

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 December 2024

DOCKET NUMBER: AR20240004593

APPLICANT REQUESTS: reconsideration of his previous request for an upgrade to his under other than honorable conditions discharge, narrative reason for separation, and reentry code. He also requests:

- personal appearance before the Board or via video or telephonically
- to be granted a waiver for enlistment into the Armed Forces of the United States

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

- DD Form 149 (Application for Correction of Military Record)
- U. S. Military Entrance Processing Command (USMEPCOM) Form 601-23-6-E (USMEPCOM Accession Verification Packet Regular Army/Left Side)
- USMEPCOM Form 680-3A-E (Request for Examination)
- U. S. Army Recruiting Command Form 1196 (Statement of Understanding Prohibited Activities Between Recruiting Personnel and Delayed Entry Program and Delayed Training Program Members)
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States)
- DD Form 93 (Record of Emergency Data)
- DD Form 1966 (Record of Military Processing – Armed Forces of the United States)
- Standard Form (SF) 86 (Authentication of Personnel Asset Inventory (PAI) / Pre-Enlistment Interview (PEI) / Electronic Personnel Security Questionnaire (EPSQ))
- SF 86 (Authorization for Release of Information)
- SF 86 (Authorization for Release of Medical Information)
- Military Entrance Processing Station Orders Number 500522
- DA Form 3685 (Joint Uniform Military Pay System (JUMPS) – Joint Service Software (JSS) Pay Elections)
- DD Form 2058 (State of Legal Residence Certification)
- Department of the Treasury Internal Revenue Service W-4 Form (Employee's Withholding Allowance Certificate)

- Defense Finance and Accounting Service (DFAS) Form 703 (DFAS Military Net Pay Advice)
- DA Form 3349 (Physical Profile)
- Telephone/Verbal Conversation Record
- DD Form 616 (Report of Return of Absentee)
- DA Form 31 (Request and Authority for Leave)
- DA Form 4137 (Evidence/Property Custody Document)
- Personnel Control Facility (PCF) Memorandum, Subject: Absent Without Leave (AWOL) / Interview Report Chapter 10 / Chapter 14
- Medical records for hand injury
- Texas (TX) Department of Public Safety Arrest Record
- Office of Service Member's Group Life Insurance (SGLI) letter dated 9 May 2007
- Office of SGLI letter, 11 June 2007
- Marriage License State of TX
- Army Discharge Review Board (ADRB) letter dated 8 April 2016 regarding Docket Number AR20150008405
- Army Review Boards Agency (ARBA) letter dated 21 October 2016 regarding Docket Number AR20160016679
- 91st District Court of Eastland County, TX Petition for Non-disclosure
- U. S. Senate letter from J-C-
- New York Film Academy transcript
- Army Board for Correction of Military Records (ABCMR) letter dated 21 August 2019 regarding Docket Number AR20170017218
- Statement of support from S-M-
- Letter of recommendation from R-C-
- Letter of recommendation from A-R-
- Letter from the National Guard Bureau
- E-mail request for privacy act release
- Letter of recommendation from E-T-
- Phi Theta Kappa certificate
- Dallas College Associate of Arts in Teaching diploma
- Letter of recommendation from L-T-L-
- Letter from the White House
- American Red Cross Proceed to Skill Session certificate
- Educator fingerprint status
- Iris Center certificate of completion
- ABCMR letter dated 16 September 2022 regarding Docket Number AR20110005346
- Society Prevention of Teen Suicide certificate
- University of Maryland (MD) certificate, 23 September 2022
- University of MD certificate, 24 September 2022 for Externalizing Behaviors

