

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 November 2024

DOCKET NUMBER: AR20240005826

APPLICANT REQUESTS: in effect, reconsideration of his previously denied request for:

- his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 8 June 2007 to show he had no time lost
- his National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) for the period ending 17 June 2011 be corrected to show:
  - his service was characterized as “Honorable” rather than “Under Honorable Conditions (General)”
  - his Reentry Eligibility (RE) Code as “RE-1” rather than “RE-4”
  - the authority and narrative reason for his separation as something more favorable than “Acts or patterns of misconduct under the Uniform Code of Military Justice (UCMJ), State Military Code or similar laws”
- his Retirement Point Summary Statement to reflect he had no Active Duty Loss Time
- his Official Military Personnel File (OMPF), specifically the NGB Form 22, DA Form 2-1 (Personnel Qualification Record – Part II), and Enlisted Record Brief (ERB), be corrected to reflect:
  - restoration of his rank and pay grade to specialist (SPC)/E-4
  - all military courses, training, and qualifications he completed as per his Verification of Military Experience and Training (VMET) document and Indiana Army National Guard (INARNG) Orders Number 022-1066
  - all awards and decorations to which he is entitled
- removal of the erroneous Minor Disciplinary Infractions (MDI) Form 190-E (Record of Proceedings Under Article 15, UCMJ), dated 29 April 2010, and associated documents from his OMPF
- any additional corrections to which he is entitled

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- NGB Form 22 (Report of Separation and Record of Service)

- DD Form 214 (Certificate of Release or Discharge from Active Duty) effective 8 June 2007
- Brief in support of correcting military record (58 pages) and 30 enclosures
  - Enclosure 1 - Army Review Boards Agency (ARBA) letters for applications returned without action or prejudice:
    - Army Discharge Review Board (ADRB) Case AR20160012169, dated 6 September 2018
    - ADRB Case AR20190012632, dated 22 February 2021
- Enclosure 2 - INARNG Adjutant General, Letter of Denial for Relief
  - Congressional Liaison's response, dated 16 October 2019
  - The Adjutant General's, Brigadier General L, response, dated 7 October 2019
- Enclosure 3 - Office of the INARNG Staff Judge Advocate letters: dated 11 Jun 2019 and 19 Jul 2019
- Enclosure 4 - NGB Form 22 effective 17 June 2011
- Enclosure 5 - Handwritten Sub-hand Receipt, dated 20 February 2010
- Enclosure 6 - DA Form 2166-8 (Noncommissioned Officer Evaluation Report (NCOER)) for the period ending 30 June 2009
- Enclosure 7 - DA Form 4856 (Developmental Counseling Form) rendered by Staff Sergeant (SSG) S on 12 August 2009
- Enclosure 8 - DA Forms 1059 (Service School Academic Report) (3):
  - Radio Operator-Maintainer, Phase I, dated 24 February 2009
  - Radio Operator-Maintainer, Phase II, dated 19 March 2009
  - Infantryman, 27 June 2009
- Enclosure 9 - INARNG Trial Defense Service memorandum, Subject: [the applicant's] appeal to nonjudicial punishment (NJP) under the provisions of Article 15, UCMJ, dated 26 April 2010
- Enclosure 10 - Sworn Affidavits (4)
- Enclosure 11 - Letters of Recommendation (6)
- Enclosure 12 - Retirement Points History Statement, dated 26 August 2011
- Enclosure 13 - VMET, dated 1 January 2020
- Enclosure 14 - ERB
- Enclosure 15 - DA Form 2-1
- Enclosure 16 - Diploma for Bachelor of Science degree
- Enclosure 17 - MDI Form 190-E, dated 29 April 2010
- Enclosure 18 - Record of Unlawful Detention

- Enclosure 19 - Notification of Separation from INARNG, dated 2 May 2010
- Enclosure 20 – DA Form 1574 Report of Proceedings by Investigating Officer/Board of Officers) for Army Regulation 15-6 (Procedures for Administrative Investigations and Boards of Officers) investigation completed on 16 April 2010
- Enclosure 21 - DA Form 2823 (Sworn Statement) rendered by the applicant on 26 April 2010
- Enclosure 22 - Applicant's witness list
- Enclosure 23 - DA Forms 2823 rendered by the applicant's unit members (7)
- Enclosure 24 - Personal statement from SSG Retired (RET) T (Listed, but not enclosed with application)
- Enclosure 25 - Letter of recommendation from SSG (RET) T (Listed, but not enclosed with application)
- Enclosure 26 - DA Form 1574 for Administrative Separation Board conducted on 14 May 2011
- Enclosure 27 - Orders 06-164-00026 issued by Headquarters, 81<sup>st</sup> Regional Readiness Command, Birmingham, AL on 13 June 2006
- Enclosure 28 - U.S. Army Reserve (USAR) DD Form 214 for Release from Active Duty Training effective 25 June 2004
- Enclosure 29 - U.S. Coast Guard (USCG) DD Form 214 for discharge effective 3 August 2001
- Enclosure 30 - Handwritten record of travel dates from 20 February 2010 to 5 March 2010
- Enclosure 31 - Orders Number 179-1000 issued by Joint Forces Headquarters Indiana, Indianapolis, IN on 28 June 2011
- Enclosure 32 - Orders Number 022-1066 issued by Joint Forces Headquarters Indiana, Indianapolis, IN on 22 January 2010

FACTS:

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2. The applicant presents a new argument in the form of a rebuttal to the advisory opinion provided to ARBA by the NGB on 2 June 2022 in response to a request regarding ABCMR Docket Number AR20210013535. The opinion was coordinated with the INARNG and the NGB, Office of the General Counsel. In his rebuttal, the applicant states:

a. In a concerted effort, the Office of General Counsel to the NGB submitted an advisory opinion to the Board to lead the Board Members to incorporate the opinion of the NGB as their own. The intent of the Board is to examine the propriety and equity of the applicant's discharge and to effect equitable change in the face of the instant

manifest injustice. Failing to do otherwise indelibly taints the mandate, breeds distrust, and precipitates further injustices. Moreover, the Secretary and her Boards have an abiding moral imperative to determine the true nature of the allegation and take steps to grant thorough, complete, and fitting relief. See Roth versus United States, as outlined in the applicant's brief. See pages 8 - 12.

b. The NGB and the INARNG have woefully argued that all their proceedings are executed properly under Army regulations. But, in reality, they engage in unconstitutional behavior by hiding or destroying exculpatory evidence from the defense and judicial review. As a result, no evidence contrary to the applicant's claim of wrongful discharge has been submitted. In stark contrast, the applicant has documented the NGB and the INARNG's impropriety, injustice, and violations of the UCMJ and United States Code (USC), as outlined in the applicant's brief. See pages 26 - 41.

c. The NGB and INARNG Senior Leadership have a documented history of abuse, fraud, deception, and a tendency to ignore the indiscretions of its commissioned officers and senior NCOs if it damages its image or if a profit can be made (Department of Justice, press release 14-1074). Therefore, it is no surprise that the official opinion of the NGB is to adopt the narrative of the INARNG. In doing so, the NGB continues the trend of intentionally ignoring exculpatory evidence.

