

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 April 2025

DOCKET NUMBER: AR20240008042

APPLICANT REQUESTS:

- reconsideration of his earlier request for upgrade of his under other than honorable conditions discharge to general, under honorable conditions
- reinstatement of his rank to specialist 4 (SP4)/E-4

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

- DD Form 149 (Application for Correction of Military Record), 10 June 2024
- Applicant statement, 3 June 2024
- Student Association meeting minutes, 18 November 2008 and 13 October 2009, White House Meeting Photo, 8 November 2010
- College transcripts, 30 May 2015
- Social media photograph posts, March 2010, 2013, 2014, and 2015
- Patient ICARE Star, 2024

FACTS:

1. The applicant states:

a. Since being discharged from the military, he has achieved many accomplishments at personal, educational, and professional levels. He has been sober since 2008. He completed a 28-day in-patient program and a 9-month outpatient program. He completed an Associate of Science Degree in Liberal Arts, Addictions Counseling, and Criminal Justice.

b. He lists his achievements which include, in part, Student Senator and Speaker of the Student Senate and Budget Coordinator at his community college, scholarship and fraternity positions at his community college as well as attending the White House Community College Summit in October 2010 during which he met the First Lady.

c. He has worked in the hospitality business for many years after his discharge. He was promoted to trainer at the restaurants he was employed. He works presently in radiation oncology and urgent care.

d. He does not condone what he did by writing bad checks. He had to support his family and as soon as he would have received his back pay, he would have paid off what he owed. He hopes his accomplishments in the Army and after his discharge will be considered

2. The applicant provided copies of his college transcripts, and post service accomplishments consisting of 45 pages. These documents are available for Board review.

3. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20080014942 on 24 December 2008.

4. A review of the applicant's service records show the following:

a. On 10 November 1987, he enlisted in the Regular Army. He reenlisted for 2 years in the rank of SP4 on 26 July 1990. He served in Saudi Arabia from 19 October 1990 through 12 April 1991.

b. A U.S. Army Criminal Investigation Division Final Report of Investigation, dated 17 November 1992, established probable cause he uttered three worthless checks resulting in a loss of \$1500.00 funds and attempted negotiation of a fourth check in the amount of \$1000.00.

c. A DD Form 458 (Charge Sheet) shows he was charged with four specifications of violating Article 123a of the Uniform Code of Military Justice (UCMJ), by unlawfully uttering four checks, then knowing he did not have sufficient funds in or credit for the payment of said checks; on the dates in the amounts:

- Specification 1: check number 136, 2 September 1992, \$1000.00
- Specification 2: check number 138, 10 September 1992, \$250.00
- Specification 3: check number 139, 11 September 1992, \$250.00
- Specification 4: check number 140, 25 September 1992, \$1000.00

d. After consulting with civilian counsel on 29 January 1993, he voluntarily requested discharge for the good of the service, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10. In doing so, he acknowledged that the charges preferred against him under the UCMJ, authorized the imposition of a bad conduct discharge or dishonorable discharge. He further acknowledged:

- by submitting the request, he was acknowledging he was guilty of the charge(s) against him or of (a) lesser included offense(s) therein contained which also authorized imposition of a bad conduct or dishonorable discharge
- he could be discharged under other than honorable conditions and he could be ineligible for many or all benefits administered by the Department of Veterans Affairs (VA)
- he would forfeit all accrued leave and be reduced to the lowest grade of E-1
- he was advised he could submit any statements he desired in his own behalf, and elected to do so

e. On the same date, he provided a written statement, acknowledging what he did was wrong. He was having pay problems and needed money to send home to his wife and children. He had by then paid back all but \$13.00 of what he owed to the bank. He listed his accomplishments and noted he was requesting discharge in lieu of court-martial.

f. On 29 January 1993, his immediate and intermediate commanders recommended approval of his discharge.

g. On 2 February 1993, the separation authority approved his request for discharge for the good of the service and directed his service be characterized as under other than honorable conditions, with reduction to the lowest grade.

h. On 11 February 1993, he was discharged accordingly. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under provisions of Army Regulation 635-200, Chapter 10, with an under other than honorable characterization of service, in the grade of E-1. He completed 5 years, 3 months, and 2 days of active service during this period with no time lost.

5. On 24 December 2008, in ABCMR Docket Number AR20080014942, the Board found that his service did not meet the standards of acceptable conduct and performance and voted not to grant his request.

6. In reaching its determination, the Board can consider the applicant's petition and 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 not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the pattern of misconduct leading to the applicant's separation and the lack of any mitigation for such misconduct, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service and/or change in rank.

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:

1. 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.
2. Prior to closing the case, the Board noted the administrative notes below and recommended making those changes to more accurately reflect the military service of the applicant.

//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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's record shows his DD Form 214, is missing important entries that affect his eligibility for post-service benefits. As a result, amend the DD Form 214 by adding the following entries in item 18 (Remarks):

- SOLDIER HAS COMPLETED FIRST FULL TERM OF SERVICE
- CONTINUOUS HONORABLE SERVICE FROM 871110 UNTIL 900725

REFERENCES:

1. Army Regulation 15-185 (ABCMR) sets forth procedures for processing requests for the correction of military records. Paragraph 2-15a governs requests for reconsideration. This provision of the regulation allows an applicant to request reconsideration of an earlier decision of the ABCMR. The applicant must provide new relevant evidence or argument that was not considered at the time of the ABCMR's prior consideration.

2. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 3-7 provided:

(1) 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. Only the honorable characterization may be awarded a member upon completion of his/her period of enlistment or period for which called or ordered to active duty or active duty training or where required under specific reasons for separation unless an entry level status separation (uncharacterized) is warranted.

(2) 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

b. Chapter 10 stated a member who has committed an offense or offenses, the punishment of which under the UCMJ and the Manual for Court Martial, 1969 (Revised Edition) 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 member, or, where required, after referral, until final actions by the court-martial convening authority.

c. It states when a Soldier is to be discharged under other than honorable conditions, the separation authority will direct an immediate reduction to private/E-1, in accordance with Army Regulation 600–8–19 (Enlisted Promotions and Reductions).

3. 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/NR), on 25 July 2018, 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 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.

//NOTHING FOLLOWS//