

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 January 2025

DOCKET NUMBER: AR20240006888

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

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement dated 2 February 2024
- DD Form 214 (Certificate of Release or Discharge from Active Duty) dated 14 December 1979
- Honorable Discharge Certificate from [REDACTED] Army National Guard dated 11 March 1908
- DD Form 214 dated 20 April 1980
- Under Other Than Honorable Conditions Discharge Certificate, 20 April 1984
- Character Reference Letter dated 22 February 2024
- Letter of Appreciation dated 10 November 1982
- Arrest Record Inquiry Request dated 13 February 2024
- [REDACTED] Sheriff Booking Information dated 1 August 1996
- DA Form 2496 (Disposition Form) dated 22 November 1977
- Certificate of Achievement
- [REDACTED] Department of Correction Certificate of Merit
- Training Certificate (10) and 1 Diploma

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:

a. He believes his unit was not supporting of his request for professional progression and what he perceived as resulting mental state for the lack thereof. He displayed due diligence for completing drug and alcohol education, in addition to human

relations leading up to the date of his discharge. He is an honest law abiding citizen and does not participate in activities for which he was discharged. He attended school and received a small business certification and completed a vocational program for residential plumbing. He graduated as a Surgical Technician from [REDACTED] and subsequently retired from his position. He would like to receive an upgrade to allow him to apply for benefits from the Department of Veteran Affairs.

b. He was two days out from his expiration of term of service when he was discharged under other than honorable conditions. He was an exceptional Soldier determined to become a "sergeant," but things took a turn when he was moved to another unit to help with the morale. He requested to go to the board and was denied. He asked why and was told he was too new. He attempted to prove his worth in a six month period when another Soldier was offered the "acting sergeant," position. He was confused and became depressed and believed he was being deprived of the opportunity to excel. His depression led to misuse of drugs, and he eventually failed a urinalysis. He contacted his leadership for assistance, but he was refused help. Rather than be afforded an opportunity to go to rehabilitation, he was sent to a retraining brigade. He was also denied a request for an X-ray for a back injury he received while lifting an artillery machine causing him to have back surgery. He encountered one minor run with the law, but outside of that, he has gotten his life together. Since his retirement, he believes the upgrade would allow him to receive recognition for the accomplishments he had while serving.

3. The applicant provides:

a. A DD Form 214 with an effective date of 14 December 1979 with an honorable characterization of service.

b. An Honorable Discharge Certificate from [REDACTED] Army National Guard (ARNG) dated 11 March 1908.

c. A DD Form 214 with an effective date of 20 April 1980 shows he received an under other than honorable conditions discharge, to be referenced in the service, with accompanying discharge certificate.

d. A letter from Mr. [REDACTED] dated 22 February 2024, which states he has known the applicant for over twenty years. He has helped mentor the youth of the community to keep them off the streets and keep them focused on furthering their education and people seek him out for advice. He also points out that the applicant has demonstrated numerous qualities as a valuable individual to our small community.

e. A Letter of Appreciation dated 10 November 1982. The purpose of the letter was to express appreciation for the professional manner in which the applicant performed throughout all phases of REFORGER 82.

f. An Arrest Record Inquiry Request dated 13 February 2024 and the Highlands County Sheriff Booking Information dated 1 August 1996.

g. A DA Form 2496 dated 22 November 1977, notified the applicant he could request a review of his under other than honorable conditions discharge.

h. A Certificate of Achievement for his exceptional performance during the period 6 thru 10 July 1982 while supporting the 1982 Combined Arms Tactical Application Exercise (CATAX).

i. [REDACTED] Department of Correction Certificate of Merit for outstanding performance in The Area of Human Relations date 3 March 1988.

j. Nine training certificates in various subject areas and his diploma as a Surgical Technician from Star Technical Institute.

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

a. He enlisted in the Regular Army on 22 April 1980.

b. His DA Form 2-1 (Personnel Qualification Record) shows the applicant served in Germany from 8 May 1980 through 5 May 1982.

c. He accepted nonjudicial punishment for the following:

- 9 June 1983 – one specification of possession of marijuana; his punishment included reduction to private first class (PFC), E-3.
- 23 September 1983 – for one specification of failing to go to his appointed place of duty
- 18 November 1983 – one specification of being disrespectful in language towards a superior noncommissioned officer (NCO); his punishment included reduction to private (PV2), E-2
- 12 January 1984 – one specification of wrongful use of marijuana; his punishment included reduction to private (PVT), E-1

d. The complete facts and circumstances surrounding the applicant's discharge are unavailable for the Board's review. However, his record contains a memorandum dated 18 April 1984 signed by the Commanding General, notified the applicant's commander the findings and recommendations of the board had been reviewed and were approved.

He would be discharged under the provisions of Army Regulation 635-200, paragraph 14-12c, and would be issued an under other than honorable conditions discharge.

e. On 20 April 1984, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 shows he completed 3 years, 11 months, and 29 days of active service. He was assigned separation code JKQ and the narrative reason for separation listed as "Misconduct – commission of a serious offense.". It also shows he was awarded or authorized:

- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
- Expert (Hand Grenade)
- Oversea Service Ribbon
- Army Service Ribbon
- NCO Professional Development Ribbon "1"
- Good Conduct Medal

5. 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.

6. By regulation (AR 635-200), action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

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, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. 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 Board considered the applicant's post-service achievements for clemency consideration and determined a discharge upgrade to under honorable conditions (General) was warranted based on a preponderance of the evidence, including the applicant's minor infractions.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant 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, for the period ending 20 April 1984 to show his characterization of service as under honorable conditions (General).

5/12/2025

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.

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. 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. 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 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

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//