nature and efforts towards rehabilitation will be of no help.

e. On 30 August 1967, he underwent a medical examination, and he provided a report of his medical history. He noted he had frequent trouble sleeping, he had depression or excessive worry, and he had a history of fighting and not getting along with others. The examining physician noted he was qualified for discharge.

f. Special Court-Martial Order (SCMO) Number 1481, issued by Headquarters (HQ), U.S. Army Garrison, Fort Carson, dated 12 September 1986, reflects he was arraigned, tried, plead guilty, and was found guilty of three specifications of AWOL; sentenced to confinement at hard labor for 6 months, and forfeiture of \$37.00 per month for 6 months. As to the specifications of violation of Article 86 of the Uniform Code of Military Justice:

(1) specification 1: without proper authority, absent himself from U.S. Army Overseas Replacement Station from on or about 21 May 1967 until on or about 19 June 1967;

(2) specification 2: without proper authority, absent himself from U.S. Army Special Processing Detachment, Fort Carson, from on or about 20 June 1967 until on or about 11 July 1967;

(3) specification 3: without proper authority, absent himself from U.S. Army Special Processing Detachment, Fort Carson, from on or about 23 July 1967 until on or about 18 August 1967; and

(4) the sentence was adjudged on 7 September 1967 and approved on 12 September 1967, and he was reduced to private/E-1 by virtue of the SCMO authority.

g. On 21 September 1967, the Commanding Officer, Special Processing Detachment, U.S. Army Garrison, Fort Carson, recommended his discharge under the provisions of Army Regulation 635-212 (Discharge – Unfitness and Unsuitability) for unfitness. The reason for this recommendation was that he had lost a total of 115 days during his enlistment.

h. On 21 September 1967, he met with counsel, he was advised of the basis for contemplated action to separate him for unfitness under the provisions of Army Regulation 635-212 (Discharge – Unfitness and Unsuitability) and he was advised of his rights. In electing his rights, he waived consideration of his case by a board of officers, he waived a personal appearance before a board of officers, he elected not to submit statements in his own behalf; and he waived representation by military and civilian counsel. He further understood he may expect to encounter substantial prejudice in civilian life in the event a general discharge under honorable conditions were issued to him. He further understood that as the result of issuance of an undesirable discharge under conditions other than honorable, he may be ineligible for many or all benefits as a Veteran under both Federal and State laws; and he may expect to encounter substantial prejudice in civilian life.

i. On 21 September 1967, the Commanding Officer, Special Processing Detachment, U.S. Army Garrison, Fort Carson, recommended his discharge under the provisions of Army Regulation 635-212 for unfitness. The reason for this recommendation was that he had lost a total of 115 days during his enlistment.

j. On 22 September 1967, his intermediate commander recommended approval of his discharge for unfitness with an Undesirable Discharge Certificate.

k. On an unspecified date, the separation authority approved waiver of a hearing before a board of officers and directed his discharge with issuance of an Undesirable Discharge Certificate.

I. Special Court-Martial Order Number 1555, dated 29 September 1967, remitted the unexecuted portion of his sentence to confinement at hard labor and forfeiture of \$37.00 per month for 6 months.

I. On 29 September 1967, the applicant was discharged. His DD Form 214 reflects he was discharged under the provisions of Army Regulation 635-212 for unfitness by reason of frequent incidents of a discreditable nature, with a characterization of service of under other than honorable conditions, a separation program designator code of 28B, and reenlistment code RE-3. He completed 6 months and 9 days of active service. It further reflects:

(1) in block 26a (Non-Pay Periods Time Lost) – 21 May –18 June 1967; 20 June –6 July 1967; 23 July 1967—17 August 1967; and

(2) in block 30 (Remarks) – time lost not entered in block 26a: 56 days from 7 July 1967—20 July 1967; 18 August 1967—28 September 1967; 27 days excess leave from 19 February 1967—28 February 1967 and 14 April 1967—30 April 1967.

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

#### BOARD DISCUSSION:

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, following a series of misconduct (multiple AWOLs and court-martial conviction), the applicant's chain of command initiated separation action against him for unfitness. The applicant was discharged for unfitness/misconduct with an under other than honorable conditions characterization of service. The Board found no error or injustice in his separation processing. Also, the applicant provided insufficient evidence of a persuasive nature 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.

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, 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 Army Board for Correction of Military Records (ABCMR) determines it would be in the interest of justice to do so.

2. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity.

3. Army Regulation 635-212 (Personnel Separations – Discharge – Unfitness and Unsuitability), in effect at the time, set forth the basic authority for the separation of enlisted personnel for unfitness and unsuitability.

a. Paragraph 4a provided an individual separated by reason of unfitness would be furnished an Undesirable Discharge Certificate except that an Honorable or General Discharge Certificate might be awarded if the individual being discharged was awarded a personal decoration or if warranted by the particular circumstances in a given case.

b. Paragraph 5b provided commanders exercising general court-martial jurisdiction were authorized to convene boards of officers for unfitness and unsuitability and to order separation.

c. Paragraph 6a(1) provided members involved in frequent incidents of a discreditable nature with civil or military authorities were subject to separation for unfitness. An undesirable discharge was normally considered appropriate.

d. Paragraph 10, Section IV afforded the individual the opportunity to waive his right to a hearing before a board of officers, present his case before a board of officers, submit statements in his own behalf, be represented by counsel, or to waive his rights.

4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier'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 Soldier upon completion of his/her period of enlistment or period for which called or ordered to active

duty or active duty training or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

5. Army Regulation 635-5 (Separation Documents), in effect at the time, prescribed the separation documents that would be furnished each individual who is separated from the Army, including active duty for training personnel, and establishes standardized procedures for the preparation and distribution of these documents. The separation program number (SPN) 28B corresponded to the authority Army Regulation 635-212 and the narrative reason for separation, unfitness-frequent involvement in incidents of a discreditable nature with civil or military authorities.

//NOTHING FOLLOWS//