

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 February 2025

DOCKET NUMBER: AR20240008101

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

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored Statement
- 2 DD Forms 214 (Certificate of Release or Discharge from Active Duty)
- Honorable Discharge Certificate
- Orders Number 31-15-A-212
- DA Form 2-1 (Personnel Qualification Record – Part II)
- Department of Veterans Affairs (VA) Disability Compensation Benefits Decision Letter

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 during his initial term he was a stenographer and his brigade commander's "go-to guy." Always having been around officers, he was encouraged to attend Officer Candidate School (OCS) and become an officer himself. Following OCS, he attended airborne school, armor school, and was then sent to Camp Casey, South Korea. Upon arrival, his peers warned him of his company commander. He states his commander had an open dislike for people of color. He goes on to say "one day he called me in and he showed me how he was able to keep up with all the extra duties he had to do. He said that if it were not for methamphetamines, he would not be able to do half of the work given" He was introduced to the supplier of the methamphetamines and stayed with him. After the departure of the previous platoon leader, he felt the force of dislike for him as he was assigned more menial and labor intensive additional duties. As a native of the deep south of Texas, he was not naïve about racism but he did not expect it from the Army. As he attempted to express the obvious lack of time to

complete the tasks correctly and efficiently, he told those were his assignments and there was nothing else to it. The Criminal Investigation Division (CID) later questioned him about his associates outside of Camp Casey and asked him if he used drugs. He responded that he did use drugs in order to keep up with all the work he is responsible for completing. The admission of drug use prompted an investigation and court-martial charges, but due to lack of evidence he was not court-martialed.

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

a. He had previous enlisted service in the Regular Army from 17 April 1978 through 15 April 1982, honorably completing 3 years, 11 months, and 29 days of active service. He was discharged to accept commission in the United States Army Reserve (USAR).

b. Orders Number 31-15-A-212 issued by Headquarters, United States Army Infantry Center on 26 March 1982, ordered him to active duty in the USAR as a second lieutenant with a commission date of 16 April 1982.

c. Orders Number 221-143 issued by Headquarters, 2d Infantry Division on 15 August 1983 reassigned him to the United States Army Separation Transfer Point on 24 August 1983 with an effective discharge date of 25 August 1983.

d. The applicant was discharged from active duty on 25 August 1983 with an UOTHC characterization of service. His DD Form 214 shows he completed 1 year, 4 months, and 10 days of active service. He was assigned separation code BFS and the narrative reason for separation listed as "Conduct Triable by Court Martial."

4. The applicant provides:

a. An Honorable Discharge Certificate dated 15 April 1982 from his enlisted period of service.

b. Orders Number 31-15-A-212 issued by Headquarters, United States Army Infantry Center on 26 March 1982, ordered him to active duty in the USAR as a second lieutenant with a commission date of 16 April 1982.

c. DA Form 2-1 that outlines his service during his time in the USAR as an officer.

d. VA Disability Compensation Benefits Decision Letter dated 20 February 2024 that shows a 0% combined rating evaluation.

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 and available military records, the Board noted the applicant's contentions that he was introduced to methamphetamines by his commander and used drugs to manage the workload assigned to him. He further asserted that his admission of drug use led to an investigation and court-martial charges, though he was not ultimately tried due to lack of evidence.

2. The Board acknowledged the applicant's honorable enlisted service and his transition to commissioned officer status, however, it found insufficient evidence of in-service mitigating factors to overcome the misconduct that supports an upgrade of the applicant's discharge. The Board noted that the applicant has not provided any post service achievements, character letters of support for the Board to weigh a clemency determination or documentation detailing the specific circumstances surrounding his separation, nor any official findings or investigative reports to corroborate his claims of racial discrimination or procedural error. The absence of such evidence prevents the Board from establishing that the discharge was improper or inequitable under the standards for relief. Therefore, the Board found no error or injustice and denied relief.

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.

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) 635-120 (Officer Resignations and Discharges), in effect at the time implemented the statutory provisions of Title 10, U.S. Code, governing officer separations and provides policies and procedures for separating officers from active duty.
 - a. Chapter 5 of this regulation provided that an officer may submit a resignation for the good of the service when court-martial charges are preferred against the officer with a view toward trial by general court-martial, the officer is under suspended sentence of dismissal, or the officer elects to tender a resignation because of reasons outlined in Army Regulation 635-100 (Personnel Separations – Officer Personnel), paragraph 5-11a(7) (misconduct, moral or professional dereliction) prior to charges being preferred and prior to being recommended for elimination under the provisions of Army Regulation 635-100.
 - b. The regulation provides that a resignation for the good of the service, when approved at Headquarters, Department of the Army, is normally accepted as being under other than honorable conditions.

3. Army Regulation 600-8-24 (Officer Transfers and Discharges), later superseded Army Regulation 635-120, and the current version has an effective date of 8 March 2020.

a. Chapter 5 stated an officer could submit a resignation for the good of the service when court-martial charges had been preferred with a view toward trial by general court-martial.

b. The regulation additionally stated that a resignation for the good of the service, when approved at Headquarters, Department of the Army (HQDA), normally resulted in an under other than honorable conditions character of service; however, HQDA could also provide an honorable or general discharge, as appropriate.

c. Paragraph 3-9 (Resignation for the Good of the Service in Lieu of General Court-Martial), within AR 600-8-24, addresses resignation in lieu of trial by court-martial. In addition to authorizing officers to submit a resignation in lieu of trial by general court-martial, the regulation states:

(1) When forwarding the officers resignation to HQDA, the commander exercising general court-martial authority will include the following documents:

- Copy of court-martial charges
- Copy of all reports of investigation
- Any documentary evidence that supports acceptance of resignation
- Psychiatric evaluation when grounds exist indicating officer is (or was at the time of the misconduct) mentally incompetent
- Explanation of any delays

(2) "An officer who resigns for the good of the Service (regardless of the character of service received) is barred from rights under laws administered by the Veterans Affairs based on the period of service from which the officer resigned. Exceptions are War Risk, U.S. Government (converted), National Service Life Insurance, or Service Member's Group Life Insurance (see (Title) 38 (Veterans' Benefits), USC (United States Code), (section) 1965 (Definitions))."

4. Army Regulation 635-100 (Personnel Separations – Officer Personnel), then in effect, provided the authority for the separation of commissioned and warrant officers from the Active Army.

a. Chapter 1-6 provided 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. Normally an officer's service is characterized as honorable when the officer is released from active duty and returned to U.S. Army Reserve or Army National Guard control unless circumstances exist as indicated, or as directed by the Secretary of the Army or Headquarters, Department of the Army.

c. An officer's service normally will be characterized as under honorable conditions or under other than honorable conditions when such a determination is made by a Department of the Army Active Duty Board for officers being released from active duty because of misconduct, moral or professional dereliction.

//NOTHING FOLLOWS//