- University of MD certificate, 24 September 2022 for Internalizing Disorders
- University of MD certificate, 25 September 2022 for Collaboration and Communication
- University of MD certificate, 25 September 2022 for Cultural Competency
- University of MD certificate, 25 September 2022 for Data Based Decision Making
- University of MD certificate, 25 September 2022 for Frameworks and Strategies for Promoting Mental Health
- Teaching Excellence and Achievement (TEA) Program Learning certificate of completion, 8 November 2022
- Dallas College certificate of completion
- Headquarters (HQs), U. A. Army Recruiting Command (USAREC) letter
- Letter of recommendation from S-M-
- Dallas College transcripts
- Bachelor of Applied Science diploma
- Medical records for the D-D-
- Certificate of Death for D- D-
- Letter to U. S. Army Human Resources Command (AHRC)
- National Cardiopulmonary Resuscitation (CPR) Foundation certificate of completion
- E-mail from M-D-
- TEA certificate of completion, 26 July 2023
- Dallas school district identification card
- Iris Center certificate of completion for Autism Spectrum Disorder – Evidence Based Practices
- Iris Center certificate of completion for Autism Spectrum Disorder – An Overview for Educators
- Certificate of Christian Ordination
- Certificate of Christian Counseling
- Chapter 10, Hardship and Dependency document
- Department of Veterans Affairs (VA) letter
- United National Church certificate
- photographs

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in:

a. Docket Number AR20170017218 on 1 July 2019. After review of the application and all evidence, the Board determined relief is not warranted. The Board applied Department of Defense (DoD) standards of liberal consideration to the complete

evidentiary record and did not find any evidence of error, injustice, or inequity. The applicant did not provide character witness statements or evidence of post-service achievements for the Board to consider. Based upon the short term of honorable service completed prior to the lengthy AWOL offense which resulted in the applicant's separation as well as the failure to accept responsibility and show remorse for the events leading to his separation, the Board agreed that the applicant's discharge characterization, reason for separation, and reentry code were warranted as a result of the misconduct.

b. Docket Number AR20210005346 on 15 October 2021. The Board carefully considered the applicant's request, supporting documents, evidence in the records and published DoD guidance for consideration of discharge upgrade requests. The Board considered the applicant's statement, his record of service, the frequency and nature of his misconduct, the reason for his separation and whether to apply clemency. The Board found insufficient evidence of in-service mitigating factors for the misconduct. The applicant provided letters of support and evidence of post-service achievements to weigh a clemency determination. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust, and relief is not warranted.

2. The applicant states he requests a personal appearance before the Board or via video or telephonically and granted a waiver for enlistment into the Armed Forces of the United States. Additionally, he requests reconsideration of his previous request for an upgrade to his under other than honorable conditions discharge, narrative reason for separation, and reentry code. He apologizes for his prior behavior while on active duty and it would be in the best interest of the U. S. Army to reconsider his request for the correction of his service record to allow him to enlist in the military. He requests clemency as he did not receive any writeups during his period of service. The decision to separate him was based on one incident.

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

a. On 5 January 2005, the applicant enlisted in the Regular Army. He was assigned to Fort Sill, OK for training.

b. On 25 July 2005, the applicant's duty status was changed to AWOL effective 23 July 2005. On 21 August 2005, the applicant's duty status was changed to present for duty effective 21 August 2005.

c. On 30 August 2005, the applicant's duty status was changed to AWOL effective 27 August 2005. On 22 February 2006, the applicant's status was reported to the U. S. Army Deserter Information Point.

d. On 27 March 2006, the applicant's duty status was changed to dropped from rolls effective 26 September 2005. On 29 September 2006, the applicant was returned to military control by apprehension by civil authorities in Eastland, TX.

e. On 4 October 2006, court-martial charges were preferred against the applicant. His DD Form 458 (Charge Sheet) shows he was charged with one specification of AWOL from on or about 27 August 2005 through on or about 28 September 2006.

f. On 5 October 2006, the applicant requested voluntary discharged in lieu of a trial by court-martial. His request was of his own free will and was not coerced. He understood the elements of the charge(s) and he was guilty of the charge(s) or of lesser included offense(s). He was afforded the opportunity to consult counsel. If his request was approved, he was subject to an other than honorable conditions discharge. He may be deprived of many of the Army benefits. He may be ineligible to many or all benefits administered by the VA and may be deprived of his rights and benefits as a veteran under both Federal and State laws. He may expect to encounter substantial prejudice in civilian life. He may apply to the Army Discharge Review Board (ADRB) or the Army Board for Correction of Military Records (ABCMR) to request his discharge to be upgraded, consideration by either board does not imply it would be approved. He did not submit statements in his own behalf.

g. On 16 October 2006, Orders Number 289-17, issued by HQs, U. S. Army Garrison, the applicant was assigned to the PCF effective 28 September 2006.

