

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 April 2025

DOCKET NUMBER: AR20240008923

APPLICANT REQUESTS:

- upgrade of his under other than honorable conditions discharge to an honorable discharge
- personal appearance hearing before the Board

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- DD Form 214 (Armed Forces of the United States Report of Transfer of Discharge) for the period ending 28 July 1971

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's military records are not available for review. The Board requested a copy of his records from the National Personnel Records Center (NPRC) in St. Louis, Missouri, but none were located. However, the DD Form 214 he provided is sufficient for the Board to conduct a fair and impartial review of his case.
3. The applicant states he was told his characterization of service would become an honorable characterization of service after a six month period.
4. The applicant enlisted in the Regular Army on 15 August 1969. After completing his initial entry training he was awarded military occupational training 63B (Wheel Vehicle Mechanic).
5. He was discharged on 28 July 1971. His DD Form 214 shows in:

- item 5a (Grade, Rate or Rank) – Private
- item 5b (Pay Grade) – E-1
- item 6 (Date of Rank) – 22 July 1971
- item 11c (Reason and Authority) – Chapter 10, Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), SPN [Separation Program Designator] – 246 (discharge for the good of the service)
- item 12 (Last Duty Assignment and Major Command) – 102d Engineer Company – USARV [United States Army Vietnam]
- item 13a (Character of Service) – Under Other Than Honorable Discharge
- item 22a (Net Service This Period) – 1 year, 11 months, 14 days
- item 22b (Total Active Service) – 1 year, 11 months, 14 days
- item 22c (Foreign and/or Sea Service) – USARPAC [United States Army – Pacific, 1 year, 2 months, and 25 days
- item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized), shows the National Defense Service Medal and the Vietnam Service Medal)
- item 30 (Remarks) – Vietnam Service – 10 November 1970 to 27 July 1971 (a period of 8 months and 18 days)

6. The Board should consider the applicant's statement 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 limited documentation available, the lack of information related to the misconduct leading to the applicant's separation and the lack of mitigating and or clemency evidence provided by the applicant, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

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 from the analyst of record and recommended those changes be completed 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):

The applicant is authorized administrative correction of his DD Form 214 for the period ending 28 July 1971 without Board action to show the following awards:

- two bronze service stars with his already awarded Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Meritorious Unit Commendation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation

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 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. The 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. The 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.

c. 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.

d. Paragraph 14-4 (Authority for Discharge or Retention) stated upon determination that a member is to be separated with a discharge under other than honorable conditions, the separation authority will direct reduction to the lowest enlisted grade by the reduction authority.

4. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Vietnam Service Medal is awarded to all members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. Qualifying service included attachment to or assignment for one or more days with an organization participating in or directly supporting military operations. Paragraph 2-13 provides that a bronze service star is authorized with this award for each Vietnam campaign a member is credited with participating in. Table B-1 shows during his service in Vietnam, campaign participation was awarded for the following three campaigns:

- Vietnam Counteroffensive, Phase VII (1 July 1970 – 30 June 1971)
- Consolidation I (1 July 1971 – 30 November 1971)

b. The Republic of Vietnam Campaign Medal with Device (1960) is awarded by the government of the Republic of Vietnam to Servicemembers of the U.S. Armed Forces for the qualifying period from 1 March 1961 to 28 March 1973. Servicemembers must meet one of the following requirements to qualify for the award:

- have served in the Republic of Vietnam for 6 months or outside the geographical limits of the Republic of Vietnam and contributed direct combat support for 6 months
- wounded, captured, or killed by hostile forces

5. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in Vietnam. This pamphlet shows 102d Engineer Company, U.S. Army Vietnam, was cited for award of the:

- Meritorious Unit Commendation for the period 1 June 1970 through 31 May 1971 in Department of the Army General Order (DAGO) Number 43, 1972
- Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 20 July 1965 through 28 March 1973 in DAGO Number 8, 1974 (Headquarters, U.S. Army Vietnam, and its subordinate units)
- Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation for the period January 1968 through 24 September 1970 in DAGO Number 48, 1971

6. Army Regulation 635-5 (Separations Documents), in effect at the time, prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established standardized policy for preparation of the DD Form 214. It stated the DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge.

7. 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//