

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 January 2025

DOCKET NUMBER: AR20240005773

APPLICANT REQUESTS:

- award of the Army Achievement Medal (AAM)
- award of the Army Commendation Medal (ARCOM)
- an upgrade of his general, under honorable conditions discharge to honorable

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

- DD Form 149 (Application for Correction of Military Record)
- Permanent Orders 7-24, dated 17 July 1988, AAM
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 in effect, the Army Achievement Medal and Army Commendation Medal are missing off of his DD Form 214. He is also requesting a discharge upgrade.
3. The applicant provides:
 - a. Permanent Orders 7-24 dated 17 July 1988, which awarded him the Army Achievement Medal.
 - b. A copy of his DD Form 214, dated 17 November 1988.
4. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 28 May 1987.

b. On 8 December 1987, he accepted nonjudicial punishment for one specification of wrongful use of marijuana, a controlled substance, between on or about 20 September 1987 and 20 October 2006 and possession of some amount of marijuana. His punishment included forfeiture of \$329.00 per month for two months, one month to be suspended.

c. On 12 October 1988, he accepted nonjudicial punishment for wrongful use of marijuana, between on or about 13 August 1988 and 13 September 1988. His punishment included reduction to private (PVT) (E-1) forfeiture of \$335.00 per month for two months.

d. The service record includes the applicant's medical evaluation for the purpose of administrative separation which indicated he was generally in good health. The applicant was marked qualified for service.

- Mental Status Report dated 26 October 1988
- Standard Form (SF) 88 (Report of Medical Examination) dated 1 November 1988
- SF 93 (Report of Medical History) dated 1 November 1988

e. On 4 November 1988, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 14-12c, for commission of a serious offense. The reason for his proposed action was the applicant having wrongfully used marijuana on two occasions. He recommended the applicant's service to be characterized as general, under honorable conditions. The applicant acknowledged receipt on the same day.

f. On 4 November 1988, after waiving consultation with legal counsel, he acknowledged:

- the rights available to him and the effect of waiving said rights
- he may encounter substantial prejudice in civilian life if a character of service that is less than honorable was issued to him
- he may ineligible for many or all benefits as a Veteran under both Federal and State laws
- he may apply to the Army Discharge Review Board or the ABCMR for upgrading
- he will be ineligible to apply for enlistment for a period of 2 years after discharge
- he elected not to submit matters on his own behalf

g. On 4 November 1988, the immediate commander initiated separation action against the applicant under the provisions of AR 635-200, Chapter 14-12c, for commission of a serious offense. The commander recommended a general, under honorable conditions discharge.

h. On 9 November 1988, the separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 14, paragraph 14-12c for commission of a serious offense. The applicant would be issued a general, under honorable conditions characterization of service.

i. On 17 November 1988, he was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 shows he completed 1 year, 5 months, and 20 days of active service with no lost time. He was assigned separation code JKK and the narrative reason for separation listed as "Misconduct – Abuse of Illegal Drugs, with reentry code 3/3C. It also shows he was awarded or authorized the:

- Army Service Ribbon
- Marksman Marksmanship Qualification Badge with Rifle (M-16)
- Expert Marksmanship Qualification Badge with Hand Grenade

j. The applicant's service record is void of documentation awarding him the Army Commendation Medal and Army Achievement Medal. However, the applicant provided a copy of an AAM certificate with permanent orders number 7-24, dated 17 July 1988.

5. A review of the applicant's packet he provided confirms he is eligible for an award that are not recorded on his DD Form 214. The entries will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

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

7. By regulation (AR 635-200), action will be taken to separate a Soldier for misconduct, such as commission of a serious offense, when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

8. In reaching its determination, the Board can consider the applicants 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. 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. Additionally, the Board found no evidence to support the applicant was recommended for or awarded the Army Commendation Medal. Therefore, the Board denied relief.
3. Prior to closing the discussion, the Board reviewed and concurred with the administrative note below to add the award of the Army Achievement Medal.

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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's service records show he is authorized award not annotated on his DD Form 214. As a result, amend his DD Form 214 to show: Army Achievement Medal – Permanent Orders 7-29, dated 17 July 1988.

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 600-8-22 (Military Awards) states there is no automatic entitlement to an award upon departure either from an assignment or from the service. The Army Commendation Medal may be awarded to any member of the Armed Forces of the United States who, while serving in any capacity with the Army after 6 December 1941, distinguishes himself or herself by heroism, meritorious achievement, or meritorious service. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.
3. Army Regulation 635-8 (Separation Processing and Documents), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.
4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, 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.
 - 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. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed. Paragraph 14-12c further states commission of a serious offense includes abuse of illegal drugs or alcohol.

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 (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 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.

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//