h. On 17 October 2006, the applicant's duty status was changed to present for duty / returned to military control effective 28 September 2006.

i. On 31 October 2006, the applicant's commander recommended approval of his request for discharge in lieu of trial by court-martial. He was charged with one specification of AWOL for a total of 397-days and was apprehended by civil authorities.

j. On 16 November 2006, the legal review determined the applicant's request for discharge in lieu of trial by court-martial had no legal objections.

k. On 21 November 2006, the applicant battalion commander recommended the applicant be discharged in lieu of trial by court-martial with an other than honorable conditions discharge.

l. On 30 November 2006, the separation authority approved the applicant's request for discharge in lieu of trial by court-martial and an other than honorable conditions discharged was directed.

m. On 8 January 2007, Orders Number 008-0686, issued by HQs, U. S. Army Field Artillery Center and Fort Sill, the applicant was assigned to the U. S. Army Transition Center for discharge from active duty effective 10 January 2007. The applicant was not entitled to the movement of his household goods.

n. On 10 January 2007, the applicant was discharged from active duty under provisions of Army Regulation 635-200 (Active-Duty Administrative Separations), chapter 10 (in lieu of trial by court-martial). DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 11-months and 4-days of active service. It also shows in:

- item 24 (Character of Service): Under Other Than Honorable Conditions
- item 25 (Separation Authority): AR 635-200, chapter 10
- item 26 (Separation Code): KFS
- item 27 (Reentry Cods):4
- item 28 (Narrative Reason for Separation): In Lieu of Trial by Court-martial
- item 29 (Dates of Time Lost During This Period): under Title 10 United States Code), section 972; 27 August 2005 through 28 September 2006

o. On 8 August 2016, the ADRB notified the applicant the board convened on 12 May 2015 to consider his request for the upgrade of his under other than honorable conditions discharge. The board determined his record did not contain any indication or evidence of arbitrary or capricious actions by the command and all requirements of law and regulation were met and his rights were fully protected. The character of discharge was commensurate of his overall service record.

p. On 31 March 2017, the ADRB notified the applicant the board convened on 6 September 2016 to consider his request for the upgrade of his under other than honorable conditions discharge and a personal appearance before the board. The board denied his requests upon the finding his separation was both proper and equitable. The under other than honorable conditions discharge received by the applicant was normal and appropriate under the regulatory guidance. His record documents no acts of significant achievement or valor and did not support the issuance of an honorable or a general discharge by the separation authority.

q. On 21 August 2019, the ABCMR notified the applicant the Board convened on 1 July 2019 to consider his request for the upgrade of his under other than honorable conditions discharge, narrative reason for separation and reentry code. After the review of the application and all the evidence, the Board determined relief was not warranted. The Board applied DoD standards of liberal consideration to the complete evidentiary record and did not find any evidence of error, injustice, or inequity. The applicant did not provide character witness statements or evidence of post-service achievements for the Board to consider. Based upon the short term of honorable service completed prior to

the lengthy AWOL offense which resulted in the applicant's separation as well as the failure to accept responsibility and show remorse for the events leading to his separation, the Board agreed that the applicant's discharge characterization, reason for separation, and reentry code were warranted as a result of the misconduct.

r. On 16 September 2022, the ABCMR notified the applicant the Board convened on 15 October 2021 to consider his request for the upgrade of his under other than honorable conditions discharge, narrative reason for separation and reentry code. After the review of the application and all the evidence, the Board determined relief was not warranted. The Board applied DoD standards of liberal consideration to the complete evidentiary record and did not find any evidence of error, injustice, or inequity. The applicant did provide character witness statements or evidence of post-service achievements for the Board to consider. Based upon the short term of honorable service completed prior to the lengthy AWOL offense which resulted in the applicant's separation as well as the failure to accept responsibility and show remorse for the events leading to his separation, the Board agreed that the applicant's discharge characterization, reason for separation, and reentry code were warranted as a result of the misconduct.

