

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 November 2024

DOCKET NUMBER: AR20240003935

APPLICANT REQUESTS:

- Correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 3 August 1982 to change the narrative reason for separation from failure to maintain acceptable standards.
- 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)
- DD Form 214
- Internet search

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, he was "promoted to 1st Cavalry from Echo 227" Headquarters at Fort Hood, where he received high marks. He was considered an expert in his rifle skills and received letters of acknowledgment from colonels and generals. The applicant asserts that, based on his record and the commendations from his superiors, he was more than capable in performing his duties. He also attended courses for continued education. He believes that this issue is the result of an error, and he has made numerous attempts to have it corrected. He served one year, nine months, and twenty-seven days in service to his country, and he would gladly serve again. During the years 1980 to 1982, there was a reduction in force, and the applicant believes he was affected by this. He maintains that he excelled in his duties and continues to demonstrate excellence in many aspects of his life.
3. The applicant provides an internet search, labeled (Gulf War period to present).

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

a. He enlisted in the Regular Army on 7 November 1980. He held military occupational specialty 68J, Aircraft Fire Control Repairer.

b. On 21 August 1981, he was assigned to Company E, 2nd Battalion, 227th Aviation, 1st Cavalry Division, Fort Hood, TX.

c. On 23 November 1981, he accepted nonjudicial punishment for absent without leave (AWOL) on or about 2 November 1981. His punishment included reduction to private (PVT)/E-1 (suspended for 90 days) and to serve 14 days in a correctional custody facility.

d. The applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 5-31, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel) for expeditious discharge program. The specific reasons for his proposed recommendation was based upon the applicant's poor attitude, lack of motivation, lack of self-discipline, inability to adapt socially, inability to adapt emotionally and failure to demonstrate promotion potential.

e. The applicant consulted with legal counsel, and he acknowledged:

- notification of his proposed separation under provisions of paragraph 5-31, AR 635-200
- You did not submit any statements on his own behalf
- he may apply to the Army Discharge Review Board or the ABCMR for upgrading
- he is ineligible to apply for enlistment in the Army for 2 years after discharge

f. The immediate commander-initiated separation action against the applicant for expeditious discharge program. The intermediate commander recommended approval with a general discharge.

g. On 29 July 1982, the separation authority approved the applicant's discharge and ordered his character of service be honorable.

h. Orders 149-23, dated 3 August 1982 discharged the applicant from active duty with an effective date of 3 August 1982.

i. On 3 August 1982, he was released from active duty with an honorable discharge characterization of service. His DD Form 214 shows he was discharged in accordance with paragraph 5-31(h) of AR 635-200 with the narrative reason for separation listed as "Failure to Maintain Acceptable Standards for Retention" (Separation Code LGH and

Reentry Code 3). He completed 1 year, 8 months, and 27 days of net active service. He was awarded or authorized the: Army Service Ribbon and Expert Marksmanship Qualification Badge with Rifle Bar

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

6. By regulation (AR 635-8), the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

7. AR 635-5-1 (Separation Program Designator Codes), prescribes the specific authorities (statutory, regulatory, and Department of Defense (DOD)/Army policy) and reasons for separating Soldiers from active duty. Also, it prescribes when to enter separation program designator (SPD) codes on the DD Form 214 (Certificate of Release or Discharge from Active Duty).

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. 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 available evidence shows the applicant's commander determined the applicant displayed a poor attitude, lack of motivation, lack of self-discipline, inability to adapt socially, inability to adapt emotionally, and failed to demonstrate promotion potential. As a result, the applicant's chain of command separated him for Failure to Maintain Acceptable Standards for Retention" with Separation Code LGH. By regulation, enlisted Soldiers separated under chapter 5-31(h) of AR 635-200 for failure to maintain acceptable standards for retention are assigned Separation Code LGH. The Board found no error or injustice in his separation processing or the reason for his separation. Therefore, based on a preponderance of evidence, the Board determined that the narrative reason for separation the applicant received upon separation was not in error or unjust.

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:

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 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, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in

the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. AR 635-5-1 (Separation Program Designator Codes), prescribes the specific authorities (statutory, regulatory, and Department of Defense (DOD)/Army policy) and reasons for separating Soldiers from active duty. Also, it prescribes when to enter separation program designator (SPD) codes on the DD Form 214 (Certificate of Release or Discharge from Active Duty).

a. The narrative reason for separation will be entered in block 28 of the DD Form 214 exactly as listed in the tables of this regulation. No deviation is authorized.

b. Table 2-3 states separation code LGH has the narrative reason of failure to meet minimum standards of retention.

4. Army Regulation 635-8 (Separation Processing and Documents), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

5. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 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 5-31 (Expeditionary Discharge Program (EDP)) states EDP provides that members who have demonstrated that they cannot or will not meet acceptable standards required of enlisted personnel in the Army because of existence of one or more of the following conditions may be separated. All members separated under this paragraph will be released from active duty and transferred to the IRR to complete their service obligation, except those whom the separation authority.

//NOTHING FOLLOWS//