

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 January 2025

DOCKET NUMBER: AR20240006920

APPLICANT REQUESTS:

- an upgrade of his general, under honorable conditions to honorable
- change narrative reason for separation from expeditious discharge program to medical

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Letter
- Standard Form (SF) 606 (Chronological Record of Medical Care)
- Department of the Army (DA) Form 2139 (Pay Voucher)
- Department of Defense (DD) Form 257A (General Discharge Certificate)
- DD Form 214 (Certificate of Release or Discharge from Army)

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 in effect, that he is submitting this personal letter in support of his claim for discharge correction and relief. He explains that the discharge does not accurately reflect the honor, respect, and dignity he deserves. He mentions that prior to his discharge in 1980, he suffered from ongoing foot pain, for which he was treated multiple times by military physicians, who suggested surgery as a potential option. Due to his lack of understanding, he declined the surgery and instead requested a medical discharge. He argues that the "failure to maintain acceptable standards for retention" listed on his DD214 is misleading and unjustified, as his discharge was primarily due to foot pain, not any failure on his part. He emphasizes that he did not terminate his military service, but instead enlisted with the intent of pursuing a career in the military.

3. The applicant provides:

a. A SF 606, the form is not legible.

b. A DA Form 2139, which shows the applicant received an advance pay for \$450.00.

c. A DD Form 257A, dated 16 January 1981, which shows the applicant received a general discharge certificate.

d. A copy of his DD Form 214, dated 16 January 1981.

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

a. He enlisted in the Regular Army on 3 October 1979.

b. On 26 September 1980, a DA Form 2496 (Disposition Form) shows the applicant was evaluated by a psychiatrist. The applicant was diagnosed with Immature Personality Disorder – with passive-aggressive traits and many somatic complaints. He stated that the applicant had many problems with authority and dealing in a mature manner, and that the applicant was fit for chapter 5 separations.

c. On 26 November 1980, the applicant provides a self-authored letter stating, his addition to the statements made prior by the company commander and the psychiatrist. he felt that it is only proper that he state his own reason or reasons for a discharge from the military. In deep concern with his spiritual life and consciousness of religion, he was not able to adapt to the military life nor to meet its standards. His piety and devotion to worship has a lot to do with him not being able to adapt to the military environment and conditions. Therefore, he seeks to be withdrawn from the military in general. He also considers those semantic health problems that he had.

d. On 1 December 1980, the immediate commander certified that the applicant received counseling.

- 9 May 1980, the applicant stated he was conversion to Muslim.
- 24 June 1980, the applicant wanted to be discharged because of religion.
- 25 June 1980, the applicant had problems performing duties due to religion.
- 20 August 1980, the applicant was counseled for failure to put forth effort.
- 16th September 1980, the applicant wanted to be discharged.

e. After waiving his right to consult 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 discharge under other than honorable conditions is issued to him
- he elected to submit statement on his behalf
- he may be ineligible for many or all benefits as a Veteran under both Federal and State laws

f. On 1 December 1980, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 5-31 (Expeditious Discharge Program), Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), for failure to meet acceptable standards for continued military service. He acknowledged receipt of the notification of separation action on the same day.

g. On 1 December 1980, the immediate commander initiated separation action against the applicant for failure to meet acceptable standards for continued military service. The commander recommended the applicant be issued a General Discharge Certificate under provisions of paragraph 5-31, AR 635-200.

h. On 6 January 1981, the separation authority approved the discharge recommendation for eliminated under the provisions of Chapter 5-31, AR 635-200 (Personnel Separations – Enlisted Personnel), for Expeditious Discharge Program - failure to maintain acceptable standards for retention. He would be issued a General Discharge Certificate.

i. Orders 10-3, dated 16 January 1981, discharged the applicant from active duty with an effective date of 16 January 1981.

j. On 16 January 1981, he was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 1 year, 1 month, and 20 days, of active service with no lost time. He was assigned separation code JGH and the narrative reason for separation listed as "Expeditious Discharge Program (EDP) Failure to Maintain Acceptable Standards for Retention," with reentry code 3. It also shows he was awarded or authorized:

- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
- Expert Marksmanship Qualification Badge with Hand Grenade

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), will provide for the expeditious elimination of substandard, nonproductive soldiers before board or punitive action becomes necessary. These provisions are intended to relieve unit commanders of the ad

ministrative burden normally associated with processing eliminations for cause through administrative discharge boards by providing a means to discharge such personnel expeditiously before they progress to the point where board or punitive action becomes necessary.

7. 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.

8. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant has applied to the ABCMR requesting an upgrade of his under honorable conditions (general) discharge and a change in his separation authority. He states:

"I'm requesting that discharge conditions be revised to "Honorable Discharge" on forms DD 214 (EDP) and For DD 257A. The reasons given doe does not grant justice by description I request[ed] for discharge from military service. I simply requested discharge for medical reason."

c. The Record of Proceedings outlines the applicant's military service and the circumstances of the case. The applicant's DD 214 shows he entered the regular Army on 27 November 1979 and was discharged on 29 July 1981 under the separation authority provided by paragraph 5-31h(2) of AR 635-200, Personnel Separations - Enlisted Personnel (1 May 1980), "Expeditious Discharge Program – Discharge those members deemed to have no potential for useful service under conditions of full mobilization."

d. In his self-authored letter, the applicant identifies the medical condition as "ongoing foot pain on several occasions."

e. A podiatry note states the applicant had mild hallux abductus affecting his great toes and which had existed prior to service (EPTS)

f. The applicant underwent a psychiatric evaluation on 26 September 1980 after which he was diagnosed with "Immature Personality Disorder - with passive-aggressive traits and many somatic complaints." The provider cleared him for any administrative action deemed appropriated by command and opined "This individual has many problems with authority and dealing in a mature manner. This individual does seem fit for a Chapter 5 separation at this time."

g. In a November 1980 self-authored letter, the applicant stated in part: "Sir, in deep concern with my spiritual life and consciousness of religion, I am not able to adapt to military life nor meet its standards."

h. His company commander initiated separation action under paragraph 5-31 or AR 635-200 on 1 December 1980: "The reasons for my proposed action are: "Your failure to meet acceptable standards for continued military service."

i. There is insufficient probative medical evidence showing the applicant's bilateral pre-existing foot condition or any other medical condition would have failed the medical retention standards of chapter 3, AR 40-501, Standards of Medical Fitness; or prevented him from performing to standard.

j. It is the opinion of the Agency Medical Advisor that a neither a discharge upgrade nor a change in his separation authority is warranted.

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 short term of honorable service completed prior to the events leading to the applicant's separation and based upon the findings and recommendations of the medical review, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service and/or narrative reason for separation.

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. Paragraph 5-31 (Expeditious Discharge Program) states that members who have demonstrated that they cannot or will not meet acceptable standards required of enlisted personnel in the Army because of existence of one or more of the following conditions may be separated.

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 635-8 (Separation Processing and Documents), in effect at the time, 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//