

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 March 2025

DOCKET NUMBER: AR20240008860

APPLICANT REQUESTS: reconsideration of his previous request for upgrade of his under other than honorable conditions (UOTHC) discharge to under honorable conditions (general).

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

two DD Forms 293 (Application for the Review of Discharge from the Armed Forces of the United States), dated 30 September 2024 and 20 May 2024

FACTS:

1. 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 AR1999000621 on 11 February 1999.
2. The applicant states he is requesting an upgrade of his discharge to apply for Veterans Affairs benefits. He additionally states he was involved in an accident, which scared him and that is the reason he left.
3. The applicant enlisted in the Regular Army on 14 December 1972, for a 2-year period.
4. The applicant accepted nonjudicial punishment under Article 15, of the Uniform Code of Military Justice (UCMJ):
 - a. On 1 June 1973, for absenting himself without authority on or about 28 May 1973 and remaining absent until on or about 30 May 1973. His punishment imposed was reduction to the grade of E-1, forfeiture of \$70.00 for one-month, extra duty for 14 days, and restriction for 14 days.
 - b. On 6 August 1973, for failing to go to his prescribed appointed place of duty on or about 15 July 1973.

5. The applicant was reported as absent without leave on 2 October 1973 and dropped from rolls on 31 October 1973. He surrendered to military authorities on 3 March 1974.

6. Court-martial charges were preferred against the applicant for violation of the Uniform Code of Military Justice (UCMJ). The relevant DA Form 458 (Charge Sheet) is not available in the applicant's official military personnel file.

7. Before a special court-martial adjudged on 16 April 1974, the applicant was found guilty of absenting himself without authority on or about 2 October 1973 and remaining absent until on or about 3 March 1974. He was sentenced to confinement at hard labor for four months, forfeiture of \$30.00 per month for four months, and reduction to the lowest enlisted grade. The sentence was approved and ordered to be duly executed on 8 May 1974, except for the portion of confinement at hard labor in excess of two months was suspended for six months.

8. The applicant's service record is void of documentation containing the specific facts and circumstances surrounding his discharge processing. However, his DD Form 214 (Report of Separation from Active Duty) shows he was discharged on 15 August 1975, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10 (Discharge for the Good of the Service), in the grade of E-1. His service was characterized as UOTHC. He was credited with 2 years and 29 days of net active service this period. He had 217 days lost time from:

- 25 February 1973 to 24 July 1973
- 2 October 1973 to 2 March 1973
- 16 April 1973 to 4 June 1974
- 26 December 1974 to 30 December 1974

9. The ABCMR reviewed the applicant's request for an upgrade of his UOTHC discharge on 11 February 1999. The Board determined the applicant did not present and the records did not contain sufficient justification to conclude that it would be in the interest of justice to grant the relief requested.

10. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

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 her characterization of service. Upon review of the applicant's request and available military record, the Board determined there is insufficient evidence of mitigating factors to overcome the misconduct of multiple instances of nonjudicial punishment under Article 15, extended periods of unauthorized absence, and a special court-martial conviction for AWOL lasting several months.

2. The Board noted the applicant's record showed he had 217 days of lost time and was discharged under the provisions of Army Regulation 635-200, Chapter 10, for the good of the service. While the Board acknowledges the applicant's personal statement, it found no new evidence or mitigating factors that would warrant a change to the characterization of service. The Board found the applicant's misconduct, including repeated absences and a court-martial conviction, outweighed his claims and did not meet the standards required for an upgrade. Therefore, the Board determined the regulatory requirements for relief have not been met and denied the request.

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 Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR1999000621 on 11 February 1999.

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. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may, submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

b. 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.

c. 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.

2. 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 (BCM/NR) 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.

//NOTHING FOLLOWS//