(1) The applicant presented a sub-hand receipt for the equipment he was accused of stealing. (Exhibit 5) It was ignored by the INARNG, and the NGB continues repeating the mantra that they “ ... followed Army Regulations and applicable law.”

(2) Neither the NGB nor the INARNG considered any of the Army Regulation 15-6 investigation or unit member's DA Forms 2823, which contain evidence and facts contrary to the INARNG narrative, as outlined in the applicant's brief. See pages 52 - 58 and exhibits 5 - 9 and 20 - 23.

d. The NGB erroneously states that the “... Soldier challenges the characterization of his service.” The applicant has challenged the very charges themselves on the basis that the INARNG “cherry-picked” and ignored Army Regulations and National Guard Regulations in charging the applicant with the violations of Articles 108 and 121, UCMJ, despite eyewitness reports from fellow Soldiers and the lack of criterion met for the necessary elements of the charges. This is clearly defined by UCMJ and USC and outlined in the applicant's brief. See pages 45 - 58.

e. The NGB's assertion of a partial appeal grant is a red herring intended as an elaborate ruse as they desperately rely on its ability to misdirect the Board's attention to focus on the procedural steps of an administrative discharge and away from the divergence in regularity in the conduct of governmental affairs, and even further away

from facts and exculpatory evidence that counter the NGB narrative. Moreover, in attempting to sully further the applicant's image, a deleterious and haggard image of the applicant's true self, the NGB has gone to great lengths in covering the indiscretions of INARNG Members, Sergeant First Class H (Supply NCO In Charge), Captain R (Company Commander) and Lieutenant Colonel R (Battalion Commander), as outlined in the applicant's brief. See pages 45 - 56.

f. There are significant just causes to forsake the proffered opinion of the NGB. No command appreciates a reverse in its adjudications as it can erode the confidence of and in the command. However, there are innumerable public examples of the U.S. military commands failing, intentionally or otherwise, their Soldiers, Sailors, Airmen, and Marines, causing irreparable and eternal damage. These insidious failures are more significant than the Command, this Review Board, or even the entire Military structure. For example, the INARNG and the applicant's whole command chain failed him. When he refused to accept their withering attack, they brought the total weight of the U.S. military justice system and their rank against him.

g. The applicant asks the Board for relief in the purest vein of its mandate, as President Reagan famously declared, "trust but verify." In doing so, the Board will be compelled by justice, equity, and consciousness to see he was wronged and shall set the matter straight.

3. The applicant provides a 58-page brief that is available in its entirety for the Board's consideration. The applicant states, in part:

a. He is submitting the following petition "pro se" to correct his military record. He served in the INARNG and was unjustly and erroneously separated from service by an Administrative Separation Board (ASB). He previously petitioned ARBA on 25 September 2019, and his attorney applied twice to the Board for correction to his discharge on 17 June 2011. Both applications were returned without action due to lacking the required State Adjutant General's denial of relief letter, as per National Guard Regulation 600-200 (Enlisted Personnel Management). Currently, he has exhausted all administrative remedies, and requests relief. He has gathered all documentation pertinent to this case and now comes before the Board pro se to present this application. He desires this case to be reviewed in the interest of equity, fairness, and justice, and to be granted the requested relief.

b. The applicant provides more than 30 enclosures to support his request. His attorney submitted two previous requests for relief to the INARNG, and the Office of the Staff Judge Advocate informed him and his attorney that they were not the correct avenue for the requested corrections.

c. After personally submitting a request to the Indiana Adjutant General's office, the applicant received The Adjutant General's Letter of Denial, dated 7 October 2019 through his Congressional Liaison on 16 October 2019. He was completely unaware that his attorney had submitted an incomplete application until he received notification from ARBA on 19 May 2021 that his application with Docket Number AR20190012632 was closed returned without action and without prejudice.

d. The legal standard provides that the Board will grant a correction to military record based upon propriety or equity. The applicant carries the burden of proof in demonstrating by a preponderance of the evidence the discharge was improper or inequitable. In order to prove inequity or impropriety, he must overcome the presumption of regularity in the conduct of governmental affairs. This is a rebuttable presumption, but the burden is on him to provide substantial credible evidence of a divergence from that regularity. Inequity exists when the discharge or military action was inconsistent with disciplinary standards at the time, or when the quality of the member's service and capability to perform military duties make the discharge unfair. Factors for consideration of the quality of service include the service member's ranks, awards and decorations, letters of commendation or reprimand, combat service, acts of merit; length of service, prior military service, court-martials and other forms of discipline, and records of unauthorized absence.

e. The Board is required to "examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made", and the Administrative Procedure Act (APA), "sets forth the full extent of judicial authority to review executive agency action for procedural correctness." In addition, the APA requires the Court to hold "unlawful and set aside" any Board action, findings, or conclusions that are, "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

f. When the statute or governing regulation refers to "errors" they are referring to factual or legal errors that can disadvantage an Army service member. When a correction board fails to correct an injustice clearly presented in the record before it, it is acting in violation of its mandate.

g. He was born into a family with an honorable military service heritage. He describes his family's lineage and military service. He was served in the USCG and received an uncharacterized discharge. He later joined the U.S. Army Reserve (USAR) and transferred to Active Duty; following a service-related injury and other matters he was honorably discharged for a "pattern of misconduct."

