

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 February 2025

DOCKET NUMBER: AR20240006009

APPLICANT REQUESTS: an upgrade of his under other than honorable conditions discharge to honorable.

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 he was discharged with an other than honorable condition because he wrote a bad check and he feels that this discipline was too harsh.
3. The applicant provides his DD Form 214.
4. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 13 November 1975.
 - b. The service record includes the applicant's medical examination and mental evaluation for the purpose of administrative separation which indicated he was generally in good health. The applicant was marked qualified for chapter on 29 September 1983.
 - Standard Form (SF) 88 (Report of Medical Examination)
 - SF 93 (Report of Medical History)
 - DA Form 3822-R (Report of Mental Status Evaluation)

c. On 7 September 1983, after consulting with legal counsel he requested a discharge for the good of the service under the provisions of chapter 10, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel). He acknowledged:

- maximum punishment
- he was guilty of the charges against him or of a lesser included offense
- he does not desire further rehabilitation or further military service
- if his request for discharge was accepted, he may be discharged under other than honorable conditions and furnished an Under Other Than Honorable Conditions Discharge Certificate
- he would be deprived of many or all Army benefits, he may be ineligible for many or all benefits administered by the Veterans Administration
- he may be deprived of his rights and benefits as a veteran under both Federal and State law
- he may expect to encounter substantial prejudice in civilian life

d. 8 September 1983, the chain of command recommendations approval of the applicant's request for discharge for the good of the service. He would be issued an Under Other Than Honorable Conditions Discharge Certificate.

e. 9 September 1983, consistent with the chain of command recommendations, the separation approval authority approved the applicant's request for discharge for the good of the service. He would be issued an Under Other Than Honorable Conditions Discharge Certificate and reduced to the lowest enlisted pay grade.

f. Orders 258-206, dated 15 September 1983, discharged the applicant from active duty with an effective date of 9 October 1983.

g. The available service record is void of the facts and circumstances surrounding the applicant's discharge.

h. On 3 October 1983, he was discharged from active duty with a under other than honorable conditions characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 2 years, 11 months, and 24 days of active service with no lost time. He was assigned separation code KFS and the narrative reason for separation listed as "For the Good of the Service – In Lieu of Court-Martial." It also shows he was awarded or authorized:

- Expert Marksmanship Qualification Badge with Rifle Bar (M-16)
- Sharpshooter Marksmanship Qualification Badge with Grenade Launcher (M-203)
- Army Service Ribbon

- Overseas Service Ribbon

5. 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.

6. By regulation (AR 635-5), 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.

7. Army Regulation 635-8 (Separations Processing and Documents), currently in effect, provides for the preparation and distribution of the DD Form 214. It states for item 18 (Remarks) to Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except "Honorable", enter "Continuous Honorable Active Service from" (first day of service for which DD Form 214 was not issued) Until (date before commencement of current enlistment).

8. By regulation (AR 635-200), an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

9. 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 partial relief was 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 record, the Board determined there is insufficient evidence of in-service of mitigating factors during service to support the applicant's request. The Board also noted that the record lacks comprehensive details regarding the circumstances of the discharge. Based on the documentation provided including medical and psychological evaluations, the applicant was deemed fit for administrative separation.

2. The applicant did not submit any post-service accomplishments or character references for the Board to consider in support of a clemency determination. Additionally, the Board agreed that, given the nature of the discharge and the lack of compelling evidence of error or injustice, the applicant has not presented sufficient grounds to support an upgrade to honorable. However, the Board recognized that the applicant had a prior period of honorable service that is not currently reflected on his DD Form 214. Records indicate the applicant enlisted in the Regular Army on November 13, 1975, and completed nearly three years of active duty before the events leading to administrative separation. As a result, the Board granted partial relief to amend the applicant’s DD Form 214 to accurately document the applicant’s honorable service period.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
XXX	XXX	XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214 by adding in item 18 the entry "Continuous Honorable Service from 19751113 to 19781106."

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to an upgrade of his under other than honorable conditions discharge to honorable.

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.

ADMINISTRATIVE NOTE(S):

REFERENCES:

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

2. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) states 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. Paragraph 3-7b (General Discharge) states 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 10 of this regulation states an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

3. 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//