

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 June 2025

DOCKET NUMBER: AR20240005108

APPLICANT REQUESTS: request his under other than honorable conditions discharge be upgraded to under honorable conditions (general)

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Self-Authored Statement (Available for the Board to review in supporting documents)

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 served for six years honorably during his first enlistment. He received an honorable discharge, good conduct medal and graduated from the NCO Academy.

a. During his reenlistment, he messed up. He knew he did not live up to the Army standards. He was young and foolish and became involved in behavior that was not in line with what the Army had taught him. He is now 64 years old and has regretted the mistakes he has made all his adult life. He knows being young and foolish is not justification, it is simply the truth. He has paid of his mistakes for the last 35 years.

b. He is asking the Board to consider his request for upgrading his discharge. Since his discharge, he has used the lessons taught to him by the Army to make him a more productive citizen. He realizes he made a bad mistake and has paid dearly for that mistake.

3. A review of the applicant's service records show:

- a. He enlisted in the Regular Army on 26 November 1980 for a period of 3 years.
- b. He served overseas in Germany from 13 August 1982 – 1 September 1983.
- c. He reenlisted on 23 June 1983 for a period of 4 years.
- d. He served overseas in Japan from 11 April 1985 – 2 August 1985.
- e. DD Form 458 (Charge Sheet) shows court-martial charges were preferred on 14 July 1986, for the charges/specifications of:
 - on or about 25 April 1986, willfully disobeyed a lawful order from a noncommissioned officer
 - on or about 25 June 1986, stole five cartons of Winston cigarettes of a value of about \$21.75 the property of the United States Government. Said offense occurring outside the territorial limits of the United States and not being cognizable in the US civilian court.
 - on or about 25 April 1986, assaulted SSG A. F. N. by striking him with a closed fist. Said offense occurring outside the territorial limits of the United States and not being cognizable in the US civilian court
 - on or about 25 April 1986, was drunk and disorderly. Said offense occurring outside the territorial limits of the United States and not be cognizable in the US civilian court
- f. On 15 July 1986, after consulting with counsel, the applicant voluntarily requested discharge for the good of the service, in lieu of trial by court-martial, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 10 in lieu of court-martial. In his request he understood:
 - if his discharge request was approved, he could be discharged under conditions other than honorable and furnished an Under Other Than Honorable Discharge Certificate
 - as a result of the issuance of such a discharge, he may be deprived of many or all Army benefits, he could be ineligible for many or all benefits administered by the Veterans Administration, and he could 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 because of an Under Other than Honorable Discharge
 - he was advised he could submit any statements he desired in his own behalf; he elected not to submit a statement

g. His chain of command recommended approval and recommended an under other than honorable conditions discharge.

h. On 23 July 1986, the separation authority approved separation under the provisions of AR 635-200, chapter 10. He directed his character of service be under other than honorable conditions and that he be reduced to the lowest enlisted grade.

i. Accordingly, on 4 August 1986 he was discharged under the provisions of AR 635-200, chapter 10. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 6 years, 9 days of net active service this period. He was awarded or authorized the Good Conduct Medal, NCO Professional Development Ribbon, Army Service Ribbon, Overseas Service Ribbon, and M-16 Rifle (Marksman). His DD Form 214 also shows:

- Item 24 (Character of Service): under other than honorable conditions
- Item 26 (Separation Code): KFS
- Item 27 (Reenlistment Code): RE-3/3C
- Item 28 (Narrative Reason for Separation): For the Good of the Service

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

5. 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 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. Upon reviewing the applicant's petition and available military records, the Board found insufficient evidence of in-service mitigating factors to outweigh the misconduct, which involved theft and failure to obey a lawful order from a noncommissioned officer.

2. The Board acknowledged the applicant's self-authored statement expressing remorse. However, despite having completed prior enlistments totaling six years of service, the Board determined that the nature of the misconduct did not support the applicant's request for an upgrade from an under other than honorable conditions

discharge to an under honorable conditions (general) discharge. Furthermore, the applicant did not provide documentation of post-service achievements or character references attesting to post honorable conduct that could serve as mitigating factors. Based on the preponderance of the evidence, the Board concluded that relief was not warranted and denied the request.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XX	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.

//SIGNED//

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.

a. 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. 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. 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. Chapter 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a 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. Army policy states that although an honorable or general, under honorable conditions discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

3. 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//