

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 February 2025

DOCKET NUMBER: AR20240005618

APPLICANT REQUESTS: an upgrade of his characterization of service from uncharacterized to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Certification of Service, 5 April 2024
- VA Summary of Benefits, 5 April 2024

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 needs his records to reflect that he received an honorable discharge. He reached out to his commander about his back issues, but he was told that he could not complete physical training, so he could not move forward. When he requested to go get checked, he was denied. He was supposed to be discharged under medical reasons.
3. The applicant provides the following:
  - a. A letter from VA dated 5 April 2024, which states the applicant was discharged from the U.S. Armed Forces having served in the Army from 19 June 2002 to 16 December 2002, under honorable conditions.
  - b. VA summary of benefits letter dated 5 April 2024, which states the applicant has one or more service-connected disabilities and his combined service-connected evaluation is 90 percent.
4. A review of the applicant's service record shows:

a. He enlisted in the Regular Army on 19 June 2002, for a period of three years.

b. The applicant was discharged on 16 December 2002. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under the provisions of Army Regulation 635-200, chapter 11, by reason of entry level performance and conduct, in the rank/grade of PV2/E-2. This form also shows in:

- Item 11 (Primary Specialty): None
- Item 12c (Net Active Service This Period): 5 months and 28 days
- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): None
- Item 18 (Remarks): Member has not completed first full term of service.
- Item 24 (Character of Service): Uncharacterized
- Item 26 (Separation Code): JGA
- Item 27 (Reentry Code): 3

5. The applicant's service record does not contain the separation packet or the facts and circumstances pertaining to his chapter proceedings.

6. There is no indication the applicant applied to the Army Discharge Review Board for review of her discharge processing within that Board's 15-year statute of limitations.

7. The Board should consider the applicant's petition and his overall record in accordance with the published equity, injustice, or clemency determination guidance.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation and the regulatory guidance related to administrative separation initiated within the first 180 days of active duty service, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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//  
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 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 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set policies, standards and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. It stated:

a. Chapter 11 provided guidance for the separation of personnel because of unsatisfactory performance, or conduct (or both) while in an entry level status. Separation of a Soldier in entry level status may be warranted on the grounds of unsatisfactory performance and/or unsatisfactory conduct as evidenced by inability, lack of reasonable effort, failure to adapt to the military environment, or minor disciplinary infractions.

b. Chapter 11-3 applied to Soldiers who enlisted in the Regular Army, Army National Guard, or U.S. Army Reserve, and in an entry level status and, before the date of the initiation of separation actions, had completed no more than 180 days of creditable continuous active duty or initial active-duty training; and demonstrated they could not or would not adapt socially or emotionally to military life.

c. Paragraph 11-8 stated service would be described as uncharacterized under the provisions of chapter 11.

d. Entry-level status is defined as: for Regular Army Soldiers, entry-level status is the first 180 days of continuous active duty or the first 180 days of continuous active duty following a break of more than 92 days of active military service.

e. An honorable discharge is a separation with honor. The honorable characterization 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.

3. Army Regulation 635-5-1 (Personnel Separations – Separation Program Designators), in effect at the time, listed the specific authorities, regulatory, statutory, or other directive, and reasons for separation from active duty, active duty for training, or full time training duty. The separation program designator JGA corresponded to the narrative reason entry level performance and conduct and the authority Army Regulation 635-200, chapter 11, and corresponded to an entry level type separation.

4. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. 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 "2" is no longer in use but applied to Soldiers separated for the convenience of the government, when reenlistment is not contemplated, who are fully qualified for enlistment/reenlistment.

- 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.

5. 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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. 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//