

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240007614

APPLICANT REQUESTS:

- An upgrade of his characterization of service from under honorable conditions (general) to honorable
- A personal appearance hearing before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Headquarters, 81st Regional Readiness Command, Orders 05-348-00021, 14 December 2005
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 6 March 1999

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 during his return from training in Germany, his travel paperwork was not completed properly by his unit. After a year of attending his monthly drills, he noticed he was not being paid and did not understand why. Although he was not being paid, he still attended drill, even on off days. This led to him contacting the Inspector General (IG) to complain about the harassment he was encountering from his chain of command.
3. The applicant enlisted in the U.S. Army Reserve (USAR) on 28 August 1998.
4. Military Entrance Processing Station, Orders 161-11, 28 August 1998, ordered the applicant to initial active-duty training at Fort Jackson, SC, effective 3 November 1998.

5. His DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 6 March 1999, shows he was honorably released from active-duty, by reason of completion of required active service and was transferred to his USAR unit.
6. The DA Form 4187 (Personnel Action), 30 July 2003, shows the applicant was reduced to the rank/grade of private first class/E-3 effective 30 July 2003, due to being an unsatisfactory participant in his troop program unit, collecting a total of nine unsatisfactory participations in one calendar year.
7. The applicant's service record does not contain, and he did not provide evidence of a separation packet pertaining to the facts and circumstances surrounding his discharge.
8. Headquarters, 81st Regional Readiness Command, Orders 05-348-00021, shows the applicant was discharge from the USAR under the provisions of Army Regulation (AR) 135-178 (Army National Guard and Army Reserve – Enlisted Administrative Separations), effective 14 December 2005 with an under honorable conditions (general) characterization of service.
9. The U.S. Army IG Agency provided two IG reports, from 26 October 2021 to 7 February 2023, pertaining to the applicant.
 - a. The first report shows the applicant submitted an IG complaint on 26 October 2021 wherein he requested assistance with his chain of command saying they would initiate action to impose Uniform Code of Military Justice (UCMJ) action if he refused the flu shot. On 7 December 2021, the case was closed without UCMJ action.
 - b. The second report shows the applicant submitted an IG complaint on 7 February 2023, wherein he requested assistance with receiving and overdue bonus payment. On 28 March 2023, the case was closed after the applicant had received his bonus.
 - c. There no was no IG report provided pertaining to the applicant's claims of harassment and one year of unpaid allowances.
10. The Criminal Investigation Division memorandum, 11 March 2025, shows the Army criminal file indexes revealed no reports of harassment pertaining to the applicant.
11. There is no indication the applicant applied to the Army Discharge Review Board for review of his discharge processing within that Board's 15-year statute of limitations.
12. AR 135-178 in effect at the time, states a soldier may be discharged when it is determined the soldier is unqualified for further military service by reason of unsatisfactory performance.

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. The evidence of record shows the applicant was deemed an unsatisfactory participant by his USAR unit. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was not in error or unjust.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case

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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. AR 135-178 in effect at the time, established policies, standards, and procedures governing the administrative separation of certain enlisted Soldiers of the Army National Guard of the U.S. and the USAR. Chapter 9-1 states, a soldier may be discharged when it is determined the soldier is unqualified for further military service by reason of unsatisfactory performance.

4. AR 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. The honorable characterization is appropriate when the quality of the Soldier'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 used for a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

5. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole, or in part, to: mental health conditions, including PTSD; TBI; sexual assault; sexual harassment. Boards were directed to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to 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 that misconduct which led to the discharge.

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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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//