4. The applicant provides:

a. Military Entrance Processing Station Orders Number 500522 dated 5 January 2005, shows the applicant was assigned to the 95 Adjutant General Battalion (Reception) effective 5 January 2005.

b. DFAS Military Net Pay Advice dated 15 March 2005, shows the applicant's net pay was \$525.36.

c. DA Form 3349 dated 13 July 2005, shows the applicant was issued a temporary physical profile due to ankle pain for no running, rucking, jumping, marching or prolonged standing.

d. Telephone/Verbal Conversation Record shows the applicant was arrested by civilian authorities by Eastland, TX on 28 September 2006.

e. DD Form 616 shows the applicant was apprehended by civil authorities in Eastland, TX on 28 September 2006 and returned to military control at Fort Sill, OK.

f. DA Form 31 shows the applicant was voluntarily placed on excess leave effective 6 October 2006 pending discharge in accordance with AR 635-200, chapter 10. He was informed the leave would be without pay and allowances and no leave would accrue.

g. DA Form 4137 shows the applicant's TX driver license and social security card was released on 6 October 2006.

h. PCF Memorandum, Subject: AWOL/Interview Report Chapter 10/Chapter 14 shows the applicant was interviewed, it was determined he was a trainee and he went AWOL due to family circumstances and he requested a chapter 10 discharge. A handwritten statement at the bottom of the document states: "I did want to say in the military. I accidentally miss read and circled the wrong word. There are two words right next to each other that are the same."

i. D-P- Orthopedic Surgery document states the applicant was disabled due to a work related injury since 2 May 2006 with five pages of medical documents.

j. TX Department of Public Safety shows on 23 March 2007 the applicant was arrested by the Eastland, TX police department for the purchase of alcohol to furnish to a minor which was a misdemeanor. He plead guilty on 1 May 2009.

k. Office of SGLI letter dated 9 May 2007 shows the applicant applied for Veteran's Group Life Insurance (VGLI). The beneficiary on the form was not legible and he was listed as the principle beneficiary.

l. Office of the SGLI letter dated 11 June 2007 shows he was reminded he needed to submit new instructions for his VGLI.

m. State of TX Marriage License shows he was married on 2 February 2016.

n. 91st District Court of Eastland County, TX Petition for Non-disclosure shows the applicant petitioned the court for an order of non-disclosure of his offense of an assault which caused bodily injury. The applicant was placed on community supervision for the period of 1 May 2009 through 30 April 2012.

n. U. S. Senate letter dated 11 January 2018 from Senator J-C- which stated he could not assist the applicant in providing him a recommendation as he did not personally know him.

o. New York Film Academy shows the applicant completed 17 credits towards a Bachelor of Fine Arts in Acting for Film.

p. E-mail from S-M- dated 25 September 2019 which shows the applicant requested a statement of support. The applicant shared his desire to return to military service. He interacted with staff with respectful behavior. He also wants to start college but unfortunately his VA educational benefits could not be activated. He was also a medical caregiver for a family member and helped to support his extended family.

q. Statement of recommendation from R-C- dated 12 October 2019 for readmission to the U. S. Army. He was a student at Eastfield College where he was the most dedicated and attentive student, always completing his assignments in advance of the suspense date. His character and professional approach to projects shows he would be an asset to any group which he is affiliated.

r. Statement of support dated 15 November 2019 from A-R- stated he was an exemplary student in the academic year 2019. He embodies the qualities of an outstanding student and future educator. He is a person of integrity, maturity and a strong sense of ethics when dealing with others. She hoped his journey ahead led to the attainment of his honorable goals and a prompt reinstatement in the military and becoming an educator certified by the State of TX.

s. National Guard Bureau letter dated 17 April 2020, stated applicants who have been separated from the U. S. Army with a reentry code 4 with a narrative reason for separation require a waiver. He was encouraged to contact his local recruiter to inquire about changing his reentry code and a request for a reenlistment waiver.

t. E-mail from D-C-, Senior Advisor, State Representative T-R- dated 11 May 2020 stated he needed to complete the privacy act release and return with his military records deemed critical to his case.

u. Statement of recommendation from E-T- dated 20 June 2020 stated the applicant distinguished himself by his cheerful, outgoing and friendly demeanor, genuine care and concern for others and his excellence in the pursuit of his studies. He demonstrated himself through his time at Eastfield College as a person with intellectual capacity, determination and the concern of others that will lead to his success.

