

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 September 2025

DOCKET NUMBER: AR20240008054

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

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 is requesting this upgrade so he can apply for healthcare benefits through the Department of Veterans Affairs.

3. A review of the applicant's service record shows the following:

- On 7 June 1979, the applicant enlisted into the Regular Army for 3 years
- While attending advanced individual training (AIT) at Fort Jackson, SC, he accepted nonjudicial punishment, under Article 15, Uniform Code of Military Justice (UCMJ), for failing to obey two noncommissioned officers' order to report for police call
- On or about 20 October 1979, after the award of military occupational specialty 71L (Administrative Specialist), the applicant arrived at his new duty station, a training company at Fort Gordon, GA
- On 20 November 1980, the applicant's company commander issued him a letter of reprimand (LOR) for negotiating a bad check at the Post Exchange
- On 12 December 1980, the applicant's chain of command promoted him to specialist four (SP4)/E-4

- On 16 February 1981, the applicant's company commander gave him an LOR for refusing to go before a Soldier of the Month board because the applicant claimed he was not ready
- In May 1981, the applicant's leadership counseled him in writing for rendering dishonored checks; on 21 May 1981, the Post Commander suspended the applicant's check-cashing privileges for 3 years; on 29 May 1981, the applicant's battalion commander issued him an LOR for cashing worthless checks
- On 22 July 1981, the applicant's company commander initiated bar to reenlistment action against him, citing the applicant's dishonored checks, low skill qualification test results, and the applicant's failure to report on time from leave; on 19 August 1981, the battalion commander approved the bar to reenlistment
- On 2 October 1981, the applicant's unit reported he had been confined by civil authority; (the available service record does not provide further details); on 3 October 1981, the applicant returned to his unit
- On 7 May 1982, the applicant's unit reported him as absent without leave (AWOL); three days later, on 10 May 1982, the applicant returned to military control
- On 10 June 1982, the Army released the applicant from active duty under honorable conditions, based upon reaching his expiration term of service; orders transferred him to the U.S. Army Reserve (USAR) to serve the remainder of his military service obligation
- The applicant's DD Form 214 shows he completed 3 years of net, creditable active duty, with two periods of lost time; the report additionally reflects the following:
 - Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) – Army Service Ribbon and Sharpshooter Marksmanship Qualification Badge
 - Item 25 (Separation Authority) – Chapter 2 (Separation of Enlisted Personnel), Army Regulation 635-200 (Personnel Separations – Enlisted Personnel)
 - Item 26 (Separation Code) – "LBK"
 - Item 27 (Reenlistment (RE) Code) – RE-3, RE-3B
 - Item 28 (Narrative Reason for Separation) – Completion of Required Service
- The applicant continued serving in the USAR through immediate reenlistments; on 30 July 1991, the Army honorably discharged him after he was determined to be medically unfit for retention

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The evidence of record shows the applicant was punished or reprimanded for multiple minor infractions between November 1980 and May 1981. The Board noted the applicant's length of service and determined the applicant's character of service at the time was too harsh. Therefore, the Board determined relief was warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 10 June 1982 to show his character of service as honorable.

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) Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), prescribes policies and procedures for enlisted administrative separations.

a. Paragraph 1-13a (Honorable Discharge) stated an honorable character of service represented a separation with honor.

(1) Issuance of an honorable discharge certificate was appropriate when the quality of the Soldier's service generally met the standards of acceptable conduct and performance of duty or was otherwise so meritorious that any other characterization would clearly be inappropriate. Where there were infractions of discipline, commanders were to consider the extent thereof, as well as the seriousness of the offense.

(2) Separation authorities could furnish an honorable discharge when a Soldier's subsequent honest and faithful service, over a greater period, outweighed any disqualifying entries in the Soldier's military record. It was the pattern of behavior, and not the isolated instance, which commanders should consider as the governing factor.

b. Chapter 2 (Separation of Enlisted Personnel).

(1) Paragraph 2-1 (Statutory Authority). Title 10, U.S Code, section 1169 (Regular Enlisted Members) provides that no enlisted member of the Army may be discharged before his/her term expires unless authorized by the Secretary of the Army or the result of a special or general court-martial.

(2) Paragraph 2-2 (Discharge or Release from Active Army upon Termination of Enlistment, and Other Periods of Active Duty or Active Duty for Training). The periods of military service required of all members of the Army are in compliance with applicable laws, and the periods of enlistment are specified in AR 601-210 (Regular Army Enlistment Program).

c. Chapter 5 (Separation for Convenience of the Government), section II (Secretarial Authority), Paragraph 5-3 (Authority). The separation of enlisted personnel was the prerogative of the Secretary of the Army. The discharge of any enlisted member of the Army for the convenience of the government was to be at the

Secretary's discretion, with the issuance of an honorable or a general discharge certificate, as determined by the Secretary.

3. AR 635-5 (Separation Documents), in effect at the time, prescribed policies and procedures for the preparation of DD Forms 214 (Certificate of Release or Discharge from Active Duty).

a. The regulation stated the narrative reason for separation was tied to the Soldier's regulatory separation authority and directed DD Form 214 preparers to AR 635-5-1 (Separation Program Designators (SPD)) for the appropriate entries in items 26 (Separation Code) and 28 (Narrative Reason for Separation).

b. For item 27 (Reenlistment (RE) Code), preparer were to refer to the reenlistment regulation, AR 601-280 (Army Reenlistment Program).

4. AR 635-5-1, in effect at the time, stated Soldiers separated in accordance with chapter 2, AR 635-200, based on the completion of required service (Expiration Term of Service (ETS)) were to receive an SPD of "LBK" and have, "Completion of Required Service (ETS)" entered in item 28 of their DD Form 214.

5. AR 601-280 (Army Reenlistment Program), in effect at the time, prescribed policies and procedures for the reenlistment of current and former Soldiers.

a. Paragraph 2-23 (Persons Ineligible for Immediate Reenlistment). Persons being separated from current term of service with a bar to reenlistment in effect under provisions of this regulation will require a waiver to reenter the Regular Army. Such persons may be eligible to apply for Regular Army enlistment under the provisions of AR 601-210 (Regular Army Enlistment Program) at a later date.

b. Appendix D (Reenlistment Eligibility (RE) Codes) showed the following:

- RE-1 – Fully qualified for immediate reenlistment
- RE-3 – Not eligible for reenlistment unless waiver consideration was permissible and was granted
- RE-3B – Waiver required due to the applicant having lost time

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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 on the basis of 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.

7. AR 15-185 (ABCMR), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-5 (Administrative Remedies). The ABCMR will not consider an application until the applicant has exhausted all administrative remedies to correct the alleged error or injustice

c. Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

//NOTHING FOLLOWS//