

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 March 2025

DOCKET NUMBER: AR20240006825

APPLICANT REQUESTS: Reconsideration of his previous request for upgrade of his general, under honorable conditions discharge.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement (the complete statement is available for review by the Board in supporting documents)
- Military Service History provides a history of the applicant's military service (The letter is available for review by the Board in supporting documents)
- Post Military Career outlines the applicant's work and family history (The letter is available for review by the Board in supporting documents)
- Support Letter, B. D. W. the applicant's ex sister-in law reflects while living in Dallas, TX, the applicant went out of town and returned home to find people had moved into their apartment and the family had to move to Garland, TX.
- Support Letter, Senior Pastor G. W., reflects how the applicant lives out the values he preaches. (The complete letter is available for review by the Board in supporting documents)
- Seven Certificates; New Members Class; Certificate of Appreciation; Certificate of License; four Certificates of Recognition; Certificate of Special Congressional Recognition
- DD Form 214 (Report of Separation from Active Duty)
- Certification of Military Service
- DD Form 4 (Enlistment Contract – Armed Forces of the United States)
- Orders 54-154
- DA Form 2-1 (Personnel Qualification Record)

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 AR20160019393 on 13 May 2019.

2. The applicant states in September 1976, he lost his four-year old daughter then a week later his mother died. He began to suffer from severe depression. Due to his state of mind, he missed a unit drill. He moved to Pasadena, CA the unit allowed him to make up for the lost drill. He later moved to Dallas. He left one weekend to visit family. When he returned someone else had moved into the apartment and moved all their belongings into a storage unit. He moved into the in-law's home in Garland, TX. During this time of chaos, he missed one of his last unit drills. At the time, he was 30 days away from his ETS date. he called the unit during the time and was assured he had nothing to worry about since he was close to his ETS date, he would be discharged without further obligation to the military. It has been over 40 years since the discharge; however, his military service is very important to him, and he is proud to have served in the Army. He served honorably during dozens of weekend drills and the several two weeklong training exercises. Dealing with personal traumas and unforeseen circumstances, temporarily interfered with his performance but is not indicative of his entire six years of service to the United States Army Reserves.

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

a. The applicant enlisted in the United States Army Reserves (USAR) on 1 May 1975.

b. On 2 April 1979; 1 February, 21 July and 18 August 1980 Letter of Instructions for Unexcused Absences was mailed to the applicant. All four letters were returned.

c. On 18 August 1980, the applicant's immediate commander notified the applicant of his intent to initiate action to discharge him from the U.S. Army Reserve under the provisions of AR 135-18 for Unsatisfactory Participation. He recommended a general discharge certificate.

d. On 10 November 1980, the commander recommended the applicant be considered for separation for misconduct due to unsatisfactory participation under the provisions of AR 135-91, paragraph 4-11.

e. Discharge orders were issued with an effective date of 30 April 1981. The applicant was issued a general (under honorable conditions) discharge under the provisions of Army Regulation 135-178 (Army National Guard and Reserve Separation of Enlisted Personnel), paragraph 3-1.

4. 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.

5. 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, 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 misconduct leading to the applicant's separation and the applicant receiving a General Discharge at the time of separation, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service. The Board found the General characterization of service equitable to the facts and circumstances leading to his separation.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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//

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.

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) 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures), defines Army National Guard (ARNG) and US Army Reserve (USAR) service obligations and prescribes policies and procedures governing methods of fulfillment, satisfactory participation and enforcement.

a. Unexcused absence from unit training assemblies states a member fails to participate satisfactorily when he accrues in any 1 year period a total of 9 or more unexcused absences from scheduled unit training assemblies as computed in b and c below.

b. Charging unexcused absences. Unless an absence is authorized, a member who fails to attend a scheduled single unit training assembly (UTA) or multiple unit training assembly (MUTA) will be charged with an unexcused absence. When absence involves a MUTA (or any portion of a MUTA), the charge will be one unexcused absence for each four hour period not attended, but not to exceed 4 unexcused absences. If absent from MUTA 5 or MUTA 6, the maximum number of unexcused absences charged is 4. Unexcused absences will remain charged to the member upon reassignment or reenlistment in another Reserve component unit.

c. Establishing the 1 year period. For counting unexcused absences, the 1 year period will begin on the date of the training assembly from which the member is absent and will end 1 year later. Beginning dates will be established from each succeeding unexcused absence. When longer than 1 year elapses from the date of such absence, it no longer will be counted and the new 1 year period will begin on the date of the subsequent absence, if any.

3. Army Regulation 135-178, (Separation of Enlisted Personnel) prescribes the policies, criteria, and procedures which apply to separation of enlisted members of the Army National Guard of the United States (ARNGUS) and the United States Army Reserve (USAR), except the separation of enlisted members serving on active duty (AD) will be governed by appropriate Active component regulations. Separation of enlisted members serving on Initial Active Duty for Training (IADT) will be governed by appropriate Active component regulations. Enlisted members of the ARNGUS or USAR serving on 45 day ADT who demonstrate through their actions or traits that they should be discharged will

be released and returned to their Reserve component unit or USAR control group for discharge action.

a. Honorable Discharge Certificate (DD Form 256A). An honorable discharge is a separation from the United States Army with honor. The issuance of an honorable discharge is conditioned upon proper military behavior and proficient and industrious performance of duty, giving due regard to the grade held and the capabilities of the member concerned.

b. General Discharge Certificate (DD Form 257A). a general discharge is a separation from the United States army under honorable conditions of an enlisted member whose military records in not sufficiently meritorious to warrant an honorable discharge. When an enlisted member's service is characterized as general, except when discharge by reason of misconduct or unsuitability, the specific basis for such discharge will be included in the enlisted member's military personnel record.

c. Failure or refusal or non-obligated enlisted members to accept or comply with official orders or correspondence or to satisfactorily participate in required training. USAR non obligated enlisted members will be discharged when.

- they fail to participate satisfactorily in required training (AR 135-90) or fail to earn sufficient retirement points (AR 140-10)
- they refuse or fail to reply to or accept official correspondence, comply with official travel orders or to complete and return forms required by pertinent regulations.

4. The Acting Principal Deputy Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 24 February 2016 [Carson Memorandum]. The memorandum directed the BCM/NRs to waive the statute of limitations. Fairness and equity demand, in cases of such magnitude that a Veteran's petition receives full and fair review, even if brought outside of the time limit. Similarly, cases considered previously, either by DRBs or BCM/NRs, but without benefit of the application of the Supplemental Guidance, shall be, upon petition, granted de novo review utilizing the Supplemental Guidance.

5. The Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017 [Kurta Memorandum]. The memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, traumatic brain injury (TBI), sexual assault, or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or

the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

a. Guidance documents are not limited to under other than honorable conditions discharge characterizations but rather apply to any petition seeking discharge relief including requests to change the narrative reason, re-enlistment codes, and upgrades from general to honorable characterizations.

b. An honorable discharge characterization does not require flawless military service. Many veterans are separated with an honorable characterization despite some relatively minor or infrequent misconduct.

c. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with mental health conditions, including PTSD; TBI; or behaviors commonly associated with sexual assault or sexual harassment; and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

6. 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//