h. He joined the INARNG on 3 November 2008 [after being granted a waiver]. The applicant provides a synopsis of his overall performance, achievements, and selections while serving in the INARNG. On 21 April 2010, he was given NJP under the provisions

of Article 15, UCMJ for damage to military property and willfully causing damage by scratching off the serial number of one of the Passive Vision Sight (PVS)-14 night vision device, one Passive Aiming System (PAS)-13 thermal weapon sight, and one set of binoculars of a total value of or about \$10,146.00. Also, for stealing one PVS-14, one PAS-13, and one set of binoculars of a value of or about \$10,146.00. During the hearing his statement and objections were ignored by LTC R. LTC R also ignored the fact that the binoculars were not part of the Army Regulation 15-6 investigation and were not on any inventory sheets.

i. On 2 May 2010, the applicant's immediate commander notified him that he was being separated for a serious offense with a right to have an ASB hearing. He elected to have an ASB hearing but was denied that right and was erroneously discharged from the INARNG based upon a unit-level chain of command verbal order with no written decision from the separation authority on 17 June 2010. He also was not afforded any separation actions required by Army Regulation, to wit: separation physical examinations, mental health examinations, Central Issue Facility clearing, etcetera. The applicant later received a General (Under Honorable Conditions) discharge packet which was mailed to his listed home-of-record (HOR). The packet contained a General Discharge Certificate and an NGB Form 22, backdated to 17 June 2011.

j. The applicant contends:

(1) His commander improperly and erroneously found him guilty of two specifications of violation of Article 108 and Article 121, UCMJ at his Article 15 hearing on 21 April 2010. In order for the commander to find him guilty of Article 108, all elements of the charge must be pursuant to the UCMJ; the applicant listed four elements and provided a lengthy argument in support of his claims.

(2) The separation authority abused its discretion and unjustly and erroneously administratively discharged him and unfairly awarded him a General discharge from the INARNG on 17 June 2011.

(3) His unit claims it did not have his home of record (HOR) on file because he failed to keep his unit aware of the current HOR. He states this claim is false and capricious; and he provides a lengthy argument.

(4) He has positively impacted many people around him during his life. The depth and breadth of his impact on others is evidenced in affidavits and letters of recommendation from family members and friends.

(5) The Army Regulation 15-6 investigation identifies numerous inconsistencies; and he provides a lengthy argument in support of this claim.

(6) His evidence presented against the 21 April 2010 charge of violation of UCMJ Article 108 and Article 121, and the lack of evidence by the unit, clearly demonstrates the separation authority's impropriety in charging him. He provides a lengthy argument in support of this claim.

k. The applicant further cites previous legal cases and contends, in the context of military boards, "decisions are subject to judicial review and can be set aside if they are arbitrary, capricious or not based on substantial evidence." Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." When the evidence presented to the fact finder is flawed and so lacking in factual sufficiency to support the findings, the result is fundamentally unfair and manifestly unjust. In this case, the only evidence the Separation authority has shown to substantiate its claim is an assumption of how the applicant "was feeling towards his commander" which at its very best is merely hearsay, unfounded, and inadmissible as evidence in any judicial proceedings, but above all, is false and misconstrued, to wit: the applicant, by his own admission, claims he was upset with his own performance at Ranger school, an attitude expected of a high-performance Soldier such as himself; and the fact that the applicant had the equipment in his personal care as instructed by the supply NCO and confirmed with a handwritten sub-hand receipt.

l. As per Army regulation, a handwritten sub-hand receipt may be used when a standard DA Form 2062 (Hand Receipt) is not available. The separation authority failed to produce any tangible evidence to substantiate its claim, and unjustly and erroneously discharged the applicant for something he did not do. It is clear and convincing that the applicant has overcome presumption of regularity. He also demonstrated the separation authority's decision to administratively discharge him, under National Guard Regulation 600-200, paragraph 6-35i(1) from the INARNG with a General discharge and RE code RE-4 was a direct product of the divergence in regularity in the conduct of governmental affairs, and as such is arbitrary, capricious, and unsupported by substantial evidence. Based upon the overwhelming evidence presented, and on equity, fairness, and justice the applicant respectfully requests that relief be granted.

m. Following his discharge, he continued his civilian education and ultimately graduated with a Bachelor's Degree in Political Science and Pre-law. On 7 December 2011, he was able to play a vital role in the recovery efforts of his family when his parent's home burned, leaving his mother, father and 4 of his siblings with only the clothes they were wearing and their vehicle. He sacrificed his personal savings, his personal relationship with his girlfriend, and his college grade point average of 3.88 to assist his family in recovering, but never dropped out of college. He graduated with honors and made the Dean's list twice in a row.

4. A DD Form 214 shows the applicant enlisted in the USCG on 3 July 2001 for a period of 4 years. On 3 August 2001, he was discharged from the USCG due to entry



level performance and conduct. His characterization of service was "Uncharacterized" and he was assigned RE code RE-3L. He was credited with completion of 1 month and 1 day of net active service. He did not complete his first full term of service.

5. On 9 December 2003, the applicant enlisted in the USAR in the rank/pay grade of private (PV1)/E-1 for a period of 8 years. On 30 January 2005, he was honorably discharged from the USAR as a result of enlisting in the Regular Army.

6. On 31 January 2005, the applicant enlisted in the Regular Army in the rank/pay grade of specialist (SPC)/E-4 for a period of 3 years. His military occupational specialty was 15T (UH-60 Helicopter Repairer) and he was assigned to a unit at Fort Campbell, KY. He served in Iraq from 26 September 2005 to 26 September 2006.

7. On 14 February 2007, the applicant was counseled by his platoon sergeant regarding his failure to report for training and missing movement. He was advised that further conduct of this nature could result in punishment under the UCMJ and/or initiation of action to have him administratively separated and the potential consequences of such a separation.

8. On 2 March 2007, the applicant accepted summarized NJP under the provisions of Article 15, UCMJ, for missing movement through neglect and without authority failing to go at the time prescribed to his appointed place of duty. His punishment included 14 days restriction, suspended, to be automatically remitted if not vacated before 3 September 2007; and 14 days of extra duty.

9. On 27 March 2007, an administrative flag was imposed upon the applicant to prevent him from receiving any favorable personnel actions while he was pending field initiated elimination.

10. On 28 March 2007, the applicant underwent a mental status evaluation. The examining behavioral health professionals determined he had the mental capacity to understand and participate in the proceedings; he was mentally responsible; he met regulatory retention requirements; and he was psychiatrically cleared for any administrative action deemed appropriate by command.