v. Phi Theta Kappa certificate shows the applicant was inducted into the honor society as of 28 August 2020.

w. Dallas College certificate shows the applicant fulfilled the requirements for a conferred degree of Associate of Arts in Teaching – Early Childhood on 10 December 2020.

x. Letter of recommendation from L-T-L- dated 11 December 2020 which stated she recommended the applicant to be invited to membership in Phi Theta Kappa. He was in the top 10 percent of his class.

y. American Red Cross certificate shows the applicant successfully completed Adult First Aid/CPR/ automated external defibrillator (AED) on 13 January 2022.

z. Educator Fingerprint status shows the applicant's fingerprints have not been initiated as of 11 June 2022.

aa. Iris Center certificate of completion shows the applicant completed the online Professional Development Training on 6 July 2022 in Early Childhood Environments: Designing Effective Classrooms.

bb. Society for the Prevention of Teen Suicide certificate dated 23 September 2022 shows the applicant completed the Elementary, Middle School, Return to Learn, Bullying Act on FACTS.

cc. University of MD School of Medicine certificate shows the applicant completed the Understanding Student Development and Mental Health on 23 September 2022.

dd. University of MD School of Medicine certificate shows the applicant completed the Externalizing Behaviors on 24 September 2022.

ee. University of MD School of Medicine certificate shows the applicant completed the Internalizing Disorders on 24 September 2022.

ff. University of MD School of Medicine certificate shows the applicant completed the Collaboration and Communications on 25 September 2022.

gg. University of MD School of Medicine certificate shows the applicant completed the Cultural Competency on 25 September 2022.

hh. University of MD School of Medicine certificate shows the applicant completed the Data Based Decision Making on 25 September 2022.

ii. University of MD School of Medicine certificate shows the applicant completed the Framework and Strategies for Promoting Mental Health on 25 September 2022.

jj. TEA Learn certificate shows the applicant completed the TEA Dyslexia Training on 8 November 2022.

kk. Dallas College certificate shows the applicant completed the Sexual Violence Prevention for Students on 14 January 2023.

ll. USAREC letter dated 21 February 2023 stated the applicant's desire to serve again in the U. S. Army was admirable and appreciated. USAREC does not have a record of his attempts to pursue an enlistment in the U. S. Army. Therefore, it was recommended he contact his local recruiter.

mm. Statement of recommendation from S-M- dated 19 April 2023 stated the applicant had a desire to attend the Dallas College Educators Preparation Program. His is a hard worker who his willing to accept new challenges in teaching students. He has become a popular educator with the student and his colleagues. He has demonstrated himself to be a highly motivated, dependable, responsible, goal oriented hard worker with good analytical skills. He would make an excellent candidate for the Educators Preparation Program.

nn. Dallas College transcript shows the applicant was awarded an Associate of Arts in Teaching in December 2020 and a Bachelor of Applied Science in Early Childhood Education and Teaching Base in May 2023.

oo. Dallas College diploma shows the applicant was awarded a Bachelor of Applied Science in Early Childhood Education and Teaching on 2 May 2023.

pp. Thirteen pages of medical records of the applicant's father for admission to medical care on 12 November 2013.

qq. Department of State Health Service Vital Statistics Certificate of Birth shows on 7 June 2023, D-D- was reported as deceased due to smoke inhalation.

rr. Applicant's letter to the AHRC dated 11 July 2023 he requested a waiver for reenlistment in the U. S. Army. This request is in the best interest of the U. S. Army due to the nature of the circumstances with he had to endure and overcome. In May 2005, he was notified of his father's poor health and his family needed his support. At which time, he began the process to apply of a chapter 10, hardship dependency discharge through his unit. During the process, he requested a leave of absence, while he was on leave, he worked to support his family. During this period, he injured both of his hands and was accused and charged with an injustice criminal offense. Having to deal with the allegations he made a bad choice regarding medications. When he returned to military control, he was accused of certain allegations and charges were filed against him. Since his separation from the Army, he has overcome many obstacles, one being the criminal charges against him were reduced to a misdemeanor and a non-disclosure was filed and was removed from his record. He earned a college degree in applied science. It would be in the best interest of the U. S. Army to grant him a waiver due to the inability to meet the enlistment goals over the past 2-years.

