

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2025

DOCKET NUMBER: AR20240005978

APPLICANT REQUESTS: an upgrade of his uncharacterized characterization of service to under honorable conditions (General). Also, a personal appearance before the Board via video/telephone.

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

- DD Form 149 (Application for Correction of Military Record)
- 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 when he was separated in November 1998 it was not for his inability or desire for service. It was to care for his child. He had attempted many times after the discharge to return and was blocked due to the type of separation. He was unaware that he could request this change until he started working out of the post office. Even after learning this, it took years for someone to explain and assist with the process.
3. The applicant enlisted in the Regular Army on 6 August 1998.
4. On 22 October 1998, he underwent a mental status evaluation and was found to have had the mental capacity to understand and participate in the proceedings and was mentally responsible. He presented maladjustment to military service reflected a long pattern of recurrent immature behavior, as well as an inability to relate effectively to others.
5. On 16 November 1998, his immediate commander notified him of her intent to separate him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 11 for inability to adapt to military life. The

specific reason for her proposed action was he had demonstrated character and behavior not compatible with military service. He acknowledged receipt of the notification the same day.

6. On 17 November 1998, having been advised of the basis for the contemplated action to separate him for entry level status performance or misconduct under the provisions of AR 635-200, chapter 11, and its effects, of the rights available to him and the effect of any action taken by him in waiving his rights. He did not submit a statement on his behalf.

7. His chain of command recommended he be separated from the Army prior to expiration of his term of service under the provisions of AR 635-200, chapter 11 and that his service be uncharacterized.

8. On 11 November 1998, the separation authority approved separation under the provisions of AR 635-200, chapter 11. He directed his term of service be uncharacterized.

9. He was discharged on 25 November 1998, under the provisions of AR 635-200, chapter 11. His DD Form 214 shows he completed 3 months and 20 days of active service. It also shows in:

- Item 26 (Separation Code): JGA
- Item 27 (Reentry Code): 3
- Item 28 (Narrative Reason for Separation): Entry Level Performance and Conduct

10. 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.

11. By regulation, (AR 635-200) sets forth the basic authority for the separation of enlisted personnel. Chapter 11 of this regulation, in effect at the time, provided for the separation of personnel due to unsatisfactory performance or conduct, or both, while in an entry level status.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy and regulation. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The Board

determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. 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
:XX	:XX	:XX	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.



X //SIGNED//

CHAIRPERSON
Signed by:

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation (AR) 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.

3. AR 635-200 sets forth the basic authority for the separation of enlisted personnel. Chapter 11 of this regulation, in effect at the time, provided for the separation of personnel due to unsatisfactory performance or conduct, or both, while in an entry level status. This provision of regulation applied to individuals who had demonstrated that they were not qualified for retention because they could not adapt socially or emotionally to military life, or because they lacked the aptitude, ability, motivation, or self-discipline for military service, or they had demonstrated characteristics not compatible with satisfactory continued service. The separation policy applied to Soldiers who could not meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline. The regulation required an uncharacterized description of service for separation under this chapter.

4. AR 635-200 stated, in pertinent part, that separation under this chapter applied to Soldiers who were in an entry level status and, before the date of the initiation of separation action, completed no more than 180 days of continuous active duty and demonstrated that they could not or would not adapt socially or emotionally to military life.

//NOTHING FOLLOWS//