

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 February 2025

DOCKET NUMBER: AR20240005781

APPLICANT REQUESTS: reconsideration of his previous request for upgrade of his discharge to honorable. Also, a personal appearance via video/telephone before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- 26 support letters from family, friends, pastors, and professionals
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Marriage license
- Resume
- Nephrology Nursing Certification
- Certificate of Completion
- Long Term Care Facility Nursing Assistant Certification
- Dean's List Certificates
- Nurse aide training course certification
- Southwest TN Community College Certificate
- Associate of Science Degree
- Technical Certificate in Substance Abuse Counseling
- High Grade Point Average Certificate
- Three Rivers Nursing Center Certificate

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20210015321 on 3 March 2022.
2. The applicant states he served in the United States Army at a very early age, but was committed to performing his duties with integrity and dedication. He described his basic training accomplishments. While serving overseas and being a young naive, immature, and trusting soldier, he allowed his ration card to be used improperly by a fellow soldier whom he thought was feeding and helping the poor town village people.

He was advised by a military attorney to sign a plea agreement to go home, which he did, before this misjudgment he was a model soldier.

a. Since his discharge, he has taken significant steps to correct this error in judgment. He has included letters from family members, friends, coworkers, his pastor, and a host of professional people he has interacted with over the years. In addition, he has attached copies of his licenses, diplomas, certificates, awards, and educational degrees that he has achieved over the years.

b. He often volunteers and mentors young children in sports and life and drive senior citizens to various church events and appointments. He is happily married and blessed with three children.

c. He believes that his current discharge status does not accurately reflect the person he has become. An upgrade to an honorable discharge would not only correct this but also allow him to fully access the benefits and opportunities he has earned through his service to our country.

3. The applicant enlisted in the Regular Army on 18 September 1981. He served overseas in Korea from 8 January 1982 until 31 March 1983. During this time, he was promoted to private first class on 1 July 1982. He was demoted to private/E-2 on 7 September 1982. He was again demoted to private/E-1 on 19 March 1983.

4. The applicant's record does not contain all of the facts and circumstances surrounding the discharge process. However, the record does contain:

a. A Report of Medical Examination and Report of Medical History, dated 1 April 1983, showing he was qualified for separation.

b. Orders 79-26, Headquarters 2nd, Infantry Division, confirming he was to be discharged on 1 April 1983.

c. A DD Form 214 showing he was discharged on 1 April 1983 under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), chapter 10. His DD Form 214 confirms he completed 1 year, 6 months, and 14 days of active service. His DD Form 214 also shows in:

- Character of Service: "Under Other Than Honorable Conditions"
- Reason and Authority: "AR 635-200, Chapter 10"
- Separation Code: "JFS"
- Reenlistment Code: "RE-3/3C"
- Narrative Reason for Separation: "For the Good of the Service"
- Dates of Lost Time This Period: "None"

5. 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.
6. On 26 April 2000, in ABCMR Docket Number AR1999033749, the Board considered his application under procedures established by the Secretary of the Army. The Board denied his request.
7. On 3 March 2022, in ABCMR Docket Number AR20220015321, the Board considered his application and rendered a decision on his application to correct his military records. Partial relief to his request was granted. A majority of the Board found the applicant's post-service achievements sufficient to support clemency. Based on a preponderance of evidence, the majority determined the applicant's character of service should be changed to under honorable conditions (general).
8. His DD Form 214 was ungraded to reflect his character of service as (general) under honorable conditions.
9. The applicant provided 26 support letters from family, friends, pastors, and professionals speaking highly to his character, work ethic, and professionalism. The letters are available for the Board's review in documents.
10. The applicant also provided the Board several documents and certificates of training, certification and grade point averages reflective of his post-service accomplishments.
11. By regulation, AR 15-185 (ABCMR) applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
12. By regulation, AR 635-200 sets forth the basic authority for the separation of enlisted personnel. Chapter 10 of the version in effect at the time provided that a member who committed an offense or offenses for which the authorized punishment included a punitive discharge, could submit a request for discharge for the good of the service at any time after court-martial charges were preferred, commanders would ensure that an individual was not coerced into submitting a request for discharge for the good of the service.
13. 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 review of the applicant's petition and available military records, the Board noted the applicant's assertions that prior to this incident, he was a committed and capable soldier, and he has since led a productive and honorable life.

2. The Board acknowledges the applicant's post-service achievements, including his professional accomplishments, community service, and strong character references from family, clergy, and colleagues. These contributions were previously recognized in ABCMR Docket Number AR20220015321, in which the Board granted partial relief by upgrading his character of service to under honorable conditions (general). However, the Board found that the applicant has not presented new evidence or compelling justification to warrant further upgrade to fully honorable. The Board commends the applicant's rehabilitation and continued service to his community, it determined that the existing general discharge appropriately reflects both the circumstances of his separation, and the clemency already extended. Therefore, the Board denied relief.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

**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 Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20210015321 on 3 March 2022.

X //SIGNED//

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. Army Regulation (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

2. AR 635-200, in effect at the time, set forth the basic authority for the separation of enlisted personnel, it states:

a. Chapter 10 is applicable to members who had committed an offense or offenses for which the authorized punishment included a bad conduct or dishonorable discharge could submit a request for discharge for the good of the service. The request could be submitted at any time after the charges had been preferred. Although an honorable or

general discharge was authorized, an under other than honorable conditions discharge was normally considered appropriate.

b. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier's service has generally met standards of acceptable conduct and performance of duty for Army personnel.

c. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is 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 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//