

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 February 2025

DOCKET NUMBER: AR20240006405

APPLICANT REQUESTS: reconsideration of his prior request for correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show:

- completion of basic combat training (BCT) and advanced individual training (AIT)
- completion of additional military education
- an upgrade discharge 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)
- Airborne Course Completion Certificated dated 27 March 1970

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20090014675 on 18 March 2010.

2. The applicant states he is seeking an upgrade of his under other than honorable conditions discharge to general under honorable conditions. Furthermore, he requests correction of his DD Form 214 to show his completion of basic combat training (BCT), advanced individual training (AIT), and airborne training. The DD Form 214 does not indicate he was awarded the Green Beret, and he feels after 54 years of enduring bad feeling because of his discharge, someone should hear his story. He entered the Army mainly to be a green beret, which he feels he earned.

3. The applicant provides a copy of his Airborne Course Completion Certificated dated 27 March 1970.

4. A review of the applicant's service record shows:

a. He enlisted in the Regular Army (RA) for a period of 3 years on 9 October 1969. He completed BCT and AIT. He was awarded military occupational specialty (MOS) 11B (Light Weapons Infantryman).

b. His DA Form 20 (Enlisted Qualification Record) shows:

- Block 38 (Records of Assignments)
  - 20 October 1969 – Basic Combat Training
  - 15 December 1969 – Advanced Individual Training
  - 1 March 1970 – Basic Airborne Training
  - 4 April 1970 – Phase I, Special Forces Training
- Block 41 (Awards and Decorations)
  - Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
  - First Class Marksmanship Qualification Badge with Machine Gun Bar
  - Parachutist Badge
- Block 44 (Time Lost Under Section 972, Title 10 United States Code)
  - 1 June 1970 – 1 June 1970 (1)
  - 19 July 1970 – 24 July 1970 (5)
  - 1 August 1970 – 4 September 1970 (35)
  - 4 September 1970 – 22 September 1970 (19 – Confined)

c. His records show he accepted nonjudicial punishment (NJP) under Article 15 of the Uniform Code of Military Justice (UCMJ) for being absent without leave (AWOL):

- 2 June 1970 – 1 June 1970 to 2 June 1970
- 24 July 1970 – 19 July 1970 to 24 July 1970; his punishment included reduction to private (PV2), E-2

d. On 24 July 1970, the applicant's immediate commander notified him that he recommended his termination from further special forces training and reassignment outside the special forces.

e. On 25 July 1970, he acknowledged receipt of the notification but elected to waive appearance before an administrative review board and declined making a statement on his own behalf.

f. On 26 July 1970 the battalion commander approved the termination status of the applicant.

g. A DA Form 19-32 (Military Police Report) shows on 5 September 1970, the applicant was arrested for disorderly conduct. He was subsequently released to military control at Fort Meade, MD.

h. On 15 October 1970, he was convicted by a special court-martial of one specification of AWOL from on or about 1 August 1970 to on or about 5 September 1970. His sentence included forfeiture of \$75.00 pay per month for 3 months. The convening authority approved the sentence on 19 October 1970.

i. On 5 March 1971, charges were preferred against the applicant for one specification of being AWOL from on or about 7 December 1970 to on or about 1 March 1971.

j. On 5 March 1971, 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:

- if his request for discharge was accepted, he may be discharged under other than honorable conditions and furnished an Undesirable 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

k. The available service record is void of the separation authority's approval memorandum.

l. On 24 March 1971, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 shows he completed 1 year, 6 months, and 18 days of active service with 119 days of lost time. It also shows he was awarded or authorized the National Defense Service Medal.

m. On 26 April 2010, he was issued a DD form 215 (Correction to DD 214) correcting entry date to reflect 9 October 1969 for block 17c (Date of Entry).

5. On 18 March 2010, the ABCMR rendered a decision in Docket Number AR20090014675. His DD Form 214 erroneously listed his date of entry as 9 October 1949. Therefore, he was entitled to correction of his DD Form 214 to show his correct date of entry as 9 October 1969. Although the evidence of record shows he completed airborne school in March 1969., following his multiple instances of willful misconduct, his hazardous duty was terminated and as such he lost qualification for this badge. The applicant was enrolled in special force training, but his immediate commander terminated his special forces training because of his continuous misconduct. He never completed special forces training and was never authorized to wear a green beret. Finally, the applicant's record shows he was discharged under the provisions of chapter 10 of Army Regulation 635-200 with a voluntary request for discharge in lieu of trial by

court-martial. He voluntarily, willingly, and in writing requested discharge from the Army in lieu of trial by court-martial. All requirements of law and regulation were met, and his rights were fully protected throughout the separation process. His discharge accurately reflects his overall record of service.

6. There is no evidence the applicant has applied to the Army Discharge Review Board for review of her discharge within that board's 15-year statute of limitations

7. 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.

8. 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 records, the Board determined there is insufficient evidence of in-service mitigating factors to overcome the misconduct of 119 days AWOL. The Board noted, the applicant provided no post service achievements or character letters of support to weigh a clemency determination.

2. The Board acknowledged that the applicant successfully completed Airborne School. However, due to repeated instances of misconduct, his hazardous duty status was revoked, resulting in the loss of eligibility for the Parachutist Badge. During deliberation, the Board confirmed that the applicant completed both Basic Combat Training (BCT) and Advanced Individual Training (AIT), earning the Military Occupational Specialty (MOS) 11B (Light Weapons Infantryman). The Board agree partial relief is warranted to correct the applicant's record with completion of his BCT, AIT and adding his omitted badges.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

:	:	:	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 to add in:

- Block 24 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) –
  - Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
  - First Class Marksmanship Qualification Badge with Machine Gun Bar
- Block 25 (Military Education)
  - 20 October 1969 – Basic Combat Training
  - 15 December 1969 – Advanced Individual Training
  - 1 March 1970 – Basic Airborne Training

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 discharge of his under other than honorable conditions discharge to honorable.

X //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 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.

4. Army Regulation 672-5-1 (Military Awards), in effect at the time, provided that any Parachutist Badge could be revoked when the awardee (a) was convicted by court-martial for refusal to participate in a parachute jump; or (b) initiated, in his initial tour of airborne duty, action which resulted in termination of his airborne status prior to his completion of 18 consecutive months of airborne duty.

5. Army Regulation 600-8-22 (Military Awards) states any parachutist badge may be revoked when the awardee--(a) *is* punished under the Uniform Code of Military Justice (UCMJ) for refusal to participate in a parachute jump; or (b) initiates action which results in termination of airborne status or withdrawal of any Career Management Field (CMF) 18 military occupational specialty (MOS), MOS 180A, or special skill identifier (SSI) 18A before he or she completes 36 cumulative months of airborne duty. Any parachutist badge with bronze star for a combat jump will be retained regardless of time on airborne status. Any parachutist badge will be retained if the Soldier is unable to complete 36 cumulative months of airborne duty through no fault of his or her own; for example, injury or reassignment under favorable conditions.

//NOTHING FOLLOWS//