11. On 29 March 2007, the applicant accepted NJP under the provisions of Article 15, UCMJ for absenting himself from his unit from on or about 2 March 2007 and remaining so absent until on or about 5 March 2007. His punishment consisted of reduction to the rank/pay grade of private first class (PFC)/E-3 and restriction for 14 days.

12. On 29 March 2007, the applicant was notified by his platoon sergeant that paperwork had been initiated to separate him from the military. He was advised that he

would need to be escorted by an NCO during out processing once his separation was approved.

13. On 17 April 2007, the applicant underwent a pre-separation medical examination and was found to be medically qualified for service and/or separation without any diagnoses.

14. On 2 May 2007, the applicant was notified by his immediate commander of his intent to separate the applicant action under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 14, paragraph 14-12b for patterns of misconduct. The specific reasons for the separation action were the applicant's instances of missing movement, failing to report at the time prescribed to his appointed place of duty, and being absent without leave (AWOL). The commander also advised the applicant of his rights. The applicant acknowledged receipt of the notification of separation the same day.

15. The applicant's commander formally recommended his separation on 2 May 2007.

16. On 10 May 2007, the applicant acknowledged he consulted with legal counsel and was advised by legal counsel of the basis for his contemplated separation, its effects, the rights available to him, and the effect of a waiver of his rights. He submitted a request for conditional waiver wherein he voluntarily waived consideration of his case by an ASB contingent upon him receiving a General, under honorable conditions discharge. He elected not to submit statements in his own behalf. He understood the separation authority could refer his case to the separation board, and if so, he then requested appearance before the board if consideration of an other than honorable conditions discharge was possible and requests legal representation. He understood he may encounter substantial prejudice in civilian life and may be ineligible for many or all benefits as a veteran under both Federal and State laws. He further understood he could apply to the ADRB or the ABCMR for consideration of an upgrade of his discharge; and that consideration by either board does not imply it will be upgraded. He also understood he was ineligible to apply for enlistment in the U.S. Army for 2 years after discharge.

17. On 17 May 2007, his battalion commander recommended separation under the provisions of Army Regulation 635-200, Chapter 14-12b, with a general, under honorable conditions discharge.

18. On 18 May 2007, the separation authority approved his separation under the provisions of Army Regulation 635-200, chapter 14-12b and directed he be issued a General, under honorable conditions discharge.

19. Orders and the applicant's DD Form 214 show he was discharged from the Regular Army in the rank/pay grade of PFC/E-3 on 8 June 2007 under the provisions of Army Regulation 635-200, Chapter 14-12b, for a pattern of misconduct. His service was characterized as honorable. He was assigned SPD code JKA and RE code 3. He was credited with completion of 2 years, 4 months, and 5 days of net active service this period with lost time due to AWOL from 2 to 4 March 2005. He did not complete his first full term of service.

a. Item 11 (Primary Specialty) shows the applicant's MOS as 15T.

b. Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) shows he was awarded or authorized the:

- Air Medal
- Meritorious Unit Commendation
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal
- Army Service Ribbon
- Overseas Service Ribbon
- Aircraft Crewman Badge

c. Item 14 (Military Education) shows he completed the 1-week Combat Lifesaver Course in 2005.

20. On or about 19 September 2008, the applicant was granted an enlistment waiver for his pattern of misconduct discharge. On 3 November 2008, the applicant enlisted in the INARNG in the rank/pay grade of PFC/E-3 for a period of 4 years and 22 weeks.

21. The applicant petitioned the ADRB for a change to the narrative reason for his separation from the Regular Army from "Pattern of Misconduct" to an unspecified, presumably more favorable reason. On 18 November 2008, the applicant was informed that after careful review of his application, military records, and all other available evidence, the ADRB determined he was properly and equitably discharged and denied his request for a change in his narrative reason for separation.

22. On 3 May 2009, the applicant was advanced to the rank/pay grade of SPC/E-4 in the INARNG.

23. On 19 October 2009, the applicant appeared in person before the ADRB regarding his general discharge from the Regular Army. The ADRB noted that the separation approval authority approved the applicant's discharge under the provisions of Chapter 14, paragraph 14-2b, Army Regulation 635-200, due to a pattern of misconduct with a

general, under honorable conditions discharge. However, the evidence of record shows that someone in the separation process erroneously entered item 24 (Character of Service) of the DD Form 214, a characterization of service of "Honorable." It was an erroneous entry, however, the ADRB determined it was too harsh to remove the entry from his DD Form 214. The ADRB voted to change his character of service to honorable; nevertheless, the ADRB voted again to deny his request for a change in his narrative reason for separation.

24. Orders 062-003 issued by Joint Force Headquarters Indiana, Indianapolis, IN on 3 March 2010 show the applicant was ordered to active duty for training from 5 March 2010 to 21 May 2010 for the purpose of attending Pre-Ranger and Ranger training in a temporary duty (TDY) status at Fort Benning, GA. The applicant's handwritten record of his travel dates is provided as Enclosure 30.

25. A DA Form 1574 shows an Army Regulation 15-6 investigation was conducted. The Investigating Officer (IO) was MAJ C. On 16 April 2010, the IO finished gathering and hearing evidence and completed his findings and recommendations. In pertinent part, he stated:

a. First and foremost, the missing equipment was ultimately recovered. It was located in the domicile of the applicant with the serial numbers removed. The applicant was on TDY to the Ranger Course at Fort Benning, GA. He was identified early in the investigation as a probable suspect for taking the missing equipment, and he had the motive, means and opportunity to do so.

b. In view of the findings, the IO recommended the applicant be reduced in rank/pay grade and separated from the INARNG with a Bar to Reenlistment for the theft and damage of government property, and being detrimental to good order and discipline of the unit and the INARNG. He also recommended heavier oversight of the inventory process of the applicant's unit to ensure compliance with the proper inventory procedures of Army units, Army Regulations, and INARNG standard operating procedures. Procedures needed to be implemented to ensure no inventories were missed and the unit never sent false reports to the higher headquarters. The unit supply NCO needed to properly create the sub-hand receipts and keep copies on file and there needed to be tighter control on everyone entering the supply area.

c. The applicant's witness list for these proceedings is provided as Enclosure 22.

26. Orders 110-148 issued by Joint Force Headquarters Indiana, Indianapolis, IN on 20 April 2010 show the ending date of the applicant's TDY orders for Pre-Ranger and Ranger training were amended to 18 April 2010.

