

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 February 2025

DOCKET NUMBER: AR20240007915

APPLICANT REQUESTS: correction of DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending on 19 January 1984 to reflect "Honorable" vice "Bad Conduct".

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Report of Separation from Active Duty), 7 February 1979
- DD Form 214, 19 January 1984
- Passport
- National Personnel Records Center letter, 8 March 2024

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 DD Form 214 for the period ending on 19 January 1984 incorrectly reflects his Characterization of Service as "Bad Conduct." He contests that this is incorrect as he was honorably discharged from military service. He further notes that any derogatory information should be removed from his records because he served honorably.
3. A review of the applicant's service records reflects the following:
 - a. On 3 August 1976, the applicant enlisted in the Regular Army with duty as a 76Y (Unit Supply Clerk).
 - b. On 8 February 1979, the applicant reenlisted for 3 years.
 - c. On 7 June 1980, the applicant was promoted to sergeant (SGT)/E-5.

d. On or about 18 February 1983 (General Court-Martial Order Number 17), the applicant was court-martialed for the charges of violating Article 121 (3 specifications) and Article 80 (2 specifications) of the Uniform Code of Military Justice. On or about 21 May 1982, the applicant stole \$107.00 from a Soldier. On or about 28 May 1982, the applicant stole \$288.00 from a Soldier and on or about 9 October 1981, he stole \$85.00 from another Soldier. Subsequently, on or about 12 November 1982, the applicant attempted to steal \$8.00 in U.S. currency and a \$49.60 money order from another Soldier. The applicant was found guilty of the additional charge and sentenced to 6 months confinement, forfeiture of all pay and allowances, reduced to private/E-1 and directed to be discharged with a Bad Conduct Characterization of Service. This sentence was adjudged on 25 February 1983.

e. On 16 December 1983, Headquarters, U.S. Army Armor Center and Fort Knox issued General Court-Martial Orders Number 58 affirming the sentence to Bad-Conduct Discharge, forfeiture of all pay and allowances (forfeitures to apply to all pay and allowances becoming due on and after 13 April 1983, the date of the convening authority's action), confinement for 6-months, and reduction to the grade of private, adjudged on 25 February 1983, as promulgated in General Court-Martial Order Number 17. The portion of the sentence pertaining to confinement has been served.

f. On 16 January 1984, Headquarters, U.S. Army Armor Center and Fort Knox issued Orders Number 10-28, reassigning the applicant to the U.S. Army separation transfer point pending separation processing effective 17 January 1984.

g. On 19 January 1984, the applicant was discharged from military service. DD Form 214 reflects the following:

- Item 12c. (Net Active Service this Period) – 4 years 6 months 12 days
- Item 12d. (Total Prior Active Service) – 2 years 6 months 5 days
- Item 18 (Remarks) – Excess Leave of 179 days (25 July 1983 – 19 January 1984)
- Item 24 (Character of Service) – Bad Conduct
- Item 25 (Separation Authority) – Army Regulation 635-200, Section 4, Chapter 3
- Item 26 (Separation Code) – JJD
- Item 27 (Reenlistment Code) – RE 3B, 3C and 3
- Item 28 (Narrative Reason for Separation) – As a Result of Court-Martial
- Item 29 (Dates of Time Lost During this Period) – 25 February 1983 – 24 July 1983

4. The applicant provides:

a. DD Form 214, 7 February 1979, reflective of the applicant service on active duty from 3 August 1974 – 7 February 1979. The applicant was honorably discharged for immediate reenlistment following this period of enlistment.

b. Passport, reflective of the applicant’s documentation as provided and verified by the U.S. Department of State.

c. National Personnel Records Center letter, 8 March 2024, reflective of the applicant being provided with photocopies of his separation documents. The applicant was also provided with a Certificate of Military Service.

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 found that relief was/was not warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered. Based upon the court-martial documentation confirming the applicant was separated with a Bad Conduct Discharge based upon misconduct, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant’s characterization.

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//
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 (AR) 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
3. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel.
 - a. Paragraph 3-7a provides that 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. Paragraph 3-10 (Dishonorable Discharge) provides that a Soldier will be given a dishonorable discharge pursuant only to an approved sentence of a general court-martial. The appellate review must be completed, and the affirmed sentence ordered duly executed.

c. Paragraph 3-11 (Bad Conduct Discharge) provides that a Soldier will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial. The appellate review must be completed, and the affirmed sentence ordered duly executed.

4. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, 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 grounds.

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, 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//