

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 April 2025

DOCKET NUMBER: AR20240007580

APPLICANT REQUESTS: an 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)

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 his punishment was too severe. He had problems with his spouse at the time and he had a lot going on in his life at the time. His battalion commander wanted to keep him in the service, but he was overruled.
3. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 9 May 1978.
 - b. He accepted non-judicial punishment on:
 - 2 November 1978 for:
 - on or about 4 October 1978, failing to obey a lawful order not to consume alcohol during duty hours
 - being absent without leave (AWOL) from on or about 20 October 1978 to on or about 24 October 1978
 - 14 December 1978, for on or about 19 November 1978 failing to go at the time prescribed to his appointed place of duty

- 17 January 1978, being AWOL from on or about 4 December 1978 to on or about 13 December 1978

c. On 18 January 1979, his commander notified him of his intent to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-31, Expeditious Discharge Program (EDP). The commander listed the following reason for the proposed separation: applicant had been AWOL more than he was present for duty. The applicant also wished for this type of discharge from the service. He acknowledged receipt on 18 January 1979.

d. He was advised by consulting counsel of the basis for the contemplated action to separate him and its effects; of the rights available to him; and the effect of any action he took in waiving his rights.

e. The immediate commander formally recommended approval, with a general, under honorable conditions discharge.

f. On 30 January 1979, the Battalion Chaplain interviewed the applicant, and the applicant stated he desired to be discharged because he had personal problems, which a discharge from the Army would help resolve.

g. On 30 January 1979, the separation authority approved the separation and directed he receive a general, under honorable conditions discharge.

h. Accordingly, he was discharged on 2 February 1979 and received a general, under honorable conditions characterization of service. His DD Form 214 (Report of Separation from Active Duty) shows in:

- Item 18a (Net Active Service This Period): 7 months and 25 days
- Item 21 (Time Lost): 29 days; 16 October 1978 – 23 October 1978; 4 December 1978 – 12 December 1978; 28 December 1978 – 9 January 1979

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

5. The Board should consider the applicant's overall 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 not 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 applicant was separated under the expeditious discharge program for being AWOL more than he was present for duty. The applicant also wished for this type of discharge from the service. Furthermore, he acknowledged receipt of this action. The Board found no error or injustice in the separation proceedings under the regulation and subsequent characterization of service assigned at 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.

4/15/2025

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, set forth the basic authority for the separation of enlisted personnel.

a. 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. 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. Paragraph 5-31 provides for separating enlisted members under the expeditious discharge program (EDP). This program provides 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 when they have failed to respond to counseling (DA Form 4856, General Counseling Form). The criteria in section VIII, chapter 1, will govern whether the member will be released from active duty with transfer to the IRR, or be discharged. A discharge general, under honorable conditions is normally appropriate for a Soldier discharged under this chapter.

- Poor attitude
- Lack of motivation
- Lack of self-discipline
- Inability to adapt socially or emotionally
- Failure to demonstrate promotion potential

d. No member will be separated under this program unless the Army member voluntarily consents to the proposed separation. The Army member's acceptance of separation may not be withdrawn after the date the separation authority approves the separation.

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.

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 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.

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//