

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 January 2025

DOCKET NUMBER: AR20240007769

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

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

- DD Form 293 (Application for the Review of Discharge)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Self-Authored Statement
- Two Letters of Support

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 has spent the last 30 years housing and helping men coming out of prison get their lives back on track to become productive members of society. He has also spent the 15 years coaching youth sports. He has done anything he can to help anyone. He is in good standing with his community and attends church when he can.
3. The applicant provides two letters of support attesting to his ability to get along with people and positive interpersonal skills as well as his competence in coaching.
4. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 19 August 1987.
 - b. He served in Germany from 1 March 1988 to 31 January 1989.

c. On 3 January 1989, his immediate commander notified the applicant he was initiating action to separate him for a pattern of misconduct. The reasons for his proposed action are:

- On 5 June 1988, failing to go to his appointed place of duty
- On 3 June 1988, drawing checks without sufficient funds
- On 5 July 1988, drawing checks without sufficient funds
- On 5 July 1988, failing to pay a just debt
- On 11 August 1988, failing to pay a just debt
- On 2 September 1988, drawing a check without sufficient funds

His commander recommended the applicant received a General Discharge Certificate and forwarded his recommendation and the applicant's acknowledgement to the separation approval authority for final action.

d. On 3 January 1989, the applicant consulted with legal counsel. He was advised of the basis for the contemplated action to separated him for a pattern of misconduct under Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 14-12b, its effects, of the rights available to him, and the effect of any action taken by him in waiving his rights.

(1) Statements in his own behalf were not submitted.

(2) He understood he may expect to encounter substantial prejudice in civilian life if a general discharge under other than honorable conditions was issued to him.

e. On 6 January 1989, consistent with the chain of command recommendations, the separation authority approved the applicant's administrative separation under Army Regulation 635-200 and directed the applicant be separated from the service under the provisions of Chapter 14, paragraph 14-12b, Army Regulation 635-200 (Pattern of Misconduct). A General Discharge Certificate (DD Form 257A) will be furnished.

f. The applicant was discharged on 1 February 1989. His DD Form 214 shows he completed 1 year, 5 months, and 13 days of active service. He was discharged with an under honorable conditions (General) characterization of service under the provisions of Army Regulation 635-200, paragraph 14-12b, misconduct – pattern of misconduct. He was awarded or authorized the Army Service Ribbon and the Army Achievement Medal.

5. By regulation, members are subject to separation for a pattern of misconduct consisting of conduct prejudicial to good order and discipline, including conduct violative of the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army regulations, the civil law, and time-honor customs and traditions of the Army.

6. 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 and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the evidence of post-service community service completed by the applicant and the one year of military service completed, the Board concluded there was sufficient evidence to grant clemency by upgrading the applicant's characterization of service to Honorable.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Honorable
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change


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. Paragraph 3-7 (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 14-12b (Acts or Patterns of Misconduct) states members are subject to separation for a pattern of misconduct consisting of conduct prejudicial to good order and discipline, including conduct violative of the accepted standards of personal

conduct found in the Uniform Code of Military Justice, Army regulations, the civil law, and time-honor customs and traditions of the Army.

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//