

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 March 2025

DOCKET NUMBER: AR20240009569

APPLICANT REQUESTS: in effect, an upgrade of his general, under honorable conditions discharge to honorable.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Request for Military Records Form, which shows his service information and request for his 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 does not include a statement.
3. A review of the applicant's service record shows:
 - a. He enlisted in the United States Army Reserve (USAR) on 14 November 1980.
 - b. He accepted non-judicial punishment on 7 January 1981, for on or about 6 January 1981, assaulting private R_N_, by striking him with a closed fist.
 - c. He attended initial active-duty training and was honorably released on 15 April 1981.
 - d. His DA Form 2-1 (Personnel Qualification Record) shows he served in the USAR from 14 November 1980 to 18 May 1981.

e. He enlisted in the Regular Army on 22 May 1981.

f. He was counseled on his performance on various occasions from 12 September 1981 to 9 June 1982.

g. He accepted non-judicial punishment on 29 March 1982 for:

- on or about 11 March 1982, failing to go at the time prescribed to his appointed place of duty
- on or about 16 March 1982, failing to go at the time prescribed to his appointed place of duty
- he was reduced to private/E-1 (suspended until 29 June 1982)
- on 21 April 1982, the suspended punishment was vacated

h. On 14 June 1982, his immediate commander notified him of his intent to initiate separation actions against him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 13, for unsuitability, and advised him of his rights. The commander's recommendation was based on the following:

- He was a substandard Soldier; had to be constantly placed under close supervision to perform any mission
- His disregard for rules and regulations caused him to be a burden to the chain of command
- His inability to perform the most basic military duties in a consistent manner was nonexistent

i. His chain of command recommended approval.

j. On 1 July 1982, the separation authority approved the recommended separation and directed he be issued a general, under honorable conditions discharge.

k. He was discharged on 13 July 1982. His DD Form 214 shows he was discharged under the provisions of AR 635-200, paragraph 13-4c (1), for unsuitability – apathy, defective attitude or inability to expend effort constructively. He completed 1 year, 1 month, and 22 days of net active service this period.

4. There is no evidence the applicant applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

5. In reaching its determination, the Board can consider the applicant's petition and his 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 a lack of a statement and/or evidence to show potential mitigating factors for consideration from 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:

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.

//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.

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

a. Chapter 13 provides commanders will separate a member for unsatisfactory performance when it is clearly established that:

(1) In the commander's judgment, the member will not develop sufficiently to participate satisfactorily in further training and/or become a satisfactory Soldier.

(2) The seriousness of the circumstances is such that the member's retention would have an adverse impact on military discipline, good order, and morale.

(3) It is likely that the member will be a disruptive influence in present or future duty assignments.

(4) It is likely that the circumstances forming the basis for initiation of separation proceedings will continue or recur.

(5) The ability of the member to perform duties effectively in the future, including potential for advancement or leadership, is unlikely.

(6) The member meets retention medical standards (AR 40-501).

b. An honorable discharge is a separation with honor. 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. It is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

3. 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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records 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. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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.

//NOTHING FOLLOWS//