27. On 21 April 2010, NJP under the provisions of Article 15 of the UCMJ was imposed against the applicant.

a. He was charged with the following offenses:

(1) Specification 1. Without proper authority, willfully damaging by scratching off the serial numbers of one PVS-14, one PAS-13, and one set of binoculars, of a value of about \$10,146.00, military property of the State of Indiana." This was in violation of Article 108, UCMJ.

(2) Specification 2. Stealing one PVS-14, one PAS-13, and one set of binoculars, of a value of about \$10,146.00, the property of the INARNG. This was in violation of Article 121, UCMJ.

b. The applicant's punishment consisted of 8 days confinement; forfeiture of \$95.54"; reduction to the rank/pay grade PFC/E-3; and a General Officer Memorandum of Reprimand.

28. On 26 April 2010, the applicant's trial defense counsel submitted an appeal of the applicant's NJP with argument and allied documents. The appeal was partially granted on 29 April 2010, and the applicant's punishment only consisted of 8 days confinement and reduction to pay grade E-3. The DA Form 2823 rendered by the applicant as part of this appeal is provided at Enclosure 21 and those rendered by his unit members are provided at Enclosure 23.

29. Orders 137-1081 issued by Joint Forces Headquarter Indiana, Indianapolis, IN on 17 May 2010 show the applicant was reduced from SPC/E-4 to PFC/E-3 effective 29 April 2010 with a date of rank of 29 April 2010. These orders show his primary MOS (PMOS) as 11B (Infantry Rifleman), secondary MOS (SMOS) as 25C (Radio Operator-Maintainer), and alternate MOS (AMOS) as 15T.

30. On 2 May 2010, the applicant's battalion commander, LTC R, notified the applicant that he was initiating action to separate him from the ARNG, under the provisions of Army Regulation 135-178 (Enlisted Administrative Separations), Chapter 12, paragraph 12-1, for misconduct - commission of a serious offense. The reasons for this proposed action were the results of an Army Regulation 15-6 investigation and Commander's Inquiry that determined the applicant stole one PVS-14, one PAS-13, and one set of military binoculars and all stolen items were damaged from the applicant intentionally removing the serial numbers. He advised the applicant he would recommend the applicant receive an under other than honorable conditions characterization of service and he advised the applicant of his rights.

31. A DA Form 1574 shows an ASB convened on 14 May 2011 to consider the applicant's case. The ASB found the applicant guilty of misconduct for his actions regarding theft and destruction of Government property. The applicant was not present at his board and had failed to keep his unit aware of his home of record. It was noted the applicant had been AWOL from his unit for seven concurrent drills. The ASB recommended that the applicant be discharged from the ARNG with an under other than honorable conditions characterization of service.

32. Orders and the applicant's NGB Form 22 show the applicant was discharged from the ARNG in the rank/pay grade of PFC/E-3 on 17 June 2011 under the provisions of National Guard Regulation 600-200, paragraph 6-35i(1) due to acts or patterns of misconduct under the UCMJ, State Military Code or similar laws. His service was characterized as Under Honorable Conditions, and he was assigned RE code RE-4. He was credited with completion of 2 years, 7 months, and 15 days of net service this period. His NGB Form 22 also shows in:

a. Item 12 (Military Education) the applicant completed the 23-week UH-60 Helicopter Repairer Course in 2004; 1-week Combat Lifesaver Course in 2005; 4-week Radio Operator Maintainer Phase 1 and II Courses in 2009; and the 2-week Infantryman Course in 2009.

b. Item 13 (Primary Specialty Number, Title and Date Awarded) shows he was awarded PMOS 11B10 Infantryman on 27 June 2009; SMOS 25C10 Radio Operator-Maintainer on 27 June 2009; and AMOS 15T10 UH-60 Helicopter Repairer on 27 June 2009.

c. Item 15 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons awarded) shows he was awarded or authorized the National Defense Service Medal; Army Service Ribbon; Air Medal; Meritorious Unit Citation; Aircraft Crewman Badge; Global War on Terrorism Service Medal; Iraq Campaign Medal; and Overseas Service Ribbon.

33. On 7 October 2019, Brigadier General RDL, The Adjutant General (TAG) of the INARNG, denied the applicant's and his legal counsel's requests to change the applicant's discharge from the INARNG. In pertinent part, TAG stated:

a. He reviewed the petition to correct the record of the applicant, the request for a correction of his DD Form 214 to Congressman R, and the applicant's military records in his OMPF in the Interactive Personnel Electronic Records Management System (IPERMS).

b. On 8 June 2007, the applicant was discharged from the active component for a pattern of misconduct, and his DD Form 214 reflects receipt of an honorable discharge.

He then enlisted in the INARNG on 3 November 2008. He was discharged from the INARNG on 17 June 2011 for acts or patterns of misconduct under the UCMJ, State Military Code or similar laws, and his NGB Form 22 reflects an under honorable conditions characterization of service. The ASB that convened on 14 May 2011 recommended that he be discharged with an under other than honorable conditions (UOTHC) characterization of service. Therefore, when the applicant was discharged from the INARNG, he received a characterization of service that was upgraded from the board's UOTHC recommendation to a discharge under honorable conditions.

c. "I have considered the documentation submitted by your client and on your client's behalf, along with his military records. I hereby deny your request to change [the applicant's] discharge from the Indiana National Guard."

34. On 16 October 2019, the INARNG Congressional Liaison notified the applicant's Congressional representative that TAG INARNG had reviewed the applicant's request and military record and denied the request to change his discharge from the INARNG. At that time there should be no further action required by his office and the file would be closed out as completed.

35. The applicant and his legal counsel applied to ARBA on at least two previous occasions for an upgrade of his ARNG discharge. The requests were returned without action and prejudice based on failure to exhaust administrative remedies with the State AG and/or NGB.

36. The applicant petitioned the ABCMR to modify his records to reflect the name to which he had recently had his name legally changed. On 30 March 2020, the applicant was informed that after reviewing his application and all supporting documents, the Board had determined relief was not warranted. Based upon the applicant using the contested name throughout his period of military service and the name change occurring post-service, the Board concluded there was insufficient evidence to show that an error or injustice was present on the DD Form 214, which would warrant correction. The applicant is advised that a copy of this decisional document will be filed in his OMPF. This should serve to clarify any questions or confusion in regard to the difference in his name recorded in his military record and the name currently being used by the applicant.

