

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 January 2025

DOCKET NUMBER: AR20240006240

APPLICANT REQUESTS: an upgrade of his uncharacterized discharge.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 had prior honorable service and reenlisted for the Special Forces military occupational specialty (MOS) 18X (Special Forces Candidate) in July 1991. However, he was discharged on 6 December 1991 as uncharacterized for writing a bounced check. At the time of discharge, he was never given the opportunity to explain the circumstances or receive legal representation.
3. A review of the applicant's available service record reflects the following:
 - a. Having prior service in the Regular Army, on 30 July 1991, he enlisted in the Regular Army. Appendix A (Statement for Enlistment, U.S. Army Special Forces Prior Service Enlistment Option) shows the applicant enrolled into the Special Forces Qualification Course (SFQC) acknowledging that if he failed to complete any phase of required training (Basic Training, Basic Airborne Training, or Special Forces Assessment and Selection) he would be separated from the Army in accordance with (IAW) Army Regulation (AR) 635-200, Enlisted Personnel, Chapter 11, Entry Level Status.
 - b. Orders Number 162-602 dated 30 July 1991, assigned the applicant for permanent change of station to G Company, 1st Special Warfare Training Group, Fort Bragg, North Carolina with a reporting date of 5 August 1991.

c. On 6 August 1991, he signed the Memorandum for Prior Service Statement acknowledging his requirement to complete Special Forces Assessment and Selection (SFAS) IAW Appendix A Statement for Enlistment. He further acknowledged that if he should fail to successfully complete SFAS, he would be discharged from the Army IAW AR 635-200, Enlisted Personnel, Chapter 11, Entry Level Status.

e. A DA Form 2-1 (Personnel Qualification Record – Part II) shows in Block 4 (Assignment Considerations) U.S. Army Training Enlistment Program 18X Special Forces Candidate. Released from active duty IAW AR 635-200, Chapter 11, Paragraph 11-2.

f. On 30 October 1991, a Memorandum for Notification of Relief from Special Forces Training was issued for failure to meet the SFQC prerequisites of completion of the Special Forces Assessment and Selection Program and separating him from active duty under Chapter 11 proceedings IAW AR 635-200.

g. On 4 November 1991, his commander was notified of his dishonored check in the amount of \$170.00.

h. On 7 November 1991, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 11, Paragraph 11-2, of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), for failure to meet the SFQC prerequisites of completion of the Special Forces Assessment and Selection Program as stated in his enlistment contract. He acknowledged receipt on the same day.

i. After declining consultation with legal counsel, he acknowledged:

- the rights available to him and the effect of waiving said rights
- he may encounter substantial prejudice in civilian life if a general discharge under honorable conditions is issued to him
- he may be ineligible for many or all benefits as a Veteran under both Federal and State laws
- he may apply to the Army Discharge Review Board or the ABCMR for upgrading
- he will be ineligible to apply for enlistment in the U.S. Army for a period of six months following discharge

j. On 15 November 1991, the immediate commander initiated separation action against the applicant for his failure to successfully complete the Special Forces

Assessment and Selection Course. The commander recommended that he receive an uncharacterized discharge.

k. On 19 November 1991, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 11, Paragraph 11-2.

l. On 6 December 1991, he was discharged from active duty with an uncharacterized characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 4 months and 7 days of active service with no lost time. It also shows he was awarded or authorized:

- Parachutist Badge
- Army Service Ribbon
- Army Lapel Button
- Sharpshooter Marksmanship Badge with Rifle Bar M-16
- Army Achievement Medal (1st Oak Leaf Cluster)

4. 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.

5. By regulation (AR 635-200), a separation is described as an entry-level separation if processing is initiated while a member is in an entry-level status. This separation policy applies to Soldiers who enlisted in the Regular Army, Army National Guard, or U.S. Army Reserve who are in entry level status and, before the date of initiation of separation action, have completed no more than 180 days of creditable continuous active duty or IADT by the date of separation and have demonstrated they are not qualified for retention.

6. By regulation (AR 635-8), 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. 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:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the guidance concerning discharges initiated within the first 180 days of military service and the applicant complete only four months prior to his separation, the Board concluded there was insufficient evidence of an error or injustice which would warrant a change to the characterization of service.

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
:XXX	:XXX	:XXX	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.

//SIGNED//
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 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. 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 11 sets policy and provides guidance for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. It states when separation of a member in entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, the member normally will be separated per this chapter. This separation policy applies to Soldiers who enlisted in the Regular Army, Army National Guard, or U.S. Army Reserve who are in entry level status and, before the date of initiation of separation action, have completed no more than 180 days of creditable continuous active duty or IADT by the date of separation and have demonstrated they are not qualified for retention for one or more of the following reasons:

- cannot or will not adapt socially or emotionally to military life
- cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation or self-discipline
- have demonstrated character and behavior characteristics not compatible with satisfactory continued service
- failed to respond to counseling

3. Army Regulation 635-8 (Separation and Processing Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

//NOTHING FOLLOWS//