

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 January 2025

DOCKET NUMBER: AR20240007243

APPLICANT REQUESTS: in effect, an upgrade of his (general) under honorable conditions discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Continuous statement for DD Form 149
- VA Form 21-10210 Witness Statement

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 is requesting this correction to be made due to a mistake made while he was younger. He continues to battle addiction and am receiving treatment at a facility today. While in service he dealt with some problems that were never addressed directly that continue to affect his daily living as an adult now. When he enlisted, he was not aware of certain conditions that he would be limited to. He assumes responsibility for the mistake made at the time and kindly ask for consideration to review and correct his discharge character.
3. The applicant provides VA Form 21-10210 stating he was recently married and going to be stationed in Korea. He was misguided into thinking he and his wife would be able to relocate. When it came down to the time to actually leave, he was told that his wife was not to come. He was put into a horrible mental state and simply turned to drugs.
4. The applicant enlisted in the Regular Army on 23 February 1988.
5. On 24 August 1988, he underwent a mental status evaluation which shows he denied any suicidal or homicidal ideations at the time. There was no evidence of

psychosis/thought disorder or of an affective disorder/clinical depression. He presented with a history of "a bad temper"; however, not one of a violent physical nature. He has been enrolled in a personal growth group to help him learn better ways to vent his anger. He was psychiatrically cleared for any administrative actions deemed appropriate by command.

6. A psychiatric evaluation was conducted on 16 November 1988, which shows an Axis I: diagnosis of marital and occupational problems, and Axis 2 personality disorder not otherwise specified with narcissistic and antisocial features. Axis II diagnosis represents a character and behavior disorder as outlined in Chapter 5-13, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel). It was recommended that he be considered for separation under the provisions of AR 635-200, chapter 5-13.

7. On 13 December 1988, a memorandum from Fort Hood Alcohol and Drug Rehabilitation Program, shows the applicant was enrolled effective 5 December 1988.

8. He received non-judicial punishment (NJP) under the Uniform Code of Military Justice (UCMJ) on 27 December 1988, for on or about 5 December 1988, was derelict in the performance of his duty in that he willfully failed to get his haircut, as it was his duty to do so. He was reduced to private/E-1 (suspended until 20 March 1989) with 14 days restriction effective 4 January 1989.

9. On an unspecified date his reduction was vacated due to violation of restriction, departing post and absent from work/accountability formation on 18 January 1989.

10. On 20 January 1989, he underwent a medical examination and was found qualified for separation/retention.

11. He received NJP under UCMJ on 7 February 1989, for on or about 18 January failed to obey a general order to obtain a personal telephone at his off-post residence and to make C Company aware of his person, and telephone number where he could be reached.

12. On 10 March 1989, his command was notified that he had been declared a rehabilitation failure in the Fort Hood Alcohol and Drug Program. Under the provisions of AR 635-200, the soldier will be processed for separation from the service.

13. On 13 March 1989, his immediate commander notified him of his intent to initiate separation action under the provisions of AR 635-200, chapter 9 for Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) failure. He was advised that the least favorable characterization of service he could receive was honorable. The applicant acknowledged the same day.

14. On 13 March 1989, after consulting counsel advised him of the basis for the contemplated action to separate him for ADAPCP failure under the provisions of AR 635-200, chapter 9, and its effects; of the rights available to him; and the effect of any action taken by him in waiving his rights. He understood that a general under honorable conditions discharge is the least favorable characterization of service he may receive. He understood that he may expect to encounter substantial prejudice in civilian life if a general under honorable conditions discharge is issued to him.

15. His commander recommended that he be separated under the provisions of AR 635-200, chapter 9.

16. On 16 March 1989, the separation authority approved separation under the provisions of AR 635-200, chapter 9. He directed a General Discharge Certificate be issued.

17. Accordingly, his was discharged under honorable conditions (general) on 28 March 1989, under the provisions of AR 635-200, chapter 9. His DD Form 214 shows he completed 1 year, 1 month, and 6 days net active service this period. It also shows:

- Item 26 (Separation Code): JPC
- Item 27 (Reenlistment Code): RE-3, 3C
- Item 28 (Narrative Reason for Separation): Drug abuse, rehabilitation failure

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

19. By regulation, (AR 635-200) sets forth the basic authority for the separation of enlisted personnel. Chapter 9 contains the authority and outlines the procedures for discharging Soldiers because of alcohol or other drug abuse.

20. 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:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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 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 request and available military record, the Board determined there is insufficient evidence of in- service mitigating factors to overcome the circumstances surrounding his separation under the provisions of AR 635-200, Chapter 9, for failure in the Alcohol and Drug Abuse Prevention and Control Program (ADAPCP).

2. The Board recognized the applicant's contentions that his discharge was the result of youthful mistakes and personal challenges, including unresolved mental health issues and addiction, which he continues to address through treatment. He also cites marital stress and misinformation regarding his spouse's relocation as contributing factors to his substance abuse. The Board acknowledges the applicant's current efforts toward rehabilitation and his acceptance of responsibility, these factors alone do not warrant a change in discharge characterization. The Board determined the applicant's record reflects a pattern of misconduct, including multiple non-judicial punishments, failure to comply with orders, and rehabilitation failure, all of which are inconsistent with the standards of acceptable conduct and performance required of Army personnel. The applicant was psychiatrically cleared for administrative action and was afforded due process throughout the separation proceedings.

3. The Board found that the General (Under Honorable Conditions) discharge accurately reflects the nature and quality of the applicant's service. The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined that the overall merits of this case are insufficient to grant relief.

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.

X //SIGNED//

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) 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. Chapter 9 contains the authority and outlines the procedures for discharging Soldiers because of alcohol or other drug abuse. A member who has been referred to the Army Drug and Alcohol Prevention and Control Program (ADAPCP) for alcohol/drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical. Nothing in this chapter prevents separation of a Soldier who has been referred to such a program under any other provisions of this regulation. Initiation of separation proceedings is required for Soldiers designated as alcohol/drug rehabilitation failures. The service of Soldiers discharged under this chapter will be characterized as honorable or general under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required. However, an honorable discharge is required if restricted-use information was used.

a. Paragraph 3-7a (1) 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. Only the honorable characterization may be awarded a member upon completion of his or her period of enlistment or period for which called or ordered to active duty or active duty for training, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

b. Paragraph 3-7b (1) 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 3-7b (2) states a characterization of under honorable conditions may be issued only when the reason for the member's separation specifically allows such characterization. It will not be issued to members upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

3. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and 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 on the basis of 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//