

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 December 2024

DOCKET NUMBER: AR20240003903

APPLICANT REQUESTS: correction of his discharge to an honorable

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

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 in effect, correct his character of service to an honorable. The only thing he did was separated three months early. The Army offered an early discharge.
3. A review of the applicant's service record shows:
  - a. He enlisted in the Regular Army on 13 September 1983.
  - b. He served in Germany from 28 February 1984 to 27 August 1985 and 14 June 1987 to 13 June 1990.
  - c. On 21 March 1990, the applicant received an offer letter for a new job with a start date of 1 June 1990.
  - d. The applicant submitted a (DA Form 4991-R) Declination of Continued Service Statement as required for request for early separation. The commander determined the applicant was properly counseled and signed 17 April 1990.

e. On 30 April 1990, the applicant submitted a request for early separation based on declination of service statement. He requested his discharge date of 20 May 1990. The commander approved the applicant's request on 1 May 1990.

f. On 2 May 1990, Consistent with the chain of command recommendations, the separation authority approved the request for early separation under the provisions of chapter 16, paragraph 16-5, for declining to extend/reenlist to meet service requirements. He would be issued An Honorable Discharge Certificate (DD Form 256A)

g. On 7 June 1990, he was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 6 year, 8 months, and 25 days of active service. He was assigned separation code JBM and the narrative reason for separation listed as "Declination of Continued Service." It also shows he was awarded or authorized:

- Army Service Ribbon
- Good Conduct Medal (2nd award)
- Army Achievement Medal (1st oak leaf cluster)
- Non-Commissioned Officer (NCO) Professional Development Ribbon
- Overseas Service Ribbon with #2
- Expert Marksmanship Qualification Badge with Rifle Bar
- Sharpshooter Marksmanship Qualification Badge with Hand Grenade
- Expert Marksmanship Qualification Badge with Pistol .45 caliber

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

5. The service of soldiers separated under Declination of Continued Service will be characterized as honorable, unless an uncharacterized description of service is required for soldiers in entry level status who are separated under locally imposed bars to reenlistment.

6. In reaching its determination, the Board can consider the applicant's petition and his 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 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. Upon review of the applicant's request and available military records, the Board determined per regulatory guidance for declination of service there is sufficient evidence to support correction of the applicant's DD Form 214 to show his characterization of service as honorable. Based on this, the Board granted relief to show his character of service as honorable.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing his characterization of service as honorable.

█

█ █

---

█

█

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, 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.

c. Chapter 16-5i states the service of soldiers separated under this paragraph will be characterized as honorable, unless an uncharacterized description of service is required for soldiers in entry level status who are separated under locally imposed bars to reenlistment.

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/NRs) 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 based on 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//