37. The applicant petitioned the ABCMR for all of his current requests on 8 June 2021.

a. On 19 January 2022, a member of the ARBA staff requested the NGB review the applicant's application together with his military record and take administrative action if appropriate. If full administrative relief was not possible, to please furnish a comprehensive advisory opinion for the guidance of the ABCMR, including citation of the statutory or regulatory provisions supporting the opinion. The staff member further

requested a response be provided no later than 19 February 2022. No response was provided by the established suspense date.

b. On 22 March 2022, the applicant was informed the ABCMR had considered his application under procedures established by the Secretary of the Army and denied his application.

38. On 2 June 2022, the NGB provided the following advisory opinion in response to the ARBA request, dated 19 January 2022.

a. Summary. [The applicant] (Soldier) requests correction of his NGB Form 22 to reflect an honorable service characterization, RE code RE-1, and blocks 18, 23, and 25 be corrected as appropriate. Soldier requests a list of corrections in his OMPF including restoration of rank and grade to SPC/E-4.

b. Recommendation. Partial approval.

c. Discussion.

(1) Following UCMJ Article 15 proceedings, Soldier received NJP due to acts of misconduct. Subsequently, he was recommended for an administrative separation and was discharged from the INARNG and as a reserve of the Army effective 17 June 2011. Soldier received a general characterization of service (under honorable conditions) and was assigned RE code RE-4, thus making him ineligible for reenlistment. In contrast, Soldier challenges the characterization of his service. He argues that he was unjustly and erroneously awarded a general discharge. Therefore, Soldier requests a discharge upgrade to honorable and a modification of his RE-4 to RE-1. Additionally, Soldier requests restoration of rank and grade, correction of his DA Form 2-1, DD Form 214, NGB Form 22, and deletion of Article 15 and associated documents.

(2) On 21 April 2010, proceedings under Article 15, UCMJ began for Soldier's violations of Articles 108 and 121 in lieu of court martial. At the conclusion of the proceedings, Soldier was found guilty of theft and destruction of government property. He elected to consult with his counsel and appealed the imposed punishment. Soldier's appeal was partially granted, and he received punishment of 8 days of confinement and reduction to E-3. On 2 May 2010, Soldier was notified of his separation and was afforded the right to have an ASB hearing. Soldier claims he elected to have a hearing but was denied that right. Following separation board hearing, Soldier was discharged from the INARNG effective 17 June 2011 (orders # 179-1000) with a general characterization of service and RE-4 code. In a memorandum through his counsel, dated 1 July 2011, Soldier requested that an Administrative Discharge Review Board be convened to make a recommendation on his separation as well as the opportunity to appear before the board. Upon review of the article 15 and separation board



proceedings, the appointed IO determined that the gathered evidence supported these findings, and that the proceedings were compliant with applicable laws and regulations.

(3) Pursuant to Army Regulation 135-178, Section III, para 2-9(2), applicable advisements for a Soldier's discharge prior to expiration of the service obligation where an honorable characterization is discretionary include but are not limited to the following:

(a) Where there have been infractions of discipline, the extent thereof should be considered as well as the seriousness of the offense(s).

(b) A Soldier will not necessarily be denied an honorable characterization solely by reason of a specific number of convictions by court-martial or actions under the UCMJ, Article 15.

(c) It is a pattern of behavior and not an isolated instance which should be considered the governing factor in determining the character of service. Additionally, in accordance with National Guard Regulation 600-200, para 6-35(i)(1) separation from State ARNG is warranted for acts or patterns of misconduct under UCMJ with the corresponding loss code as RE-3 or RE-4.

(4) Under the provisions of Army Regulation 135-178, Chapter 12, paragraph 2-1, Soldier was recommended for separation from the INARNG by his then commander, LTC R due to integrity violations and criminal acts while on military duty. His recommendations included an Other than Honorable discharge and barring from further military service. This recommendation was upheld by the Investigation Board (DA Form 1574) that concluded that Soldier was guilty of misconduct for his actions regarding theft and destruction of government property. Additionally, the Board noted that Soldier had accumulated AWOL for 7 concurrent drills coupled with the fact that Soldier was not present at his board and had failed to keep his unit aware of his current HOR. As a result, the Board recommended that Soldier be discharged with the characterization of service as UOTHC and RE code of RE-4. Nevertheless, Soldier was discharged with a general characterization of service and RE-4 pursuant to National Guard Regulation 600-200, para 6-35(i)(1) and verbal order of TAG.

(5) The primary basis for Soldier's separation from the INARNG is his misconduct of theft and damage of government property which constitutes a serious infraction.

39. In addition to the previously discussed evidence, the applicant provides the following documents in support of his case. The documents are available in their entirety for the Board's review and consideration. In pertinent part, the applicant provided an ERB, dated 24 April 2007, that did not list any military education he

completed subsequent to that date. He also provided a VMET extract, dated 1 January 2020, showing his military experience and training history. (Enclosure 13) The applicant did not provide any orders or certificates for any awards, decorations, or military training that is not already reflected on his NGB Form 22.

a. Enclosure 6 - A DA Form 2166-8 rendered for the period ending 30 June 2009 which shows the applicant's rating officials made favorable comments and ratings regarding his performance and potential.

b. Enclosure 7 - A DA Form 4856 rendered by SSG S on 12 August 2009 shows he congratulated the applicant for his placement on the Commandant's List for exceeding course standards and scoring in the top 10 percent of his class while attending the Infantryman Course.

c. Enclosure 10 - Four sworn affidavits rendered by the applicant's parents and two of his friends wherein they make favorable comments about the applicant's character, trustworthiness, loyalty, sense of responsibility, and work ethic.

d. Enclosure 11 - Four letters of recommendation for the applicant's selection for the Air Force Pararescue Training Program and two letters commending him for his service to the nation.

e. Enclosure 16 - A diploma showing a degree of Bachelor of Science was conferred on the applicant on 13 December 2014.

f. Enclosure 18 - An authorization for release of information to enable the Bartholomew County Sheriff's Department to search their records and release to the applicant any criminal convictions he may have.

g. Enclosure 28 - A DD Form 214 shows the applicant was released from active duty training upon completion of Basic Combat Training and Advance Individual Training effective 25 June 2004.

h. Enclosure 32 - Orders Number 022-1066 issued by Joint Forces Headquarters Indiana, Indianapolis, IN on 22 January 2010 show the applicant was relieved from a duty position coded as a vehicle driver with duty MOS 88M (Motor Transport Operator) and assigned to a duty position coded as a radio/telephone operator with duty MOS 11B1PW8 (indicating 11B-Infantryman, skill-level 1, P-Parachutist, W8-Special Forces Military Free Fall Operations).

40. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition. By regulation, an applicant is not entitled to a hearing before the Board.

**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 applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Remove lost time on DD Form 214 ending on 8 June 2007: Deny. The evidence of record shows the applicant was reported absent without leave (AWOL) from on or about 2 to 5 March 2007. By law and regulation, periods of AWOL, confinement, and desertion are considered lost time, which is not creditable service for pay, retirement, or veterans' benefits. The lost time is required to be listed on the DD Form 214 even if the periods of time lost were later made up. The Board found no evidence that he made up this lost time; but, even if he did so, the requirement to list the lost time on the DD Form 214 remains valid.

b. NGB Form 22, character of service: Deny. The evidence shows the applicant committed misconduct. As a result, his chain of command initiated separation action against him. An administrative separation board convened and concluded that the applicant was guilty of misconduct for his actions regarding theft and destruction of government property. The administrative separation board also noted that the applicant had accumulated AWOL for 7 concurrent drills coupled with the fact that he was not present at his board – due to his own misconduct of being AWOL - and had failed to keep his unit aware of his current address. The administrative separation board recommended his discharge with the characterization of service as under other than honorable conditions discharge and RE-4. He was separated under the provisions of AR 135-178, Chapter 12, paragraph 2-1. Nevertheless, the applicant was discharged with a general characterization of service and RE-4 pursuant to NGR 600-200, paragraph 6-35(i)(1) and verbal order of The Adjutant General. The Board found no error or injustice in his separation processing. Also, the applicant provided insufficient evidence of post-service achievements or letters of reference of a persuasive nature, and that outweigh his misconduct, in support of a clemency determination. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

c. NGB Form 22 RE Code and Narrative Reason for Separation: Deny. The narrative reason for separation from the ARNG is governed by NGR 600-200 and AR 135-178. The applicant was discharged under the provisions of paragraph 6-35(i)(1) of NGR 600-200. The narrative reason specified by National Guard Regulation 600-200 for a discharge under this paragraph for an enlisted Soldier is "Misconduct" and RE Code is

"RE 4." The Board found no mitigating factors that would merit a change to the applicant's narrative reason for discharge or RE Code.

d. NGB Form 22 Grade: Deny. The evidence shows on 21 April 2010, the applicant received an Article 15 for willfully damaging by scratching off the serial numbers of one PVS-14, one PAS-13, and one set of binoculars, and stealing one PVS-14, one PAS-13, and one set of binoculars. His punishment included reduction to PFC/E-3. The applicant held the rank of PFC/E-3 at the time of his separation from the ARNG. There is no evidence he was promoted back to SPC/E-4 prior to his discharge from the ARNG. Therefore, the Board found the rank/grade shown on his NGB Form 22 is not in error or unjust.

e. NGB Form 22 awards and training: No action. The applicant does not specify what award or training is missing from his NGB Form 22. A VMET printout is not sufficient. Personal decorations are announced in permanent orders and training is normally reflected on a diploma or training certificate. Also, since the NGB Form 22 is issued by the State ARNG, administrative corrections (related to awards and decorations), with supporting documentation, should be addressed to the State that issued his NGB Form 22.

f. Retirement Point Summary Statement to reflect he had no Active Duty Loss Time: Deny. The evidence of record shows the applicant was reported AWOL from on or about 2 to 5 March 2007. By law and regulation, periods of AWOL are considered lost time, which is not creditable service for pay or retirement. The Board found no evidence that his lost time is in error.

g. DA Form 2-1 and Enlisted Record Brief (ERB): Deny. The DA Form 2-1 and ERB reflect a snapshot of a Soldier's personnel data as it was at the time the forms were produced and both forms were used as internal management tools to assist officials processing a Soldier's assignment, reassignment, promotions, and career progression. The DA Form 2-1 and ERB are no longer active or accessible after a Soldier's discharge. The ABCMR limits corrective action to documents that can be individually reviewed after a Soldier's separation. Since the DA Form 2-1 and ERB are not normally accessible by individuals other than the Soldier, there is no basis for the Board to correct either form.

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 to amend the decision of the ABCMR set forth in Docket Number AR20210013535 on 18 April 2022.

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, USC, Section 1552(b), provides that applications for correction of military records must be filed within three 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 three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Title 10, USC, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or

Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body.

4. Army Regulation 135-178 (Enlisted Administrative Separations) provides for the separation of enlisted personnel of the USAR and ARNG. In pertinent part, the regulation in effect at the time established policy and prescribed procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, and convictions by civil authorities. A Soldier may be discharged for a pattern of misconduct consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline. Discreditable conduct and conduct prejudicial to good order and discipline include conduct which violates the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army. A discharge under other than honorable conditions was normally appropriate for a Soldier discharged under this chapter. The regulation also provides that:

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.

5. National Guard Regulation 600-200 (Enlisted Personnel Management) establishes standards, policies, and procedures for the management of the ARNG and the ARNG of the United States (ARNGUS) enlisted Soldiers in the functional area of enlisted separations. In pertinent part, the regulation provides that Soldiers may be separated for acts or a pattern of misconduct. It also provides:

a. Prepare NGB Form 22 (Report of Separation and Record of Service) for every Soldier being separated from the ARNG or released from the custody and control of the military, unless the Soldier is being discharged for the purpose of immediate reenlistment, executes an interstate transfer, or the Soldier dies. States should issue the NGB Form 22 within 90 days of separation.

b. Prepare NGB Form 22 using the example shown in appendix F, table F-1. Multi-part blank forms and computer generated forms that reproduce the form exactly are authorized with prior-approval from Chief, NGB. Use only standard 12 point Arial font.

c. RE codes are determined at separation. They provide information concerning the Soldier's service in the ARNG, which will be considered upon future enlistment. If a Soldier will receive a discharge under other than honorable conditions, and the reason for discharge is non-waivable for enlistment, the RE code will be RE 4. If the reason for separation is waivable, the RE code will be RE 3. If a Soldier receives a bad conduct or dishonorable discharge, the RE code is RE 4. RE 1 is fully qualified for entry.

d. Appendix F contains step by step directions for completing NGB Form 22; the document recording a Soldier's service in the ARNG, and NGB Form 22A (Correction to Report of Separation and Record of Service), which is used to correct errors on a previously issued NGB Form 22. In pertinent part, for:

(1) Item 12 (Military Education): enter all courses 40/5 days or more in duration – from Soldier's Record Brief.

