

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 December 2024

DOCKET NUMBER: AR20240005467

APPLICANT REQUESTS: his uncharacterized service be upgraded to honorable.

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)
- Orders D-07-046705 (Ready Reserve Discharge Orders)
- In-service medical documents
- Post-service medical 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 his discharge from the service was due to a medical condition. He had a significant neck injury. Representatives from the Veterans Affairs have told him that he was ineligible for benefits because he did not serve long enough.
3. On 5 July 1984, the applicant enlisted in the Regular Army, for 3 years. His record shows he was not awarded a military occupational specialty.
4. Medical documents show the applicant sought treatment for neck pain, on 22 September 1984, and 25 September 1984.
5. The applicant received formal counseling on the following dates/for:
 - 25 September 1984; his desire to go home
 - 1 October 1984; his request for discharge
 - 4 October 1984; lack of motivation

6. Medical documents show the applicant sought additional treatment for neck pain, on 15 October 1984, and 22 October 1984.
7. The applicant received additional counseling on the following dates/for:
 - 1 November 1984; failing to sign-in while on restriction
 - 9 November 1984; fighting
 - 21 November 1984; failing to follow instructions; disrespect
 - 26 November 1984; lack of motivation; insubordination
8. The applicant's commander notified him on 28 November 1984, that he was initiating action to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11, for entry level status performance and conduct. As the specific reason, the commander noted the applicant's inability to adjust to the standards of the military.
9. On 28 November 1984, the applicant acknowledged receipt of the separation notification. He waived his right to consult with counsel and elected not to make any statements in his own behalf. Additionally, he declined a separation physical.
10. The applicant's commander formally recommended his separation under the provisions of Army Regulation 635-200, Chapter 11.
11. On 3 December 1984, the separation authority approved the applicant's release from active duty and directed his transfer to the Individual Ready Reserve. The applicant was issued an entry level separation with uncharacterized service.
12. On 6 December 1984, the applicant was relieved from active duty and transferred to the U.S. Army Reserve (USAR) Control Group (Annual Training). His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-200, paragraph 11-3a, for entry level status performance and conduct. His service was uncharacterized. He was assigned Separation Code LGA and Reenlistment Code 3. He completed 5 months and 2 days of active service.
13. Orders D-07-046705, issued by USAR Personnel Center, St. Louis, MO, discharged him from the Ready Reserve effective on 5 July 1990, under the provisions of Army Regulation 135-178 (Army National Guard and Army Reserve – Separation of Enlisted Personnel). His service was characterized as honorable.
14. The applicant provides post-service medical documents that show he has been diagnosed and treated for various injuries, to include a cervical disc disorder and lumbar spine issues.

15. Soldiers are considered to be in an entry level status when they are within their first 180 days of active-duty service. The evidence of record shows the applicant was in an entry level status at the time of his separation. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

16. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

17. Based on the applicant's petition referring to a neck injury, the Army Review Boards Agency (ARBA) medical staff provided a medical review for the Board members.

18. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting upgrade of his entry level status characterization of service. He states:

"I feel that my discharge or separation for the service was due to a medical condition! A significant neck injury."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His DD 214 for the period under consideration shows he entered the regular Army 5 July 1984 and was discharged on 6 December 1984 under the provisions in paragraph 11-3a of AR 635-200, Personnel Separations - Enlisted Personnel (1 October 1982) for failure to meet the entry level standards for performance and conduct.

d. A 22 September 1984 medical encounter shows the applicant presented with a 2-year history of neck pain. In October 1984 he was referred to orthopedics for evaluation. From a referral/consultation sheet:

“18-year-old male seen multiple times by me for non-radiating neck pain. C-spine x-rays within normal limits. Physical therapy evaluation, muscle relaxants, all have been without success. On neuro exam, has absolutely no findings to suggest a radiculopathy. Will refer to ortho for further eval.

Fit for duty.”

e. The results of this orthopedic evaluation were not available for review.

f. A 25 September 1984 counseling addressed the applicant's request for separation under the trainee discharge program so he could return home to help his parents. The counseling sergeant called his mother and she:

“... told him that she wanted her son home to help out and that she was under a doctor's care for high blood pressure. Also, service member's father was hospitalized twice since his reenlistment for a heart condition. Both parents want their son home.”

g. Successive counseling statements reveal the applicant's lack of motivation, poor performance, provocation of another platoon member, and involvement in a fight with a fellow Soldier.

h. On 28 November 1984, the applicant's company commander informed him of his initiation of action to separated him from the Army under provisions in chapter 11 of AR 635-200:

“The specific reasons for my proposed actions are: inability to adjust to the standards of the military.”

i. The applicant declined a separation physical that same day.

j. His discharge was approved by the battalion commander on 3 December 1984.

k. A 13 July 2018 civilian operative report shows he underwent an “Anterior cervical discectomy and fusion (Including discectomy, arthrodesis, and anterior Instrumentation).” Additional civilian documentation shows he treated for low back pain in 2019.

l. JLV shows he is not registered with the VA.

m. It is the opinion of the Agency Medical Advisor that an upgrade of his discharge is unwarranted.

n. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? NO

(2) Did the condition exist or experience occur during military service? N/A

(3) Does the condition or experience actually excuse or mitigate the discharge? N/A

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy and regulation. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The applicant did not complete training and was released from active duty due to failure to entry level status performance and conduct. The Board reviewed and concurred with the medical advisor's review finding an upgrade of his discharge is unwarranted. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

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.

3/26/2025

X

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. Title 10, U.S. Code, Section 1556, requires the Secretary of the Army to ensure that an applicant seeking corrective action by ARBA be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.
3. Army Regulation 135-178 (Army National Guard and Army Reserve – Separation of Enlisted Personnel) sets forth the basic authority for the separation of enlisted Reserve Component personnel.
 - a. An honorable characterization of service is appropriate when the quality of the Soldier'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. A general (under honorable conditions) characterization of service is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.
4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.
 - a. Chapter 3 provides that a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.
 - b. Paragraph 3-7a provides that an 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.

c. Chapter 11 provides for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry level status. When separation of a Soldier in an entry level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, he or she will normally be separated per this chapter. Service will be uncharacterized for entry level separation under the provisions of this chapter.

d. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

5. The Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Navy Records (BCM/NR), on 3 September 2014, to carefully consider the revised post-traumatic stress disorder (PTSD) criteria, detailed medical considerations, and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

6. The Under Secretary of Defense for Personnel and Readiness provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017. The memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, traumatic brain injury, sexual assault, or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on those conditions or experiences.

7. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs 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.

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 on the basis of equity, injustice, or clemency grounds, Boards 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//