

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 January 2025

DOCKET NUMBER: AR20240004979

APPLICANT REQUESTS:

- an upgrade of his under honorable conditions (General) discharge
- add awards not listed on his DD Form 214 (Certificate of Release or Discharge from Active Duty)

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

- DD Form 149 (Application for Correction of Military Record)
- Saudi Arabia Certificate
- Certificate of Appreciation
- Kuwait Certificate
- DD Form 214

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 believes he should have been awarded more medals than is listed on his DD Form 214. He is also requesting an upgrade of his discharge.
3. The applicant enlisted in the Regular Army on 10 September 1991. He held military occupational specialty 63S (Heavy Wheel Vehicle Mechanic). His highest rank held was private first class with a date of rank of 1 July 1992.
4. The applicant provides:
 - Saudi Arabia Certificate for his professionalism and dedication to duty while serving under the operational control of Task Force 1-43 Air Defense Artillery in 1993

- Certificate of Appreciation for recognition of his immeasurable contributions in support of U.S. Army Central Command Training and Security Kuwait on 22 February 1993
- Kuwait Certificate appointing him as a guardian of freedom on 1 March 1993, after having demonstrated resolve and determination as a sentinel of the peace during Operation Southern Watch in the freed country of Kuwait

5. DA Form 2-1 (Personnel Qualification Record – Part II) shows in item 18 (Appointments and Reductions) that he was reduced to private/E-2 on 11 June 1993.

6. On 16 August 1993, he was counseled for being absent without leave (AWOL) from 6-11 August 1993. DA Form 2-1 item 18 shows he was reduced again to private/E-1 on 8 September 1993.

7. On 27 September 1993, his immediate commander notified him of her intent to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 14-12b. The specific reason for her proposed action was the applicant had committed several violations under the Uniform Code of Military Justice (UCMJ). These charges include failure to repair, disrespect to a Non-Commissioned Officer (NCO), and disobeying an NCO. In addition to the UCMJ violations, he has failed his Army Physical Fitness Test for record. Further rehabilitation would not be in the best interest of the Army.

8. On 28 September 1993, after consulting with counsel of the basis for the contemplated action to separate him under the provisions of AR 635-200, chapter 14, and its effects; of the rights available to him; and the effect of any action taken by him in waiving his rights. He understood he may expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions is issued to him.

9. His chain of command recommended that he be separated prior to the expiration of his current term of service under the provisions of AR 635-200, chapter 14, paragraph 14-12b and recommended a General Discharge Certificate be issued.

10. On 29 September 1993, the separation authority approved separation under the provisions of AR 635-200, chapter 14, paragraph 14-12b. He directed a General Discharge Certificate be issued.

11. Accordingly, he was discharged on 1 October 1993, under the provisions of AR 635-200, paragraph 14-12b. His DD Form 214 shows he completed 2 years and 22 days net active service this period. It also shows he was awarded or authorized: National Defense Service Medal, Southwest Asia Service Medal, Army Service Ribbon, Overseas Service Ribbon, Sharpshooter Marksmanship Qualification Badge (Rifle M-16). It shows:

- Item 24 (Character of Service): General
- Item 25 (Separation Authority): AR 635-200, paragraph 14-12b
- Item 26 (Separation Code): JKA
- Item 27 (Reentry Code): RE-3
- Item 28 (Narrative Reason for Separation): Misconduct

12. There is no evidence the applicant applied to the Army Discharge Review Board within the Board's 15-year statute of limitations.

13. By regulation, AR 635-200 (Personnel Separations-Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. Chapter 14 (Separation for Misconduct) deals with separation for various types of misconduct, which includes drug abuse.

14. 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:

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 request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was separated for misconduct with the commander citing failure to repair, disrespect to a NCO, and disobeying an NCO. The Board found no error or injustice in the separation proceedings and designated characterization of service assigned during separation. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate.

2. The Board noted the applicant's provided certificates; however, there is no provision to add certificates to the DD Form 214; therefore, the Board denied relief to add additional awards not listed on the applicant's DD Form 214.

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.

5/12/2025

CHAIRPERSON


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 (AR) 635-200 (Personnel Separations-Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. Chapter 14 (Patterns of Misconduct) deals with separation for various types of misconduct. The issuance of a discharge under other than honorable conditions was normally considered appropriate.

a. Paragraph 3-7a (1) 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. Only the honorable characterization may be awarded a member upon completion of his or her period of enlistment or period for which called or ordered to active duty or active duty for training, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

b. Paragraph 3-7b (1) 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. Paragraph 3-7b (2) states a characterization of under honorable conditions may be issued only when the reason for the member's separation specifically allows such characterization. It will not be issued to members upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

d. Paragraph 14-12b a pattern of misconduct consisting of (1) Discreditable involvement with civil or military authorities. (2) Conduct prejudicial to good order and discipline. Discredit able conduct and conduct prejudicial to good order, and discipline includes conduct violative of the accepted standards, of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

3. AR 600-8-22 (Military Awards) states the Kuwait Liberation Medal awarded by the Kingdom of Saudi Arabia (KLM-SA) was approved on 3 January 1992 and is awarded to members of the Armed Forces of the United States who participated in the Persian Gulf War between 17 January 1991 and 28 February 1991. The Kuwait Liberation Medal

awarded by the Government of Kuwait (KLM-K) was approved on 9 November 1995 and is awarded to members of the Armed Forces of the United States who participated in the Persian Gulf War between 2 August 1990 and 31 August 1993.

4. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and 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 on the basis of 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.

//NOTHING FOLLOWS//