

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 March 2025

DOCKET NUMBER: AR20240009578

APPLICANT REQUESTS:

- Reconsideration of his previous request for upgrade of his other than honorable discharge to honorable
- Personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement (4 pages)
- Letter to NPRC related to a letter he received in or about 1984
- Correction of military records, positive urinalysis test memo highlighting the review of his positive urinalysis test reveals that it did not meet all scientific or legal requirements for use in disciplinary or administrative actions
- List of Army Trial Defense Services Offices
- Congressional release authorizing his congressman and his staff to gain access to his files in order to assist him with his upgrade
- Military Drug Program Historical Timeline highlighting a review of Army/Air Force drug testing procedures was conducted in 1983 and found the system was broken
- Commendations and Certificates in service highlighting his achievements
- (24) Post-service achievements from 2005 to 2023

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 AR20090001818 on 16 June 2009.

2. The applicant states he enlisted in the Army in 1982. He describes his assignments while at then Fort Bragg, NC and Germany. His unit was selected for an experimental urine testing. His results came back, and he was punished with loss of rank, no pay and jail. His argument is the testing did not meet all scientific or legal requirements for us in disciplinary or administrative actions...etc. Post service life was rough, and he changed

his life around to achieve many degrees and certifications (attached in supporting documents). He admits that his choice to walk away from it all, is on him. Back then there was no one he could go to with issues. He was run over and all he had achieved was taken away. He looked around and he really wishes there was someone to explain this all. He was so young and had no direction after they took it all away. He served honorably and never had one issue and always followed orders. He did and gave his best to the Army, and he still respects the Army. He would really like to see a better discharge on his mantel at home. (The entire 4-page letter is available in supporting documents for the Board's review).

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

- a. He enlisted in the Regular Army on 29 February 1982.
- b. DA Form 2-1 (Personnel Qualification Record – Part II) shows in item 21 (Time Lost) he was absent without leave from 13 May 1983 until 10 June 1983 and again from 13 June 1983. DA Form 4187 (Personnel Action) shows he surrendered to military control at Long Beach, CA on 18 July 1983.
- c. DD Form 458 (Charge Sheet) shows court martial charges were preferred on 27 July 1983, for on or about 13 June 1983, without authority, absent himself from his unit, and did remain so absent until on or about 18 July 1983.
- d. On 27 July 1983, he requested discharge for the good of the service under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 10 in lieu of court-martial.
- e. His chain of command recommended approval and recommended an under other than honorable conditions discharge.
- f. On 16 August 1983, the separation authority approved separation under the provisions of AR 635-200, chapter 10. He directed his character of service be under other than honorable conditions and that he be reduced to the lowest enlisted grade.
- g. Accordingly, he was discharged on 2 September 1983, under other than honorable conditions. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 1 year, 6 months, and 24 days of active service this period. He had lost time from 830613 – 830717 (13 June 1983 – 17 July 1983).

4. On 4 June 1984, the Army Discharge Review Board after careful consideration of his military records and all other available evidence, determined that he was properly and equitably discharged. Accordingly, his request for a change in the type and nature of his discharge was denied.

5. In his previous request (AR20090001818) on 16 June 2009, after reviewing the application and all supporting documents, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. The application submitted was denied by the ABCMR.

6. 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:

1. 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 applicant was pending court martial charges for being absent without leave from 13 June 1983 to 18 July 1983, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board was convinced by the compelling evidence submitted by the applicant of his sustained honorable conduct and personal growth since his discharge over 40 years ago and his letters of references who support his character. Therefore, the Board determined an upgrade to Honorable was warranted.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: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 2 September 1983 to show in:

- item 24 (Character of Service): Honorable
- item 25 (Separation Authority): Army Regulation 635-200
- item 26 (Separation Code): JFF
- item 28 (Narrative Reason for Separation): Secretarial Authority

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 (AR) 15-185 (ABCMR) 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, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

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

a. Chapter 10 is applicable to members who had committed an offense or offenses for which the authorized punishment included a bad conduct or dishonorable discharge

could submit a request for discharge for the good of the service. The request could be submitted at any time after the charges had been preferred. Although an honorable or general discharge was authorized, an under other than honorable conditions discharge was normally considered appropriate.

b. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier's service has generally met standards of acceptable conduct and performance of duty for Army personnel.

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.

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 (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 based on 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.

//NOTHING FOLLOWS//