

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 February 2025

DOCKET NUMBER: AR20240006558

APPLICANT REQUESTS:

- Correction to Item 12a (Date Entered AD This Period) from "06" to "05"
- Correction to Item 19b (Nearest Relative) to reflect [REDACTED] [REDACTED] [REDACTED]
- Upgrade of his under honorable conditions (General) 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 ordered to the Army Drug and Alcohol Dependency Program in 1997 while in Advanced Individual Training. He did not follow through with the rehabilitation effort and relapsed. He is an alcoholic. He has been working on his recovery for 26 years since that time and currently has 4 years and 4 months of recovery. He has served as the Chairman of the [REDACTED] Council and as Chairman of the [REDACTED] Council. He currently serves on the [REDACTED] Council and [REDACTED] Legislature as the Director of [REDACTED] for the 68th Legislative Session. He is a candidate for [REDACTED] of Representatives.

3. The applicant provides a copy of his DD Form 214, which reflects he was discharged on 29 April 1998 under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12c(1), misconduct, separation code JKD, reentry code 3, and character of service of general under honorable conditions. He served 9 months and 20 days of net active service this period. It also shows:

- Item 12a (Date Entered AD This Period): 1997 06 14
- Item 19b (Nearest Relative): ■■■■■
- Item 29 (Dates of Time Lost During This Period) 30 August 1997 to 1 September 1997 and 17 January 1998 to 8 February 1998

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

- a. He enlisted in the Regular Army on 20 May 1997.
- b. He accepted nonjudicial punishment (NJP) as follows:

(1) On 27 August 1997, Summarized Article 15 for, without authority, failing to go at the time prescribed to his appointed place of duty on or about 21 August 1997.

(2) On 4 September 1997, Company Grade (CG) Article 15, for absenting himself from his unit on 30 August 1997 and did remain so absent until on or about 2 September 1997.

(3) On 18 February 1998, Field Grade (FG) Article 15, for absenting himself from his unit, without authority, on 17 January 1998 and did remain so absent until on or about 9 February 1998.

c. DD Form 3822-R (Report of Mental Status Evaluation), dated 10 April 1998, reflects an evaluation was conducted on the applicant, who was being considered for a discharge. He was found to have the mental capacity to understand and participate in the proceedings and was mentally responsible. There was no mental disorder that would warrant disposition through medical channels; therefore, he was cleared for any administrative actions deemed appropriate by command to include separation in accordance with AR 635-200.

d. On 25 March 1998, the applicant's immediate commander notified the applicant of his intent to initiate separation action against him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), paragraph 14, pattern of misconduct and misconduct-commissioned commission of a serious offense (AWOL).

e. The applicant acknowledged receipt of the commander's intent to separate him and consulted with legal counsel on 25 March 1998. He was advised of the basis for the contemplated separation action for misconduct, the type of discharge he could receive and its effect on further enlistment or reenlistment, the possible effects of this discharge, and of the procedures/rights available to him. He elected not to submit a statement in his own behalf. He acknowledged he:

- understood he could expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions were issued to him
- understood he could be ineligible for many or all benefits as a veteran under Federal and State laws as a result of the issuance of a discharge under other than honorable conditions
- understood if he received a discharge characterization of less than honorable, he could make an application to the Army Discharge Review Board (ADRB) or the ABCMR for an upgrade, but he understood that an act of consideration by either board did not imply his discharge would be upgraded

f. It is unclear as to the exact date the separation authority approved the applicant's discharge under the provisions of AR 635-200, paragraph 14-12c, with his service characterized as general under honorable conditions.

g. The applicant was discharged on 29 April 1998 under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12c (1), misconduct, separation code JKD, reentry code 3, and character of service of general under honorable conditions. He served 9 months and 20 days of net active service this period. It also shows:

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

6. AR 635-5 (Personnel Separations – Separation Documents) prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214 (Certificate of Release or Discharge from Active Duty).

7. AR 635-200 states, action will be taken to separate a member for misconduct such as commission of a serious offense. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. Soldiers separated under Army Regulation (AR) 635-200, paragraph 14-12c, misconduct – commission of serious offense, are assigned the Reentry Code 3.

8. In reaching its determination, the Board can consider the applicant's 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, 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. Upon review of the applicant's petition and available military records, the Board made the following determinations:

a. Correction to Item 12a (Date Entered AD This Period) from "06" to "05". The Board reviewed and concurred with the administrative note below to amend the applicant's date entered active duty this period.

b. Correction to Item 19b (Nearest Relative) to reflect [REDACTED] Deny. The Board determined the nearest relative annotated on the applicant's DD Form 214 was correct in accordance with regulatory guidance at the time the DD Form 214 was prepared. 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.

c. Upgrade of his under honorable conditions (General) discharge to honorable. Deny. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was separated for misconduct with the commander citing commission of a serious offense. The Board found no error or injustice in the separation proceedings and designated characterization of service assigned during separation. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate.

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 for correction of the records of the individual concerned.

6/6/2025

X

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):

A review of the applicant's record shows his DD Form 214, for the period ending on 29 April 1998, should be amended to show in item:

- 12a (Date entered AD This Period): 1997 05 20
- 12c (Net Active Service This Period): 0000 11 10

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 635-5 (Personnel Separations – Separation Documents) prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army.

a. Paragraph 2–1 (Preparing the DD Form 214) states, the DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. It provides a brief, clearcut record of active duty service at the time of release from active duty, retirement, or discharge.

b. Paragraph 2-4 (Completing the DD Form 214), subparagraph h(19) states, mailing address after separation and nearest relative will be provided by the Soldier.

c. Paragraph 2-6 (Alterations and corrections) states, corrections are not permitted in the screened areas of the DD Forms 214 and 215. These forms are designed with a reproducible screen tint on blocks 1, 3, 4, 12, and 18 through 30 on the DD Form 214.

3. Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a states an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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 states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 14, of the version 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. It provided that action would be taken to separate a member for misconduct when it was clearly established that rehabilitation was impracticable or was unlikely to succeed. A discharge under other than honorable

conditions was normally appropriate for a Soldier discharged under this chapter. However, the separation authority could direct an honorable discharge if merited by the Soldier's overall record.

4. 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. 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. 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//