

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 January 2025

DOCKET NUMBER: AR20240005551

APPLICANT REQUESTS: an upgrade of his under honorable conditions (General) discharge.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 was a young Soldier experiencing the first time being away from home which caused depression and anxiety. During this time, he grew extremely homesick and really wanted to get back home. He also felt that he was treated differently based on the place and time that he served at Fort Campbell Kentucky. He wants to be clear that he is not making excuses, but he believes that if he had the proper mentors, he could have been successful in his service to our country.
3. The applicant enlisted in the Regular Army on 10 July 1974.
4. On 4 November 1974, he received nonjudicial punishment under Article 15 of the Uniform Code of Military Justice for on or about 0930 hours, 28 October 1974, did without authority absent himself from his appointed place of duty and on or about 1015 hours, 29 October 1974, while undergoing a written examination on the subject of program instruction 4 of the basic administration course, wrongfully and dishonorably received unauthorized aid by having another Soldier assist him by taking his examination.
5. On 4 November 1974, he was denied promotion due to unsatisfactory conduct and efficiency.

6. On 13 July 1975, he underwent a mental evaluation which shows he had no significant mental illness, was mentally responsible, able to distinguish right from wrong, able to adhere to the right, and had the mental capacity to understand and participate in board proceedings.
7. On 13 August 1975, his commander notified him of his intent to separate him from military service under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 13, for unsuitability. He shows no potential or ability to adjust to a military environment. His attitude and potential for continued effective service fall far below standards required for enlisted personnel and he has no potential for promotion. His attitude and performance fall far below the minimum standards for retention in the military. He is recommending his elimination because all other attempts to make him a useful Soldier have failed.
8. On 23 August 1975, having been advised by consulting counsel on the basis for the contemplated action to separate him for unsuitability under the provisions of AR 635-200, Chapter 13 and its effects; of the rights available to him and the effect of any action taken by him in waiving his rights. He understood that he may expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions is issued to him.
9. On 23 August 1975, his chain of command recommended that he be eliminated from the service under the provisions of AR 635-200, Chapter 13 for unsuitability.
10. On 5 September 1975, the separation authority approved the separation as unsuitable, under the provisions of AR 635-200, paragraph 13-5b (3) and that he receive a General Discharge Certificate.
11. Accordingly, he was discharged under honorable conditions (General) on 18 September 1975, under the provisions of AR 635-200, paragraph 13-5b (3). His DD Form 214 (Report of Separation from Active Duty) shows he completed 1 year, 2 months, and 9 days.
12. There is no evidence the applicant applied to the Army Discharge Review Board for review of his discharge within the Board's 15-year statute of limitations.
13. By regulation, (AR 635-200) sets forth the basic authority for the separation of enlisted personnel. Chapter 13 of the regulation in effect at the time established policy and provided procedures and guidance for eliminating enlisted personnel found to be unfit or unsuitable for further military service.

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:

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 conduct and the reason for separation. The applicant was separated for unsuitability with the commander citing no potential or ability to adjust to a military environment. The Board found no error or injustice in the separation proceedings under the regulation and subsequent characterization of service assigned at separation. The Board noted the applicant provided no documentation to support his request, including post-service achievements or letters of reference to support clemency.

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.

4/8/2025

 

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 sets forth the basic authority for the separation of enlisted personnel. Chapter 13 of the regulation in effect at the time established policy and provided procedures and guidance for eliminating enlisted personnel found to be unfit or unsuitable for further military service. In pertinent part, it provided for the separation of individuals for unsuitability whose record evidenced apathy (lack of appropriate interest), defective attitudes, and an inability to expend effort constructively. When separation for unsuitability was warranted, an honorable or general discharge was issued as determined by the separation authority based upon the individual's entire record.
 - a. An honorable discharge was a separation with honor and entitled the recipient to benefits provided by law. The honorable characterization was conditioned upon proper military behavior and proficient and industrious performance of duty, giving due regard to the rank or grade held and the capabilities of the individual concerned.
 - b. A general discharge was a separation from the Army under honorable conditions. When authorized, it was issued to a Soldier whose military record was satisfactory but not sufficiently meritorious to warrant an honorable discharge.
3. 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.

//NOTHING FOLLOWS//