ss. National CPR Foundation certificate shows the applicant successfully completed the CPR/AED/First-Aid course on 26 July 2023.

tt. E-mail from M-D- dated 26 July 2023 stated the DoD is a Federal agency which the governor has no jurisdiction. He may want to consider contacting his congressional representative for assistance.

uu. TAE Learn certificate shows the applicant completed the TX Behavioral Support Initiative TBSI Training on 26 July 2023.

vv. Dallas Independent School District identification cards.

ww. Iris Center certificate of completion shows the applicant completed the Autism Spectrum Disorder Evidence Based Practices course on 22 November 2023.

xx. Iris Center certificate of completion shows the applicant completed the Autism Spectrum Disorder An Overview for Educators course on 22 November 2023.

yy. Certificate of Christian Ordination shows the applicant was an Ordained Christian Pastor and Certificate of Christian Counseling shows the applicant was a certified Christian Counselor.

zz. Ten page document regarding Chapter 10 – Hardship and Dependency which stated some men and women in the military have family problems which resolved only by their discharge from the military. A member of the military may be granted a voluntary separation for a "genuine dependency or undue hardship" if all of the following conditions are met:

- the hardship is severe and not temporary
- it has arisen or been aggravated since entry into the military
- the member has made every reasonable effort to remedy the situation
- separation is the only remedy

aaa. VA letter regarding the previous notification of his right to convert this SGLI to VGLI.

bbb. United National Church Biblical Studies Seminary certificate shows the applicant was conferred the degree to Doctor of Divinity.

ccc. Six photographs.

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. One potential

outcome was to grant partial relief based on clemency and post-service accomplishment, however his narrative reason and RE code should remain the same. However, upon further review of the applicant's request and available military records, the Board determined there is insufficient evidence of in-service mitigating factors to overcome the lengthy period of AWOL. The Board agreed the applicant's contentions for a waiver for enlistment into the Armed Forces of the United States is without merit.

2. Evidence of record shows, at the time of separation, documentation supports the narrative reason for separation and RE Code properly identified on the applicant's DD Form 214. As such, the Board determined under liberal consideration changes to the applicant's narrative reason and RE Code are not warranted. The Board applauds the applicant's post service accomplishments of earning his bachelor's degree and finds his character letters of support attesting to his character, community engagement and achievements. However, the Board determined the applicant's post service accomplishments did not mitigate the applicant being apprehended by authorities after being AWOL for 397 days. Based on the preponderance of evidence, the Board denied relief.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

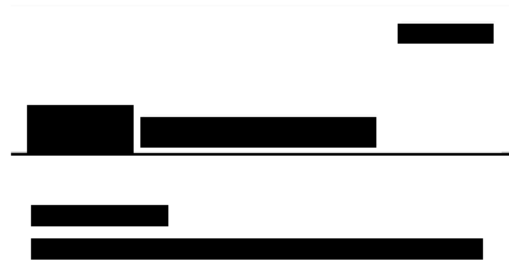
BOARD VOTE:

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 AR20170017218 on 1 July 2019 and AR20210005346 on 15 October 2021.



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 (AR) 635-200 (Active-Duty Administrative Separations) in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable discharge), a honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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), 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.

c. Paragraph 3-7c (Under other than honorable conditions discharge), a discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, homosexual conduct, security reasons, or in lieu of trial by court-martial in the following circumstances:

- when the reason for separation is based upon a pattern of behavior that constitutes a significant departure from the conduct expected of Soldiers of the Army
- when the reason for separation is based upon one or more acts or omissions that constitutes a significant departure from the conduct expected of soldiers of the Army

d. Chapter 10 (Discharge in Lieu of Trial by Court-martial), provides that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may, submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. The separation authority will be a commander exercising general court-martial jurisdiction or higher authority. However, authority to approve discharges may be delegated to the commander exercising special court-martial convening authority over the Soldier in cases in which all of the following apply to the Soldier. He/she:

- has been AWOL for more than 30-days
- has been dropped from the rolls of his/her unit as absent in desertion
- has been returned to military control
- currently is at the Personnel Confinement Facility
- is charged only with AWOL for more than 30-days, although an honorable or general discharge is authorized

A discharge under other than honorable conditions normally is appropriate for a soldier who is discharged in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment.

