

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 February 2025

DOCKET NUMBER: AR20240007930

APPLICANT REQUESTS: an upgrade of his under other than honorable conditions (UOTHC) discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Course Completion Certificate, Basic Medical Specialist Course
- DD Form 214 (Certificate of Release or Discharge from Active Duty), effective 31 January 1981
- Orders Number 61-142 (Promotion to SPC/E-4)
- Letters of Appreciation
- Certificate, Army Achievement Medal
- Certificate, Good Conduct Medal
- 2 Certificates of Achievement
- Course Completion Certificate, Primary Leadership Development Course
- Letter of Commendation
- Orders Number 228-137 (Promotion to SP5/E-5)
- Honorable Discharge Certificate

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 reported his noncommissioned officer in charge (NCOIC) to his superior for acts of unbecoming of an NCO and soon after he was ridiculed, treated harshly, given additional duties on the weekends, and subsequently forced to accept an UOTHC discharge. He feared harsher punishment if he refused to leave the military.
3. A review of the applicant's service record shows:

- a. He had previous service in the United States Army Reserve (USAR) from 10 October 1980 through 31 January 1981. His DD Form 214 shows he completed 3 months and 21 days of net active service.
- b. On 24 March 1981, he enlisted in the Regular Army.
- c. On 15 August 1986, he immediately reenlisted in the Regular Army for a term of 6 years.
- d. His DA Form 2-1 shows in item 18 (Appointments and Reductions):
 - Private/E-1 – 24 March 1981
 - Private/E-2 – 3 June 1981
 - Private First Class/E-3 – 3 December 1981
 - Specialist/E-4 – 1 April 1983
 - Sergeant/E-5 – 6 November 1984
 - Private/E-1 – 24 June 1987
- e. Orders Number 123-24 issued by Headquarters, Walter Reed Army Medical Center on 29 June 1987 reduced the applicant in grade from E-5 to E-1 in accordance with Army Regulation (AR) 600-200 (Enlisted Personnel Management System), paragraph 6-11, effective 24 June 1987.
- f. Orders Number 131-3 issued by Headquarters, Walter Reed Army Medical Center on 9 July 1987 discharged him from the Regular Army with an effective date of 14 July 1987.
- g. The applicant was discharged from active duty on 14 July 1987 with an UOTHC characterization of service. His DD Form 214 shows he completed 6 years, 3 months, and 21 days of active service. He was assigned separation code KFS and the narrative reason for separation listed as “For the Good of the Service – In Lieu of Court-Martial.”
- h. An undated memorandum that requests the applicant’s performance and service fiche to be provided to the Walter Reed Army Medical Center.

4. The applicant provides:

- a. Course Completion Certificate from the Basic Medical Specialist Course which shows he successfully completed Advanced Individual Training on 30 January 1981.

b. Orders Number 61-142 issued by Headquarters, 1st Cavalry Division on 29 March 1983, that promoted him to specialist four (E-4) with an effective date of 1 April 1983.

c. Certificate, Army Achievement Medal issued on 29 July 1983 for his outstanding performance during the Battalion Aid Station's Technical Assistance visit by the Division's Surgeon's Office.

d. Certificate, Good Conduct Medal issued for exemplary behavior, efficiency, and fidelity in active federal military service from 24 March 1981 to 23 March 1984.

e. Certificate of Achievement issued on 29 April 1983 for his superior performance during the period of 14 March through 13 April 1983 for his contribution to Pilot Knob Tank Table VI.

f. A letter of appreciation dated 7 June 1984 for his outstanding performance for providing the total patient care concept from 21 November 1983 to 23 April 1984.

g. A partially submitted course completion certificate for the Primary Leadership Development Course that shows he was awarded for successful course completion on 20 June [unclear year].

h. Letter of Commendation from the Madigan Army Medical Center's Commanding General, dated 26 October 1985 for achieving a maximum score for his Physical Training Test.

i. Orders Number 228-137 issued by Headquarters, 1st Cavalry Division on 28 November 1984, that promoted him to specialist five (E-5) with an effective date of 1 December 1984 and a date of rank of 6 November 1984.

j. An undated Certificate of Achievement for his selection to the 1987 Walter Reed Army Medical Center Intramural All-Star Team.

k. An Honorable Discharge Certificate dated 14 August 1986, issued before his immediate reenlistment in the Regular Army on 15 August 1986.

5. The applicant does not provide, nor does his record contain any documentation pertaining to the court-martial offense or the circumstances surrounding his separation from service.

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 petition, available military records, the Board noted the applicant's contentions that he was subjected to retaliation after reporting his noncommissioned officer in charge (NCOIC) for misconduct, resulting in harsh treatment, additional duties, and pressure to accept an UOTHC discharge. However, the applicant did not provide any documentation to substantiate these claims, nor did his record contain evidence detailing the circumstances surrounding his separation or the alleged misconduct by his leadership.

2. The Board acknowledged the applicant's prior honorable service, commendations, and achievements during his military career. The applicant did not provide post-service achievements or character references for the Board to consider in support of clemency. The Board determined there is insufficient evidence of in-service mitigating factors to overcome the misconduct. The Board agreed in accordance with Army policy, discharges are presumed to be administratively correct and issued in accordance with applicable regulations unless there is clear and convincing evidence to the contrary. The applicant has not met this burden. Therefore, the Board found no error or injustice and denied upgrade of the applicant's UOTHC discharge.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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) 635-5 (Separation Documents) states:
 - a. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.
 - b. For block 24 (Character of Service) the correct entry is vital as it affects a soldiers' eligibility for post-service benefits. Characterization or description of service is determined by directives authorizing separation. The entry must be one of the following: honorable, under honorable conditions (general), under other than honorable conditions, bad conduct, dishonorable, or uncharacterized.
3. AR 635-200 (Enlisted Personnel – Personnel Separations) , in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 provided that a Soldier who committed an offense or offenses, the punishment for which includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The discharge request may be submitted after court-martial charges are preferred against the Soldier, or, where required, after referral, until final action by the court-martial convening authority. Commanders will ensure that a Soldier is not being coerced into submitting a request for discharge for the good of the service. The Soldier will be given a reasonable time to consult with consulting counsel and to consider the wisdom of submitting such a request for discharge. After receiving counseling, the Soldier may elect to submit a request for discharge for the good of the service. The Soldier will sign a written request, certifying that they were counseled, understood their rights, may receive a discharge under other than honorable conditions, and understood the adverse nature of such a discharge and the possible consequences. A discharge under other than honorable conditions was normally appropriate for a Soldier who is discharged for the good of the service. However, the separation authority was authorized to direct a general discharge certificate if such was merited by the Soldier's overall record during their current enlistment. For Soldiers who had completed entry level status, characterization of service as honorable was not authorized unless the Soldier's record was otherwise so meritorious that any other characterization clearly would be improper.

b. 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.

c. 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.

d. A discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct or for the good of the service.

4. 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//