(2) Item 15 (Decorations, Awards, Badges, Tabs, Service and Training Medals, and Ribbons): enter from Soldier's Record Brief, Federal awards from section IX, and State Commendations, Citations, awards from section IXa; delete from the preprinted NGB Form 22 the words "this period"; include in this block all awards from Soldier's entire service; to the maximum extent practical, spell out the actual name of the award; separate each award from the next by a "/" and conclude the listing with the notation "//NOTHING FOLLOWS//"; if the full names of the awards, decorations, and tabs are too numerous to fit in the allocated space in block 15, use the authorized abbreviations as found in Army Regulation 25-52 (Authorized Abbreviations, Brevity Codes, and Acronyms) (i.e.: MSM-1/ARCOM-2/EXP Badge w Rifle Bar/DA Certificate of Achievement/ARNG Recruiter Badge//NOTHING FOLLOWS//) For overflow requirements, continue recording in block 18, Remarks.

(3) Item 18 (Remarks): a. Use this block to continue any other item on the form; b. Enter all periods of active service during the current period of service to include Active Duty Training, Initial Entry Training, and Active Guard/Reserve for which a DD Form 214 or DD Form 220 (Active Duty Report) was issued; d. Enter the remaining statutory or contractual obligation for which the Soldier is being transferred to the USAR. (Example: "Individual assigned to USAR Control Group (Annual Training) to complete statutory obligation."

(4) Item 23 (Authority and Reason): enter the authority cited on the discharge order and/or the reason from chapter 6 of this regulation.

(5) Item 24 (Character of Service): as cited on the discharge order, to include the term “Uncharacterized.”

(6) Item 25 (Type of Certificate Used): as cited on the discharge order (if any).

(7) Item 26 (Reenlistment Eligibility): enter the reenlistment code cited for the reason – from paragraph 6-35 or 6-36 of this regulation.

6. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions (a pattern of misconduct consisting solely of minor military disciplinary infractions), a pattern of misconduct (consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline), commission of a serious offense, and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier’s overall record.

7. Army Regulation 635-8 (Separation Processing and Documents) prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents. The regulation provides, in pertinent part:

a. 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 (REFRAD), retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier’s service.

b. The rules for completing the DD Form 214 are as follows:

(1) Block 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized): list all federally recognized awards and decorations for all periods of service; do not use abbreviations; do not enter foreign or State level awards on DD Form 214; State awards and decorations will be entered on NGB Form 22 upon separation from the ARNGUS.



(2) Block 14 (Military Education): list all formal, in-service (full-time attendance) training courses successfully completed during the period of service covered by the DD Form 214 of at least 1 week or 40 hours duration; as an exception to full-time attendance, list Command and General Staff College and Senior Service Colleges completed by correspondence courses; include course title, length in weeks, and year completed; this information is to assist the Soldier in job placement and counseling; therefore, do not list training courses for combat skills; when in doubt, refer to the American Council of Education's Guide to the Evaluation of Educational Experiences in the Armed Services for commonly accepted course titles to determine its usefulness to the Soldier after transitioning from the Army; acceptable source documents include the enlisted record brief, DA Form 4037 (Officer Record Brief), DA Form 1059, or other military issued certificate of completion with from and through dates or number of weeks.

(3) Block 18 (Remarks): use this block for Headquarters, Department of the Army mandatory requirements when a separate block is not available; as a continuation for entries in blocks 9, 11, 13, and 14; or for conditional entries.

(4) Block 25 (Separation Authority): to be completed for copies 2, 4, 7, and 8 only; obtain correct entry from regulatory directives authorizing the separation.

(5) Block 26 (Separation Code): to be completed for copies 2, 4, 7, and 8 only; obtain the correct entry from Army Regulation 635–5–1 (Personnel Separations - SPD Codes), which provides the corresponding SPD code for the regulatory authority and reason for separation.

(6) Block 27 (Reentry Code): Army Regulation 601–210 (Regular Army and Army Reserve

Enlistment Program) determines reentry eligibility and provides regulatory guidance on reentry codes; refer questions concerning reentry codes to Commander, U.S. Army Human Resources Command (AHRC–EPR–P), 1600 Spearhead Division Avenue, Fort Knox, KY 40121–5102, or email [usarmy.knox.hrc.mbx.epmd-eligibility-management-branch@mail.mil](mailto:usarmy.knox.hrc.mbx.epmd-eligibility-management-branch@mail.mil).

(7) Block 28 (Narrative Reason for Separation): this is based on regulatory or other authority and can be checked against the cross reference in Army Regulation 635–5–1.

(8) Block 29 (Dates of Time Lost During This Period): verify that time lost as indicated by the Defense Finance and Accounting Service has been subtracted from "Net Active Service This Period" (block 12c) if lost time was not "made good"; if the Expiration Term of Service (ETS) was adjusted as a result of lost time the Soldier served until ETS, the lost time was "made good"; lost time under Title 10 USC 972 is not

creditable service for pay, retirement, or veterans' benefits; however, the Army preserves a record (even after time is made up) to explain which service between "Date Entered Active Duty This Period" (block 12a) and "Separation Date This Period" (block 12b) is creditable service; time lost after ETS is non-chargeable time under Title 10 USC 972, but it must also be reported to ensure it is not counted in computation of total creditable service for benefits; for enlisted Soldiers, show inclusive periods of time lost to be made good under Title 10 USC 972, and periods of non-chargeable time after ETS.

8. Army Regulation 601–210 (Regular Army and Reserve Components Enlistment Program) prescribes eligibility criteria governing the enlistment of persons, with or without prior service, into the Regular Army, the USAR, and the ARNG. In pertinent part, RE code definitions are as follows: RE-1 - applies to person completing his or her term of active service who is considered qualified to reenter the U.S. Army (Qualified for enlistment if all other criteria are met); RE-3 - applies to person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable (Ineligible unless a waiver is granted); and RE-4 - applies to person separated from last period of service with a nonwaivable disqualification. This includes anyone with a Department of the Army imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service (Ineligible for enlistment).

9. 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. 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. 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//