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/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. 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. 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.

3. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army (RA), U.S. Army Reserve (USAR), and Army National Guard (ARNG).

a. Paragraph 1-9, all persons who process applicants for enlistment in the RA, USAR, or ARNG will use the utmost care to procure qualified personnel. Eligibility of personnel will be based on their ability to meet all requirements, to include procurement of prescribed waivers. No applicant will be accepted for enlistment before approval of any required waiver. Processing will be immediately discontinued if an applicant for enlistment in the RA, USAR, or ARNG admits to a non-waiverable disqualifying condition. This includes, but is not limited to, an applicant who is determined to be drug dependent, admits to a pending law violation or fine, or displays other non-waiverable medical, conduct, or administrative disqualifications.

b. Paragraph 3-11 (Armed Forces reentry eligibility codes), regardless of reentry eligibility (RE) code, applicant may require a waiver for the reason and authority for separation release, discharge, or transfer (see chap 4 for waiver criteria and applicability).

c. Paragraph 3-18 provides guidance to qualify and verify applicants with PS in the U.S. Armed Forces.(1) Evaluation of applicants. Application for enlistment from former members of the U.S. Armed Forces will be evaluated thoroughly. Veterans qualified for possible RA or RC enlistment will be identified. Greater opportunity will not be provided to PS applicants enlisting from civilian status than given to RA or RC members reenlisting within their respective component. (2) Disqualification a/applicants due to previous characterization of separation.

- Inform applicant that a reentry eligibility (RE) code is not upgraded unless it was administratively incorrect when originally issued
- Depending on the disqualification (RE code, separation program designator (SPD) code, lost time, narrative reason or character of service), a waiver may or may not be authorized
- Depending on the needs of the Army, waivers may not be considered even though the disqualification could be waived. In these cases, applicants should be

informed to contact recruiters periodically to see if waiver applications are being considered

- Advise applicants whose previous separation may require a waiting period

d. Table 3-1 provides a list of RE codes.

- RE code "1" applies to Soldiers completing their term of active service, who are considered qualified for enlistment if all other criteria are met
- RE code "3" applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, whose disqualification is waivable - they are ineligible unless a waiver is granted
- RE code "4" applies to Soldiers separated from last period of service with a non-waivable disqualification

e. Paragraph 4-2 (Conduct and administrative disqualifications) Commanders at all levels determine if waiver requests warrant favorable consideration through: Questioning, Investigating, Counseling; Gathering proper documents and waiver request information. Recruiters must forward all waiver requests to the approval authority. Applicants who do not meet established enlistment standards are not eligible for enlistment unless a waiver is authorized. Commanders cited in this regulation have the authority to approve waivers, as appropriate. The burden is on the applicant to prove to waiver authorities that they have overcome their disqualifications for enlistment and that their acceptance would be in the best interests of the Army. Waiver authorities will apply the "whole person" concept when considering waiver applications. Suitability for criminal offenses will be determined by the following: applicants with a criminal history (regardless of disposition of charges) will be questioned concerning their involvement. The whole person concept must be applied. Criminal background, commander interview, and potential for meeting Army standards must be reviewed.

f. Paragraph 4-14 (Absent Without Leave or Lost Time), any applicant who, during their last period of service, was absent without leave or had lost time for more than 30 consecutive days, regardless of the type of separation or RE code, is considered to be dropped from rolls, and waiver is not authorized

g. Paragraph 4-23 (Non-waiverable Disqualifying Separations or Discharges), non-waiverable separations and/or discharges for desertion or dropped from rolls, person with an other than honorable, bad conduct or dishonorable discharge

4. AR 635-5-1 (Separation Program Designator (SPD) Codes) in effect at the time, provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation codes entered on the DD Form 214. The regulation prescribed that the separation code "KFS" was the appropriate code to assign to Soldiers separated under provisions of Army Regulation 635-200, Chapter 10, based on

discharge in lieu of trial by court-martial. Additionally, the SPD/Reentry Eligibility (RE) Code Cross Reference Table established that RE code "4" was the proper reentry code to assign to Soldiers separated under this authority and for this reason.

5. AR 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 may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//