

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 April 2025

DOCKET NUMBER: AR20240009858

APPLICANT REQUESTS:

- an upgrade of his under other than honorable conditions discharge
- a video/telephonic 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
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 11 March 1988
- Birth Certificate, South Carolina
- Social Security Card
- Identification Card, South Carolina
- Diploma of Applied Science, Piedmont Technical College
- Associate Degree in Applied Science, Piedmont Technical College
- Character Reference 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 he is requesting an upgrade of his discharge status.

a. He deeply regrets his actions. Before his unauthorized leave, he was asked by a member of his squad to assist him in moving off base. Unknowingly to him the Soldier took items from his own room that did not belong to him. he was later informed of this and told that he would be arrested, court-martialed and sent to Fort Leavenworth, Kansas. He was 18-19-years of age at the time and his first time being away from his family.

b. The thought of going to prison for something he did not intentionally do terrified him. He though his best action was to leave and try to work it out. After he was gone for 45 days, he realized he made a bad decision, and the honorable thing was to turn himself in. He was immature and he humbly writes this statement in hope of righting his wrongs. He has fathered and raised four children in which two have college degrees. He has earned a college degree with honors and aspires to return to college to obtain a degree in robotics.

3. The applicant provides:

a. The below listed documents to prove his identity:

- Birth Certificate
- Social Security Card
- Identification Card

b. Diploma in applied Science with a major in machine tool given on 10 December 2014 and an associate degree in applied Science with a major in machine tool technology given on 4 August 2015.

c. The applicant provides a character statement from a church member of his congregation. The applicant is described as a balanced and motivated person. He is a good father. He has seen him overcome many obstacles and challenges in his life. He is a great friend and person who looks to bring out the best in you. He keeps smiling amid adversity. He is a hardworking man who loves his family.

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

a. He enlisted in the Regular Army on 19 February 1985.

b. His DA Form 2-1 shows he served in Germany from 9 August 1985 to 6 February 1987.

c. A DA Form 2627 (Record of Proceedings Under Article 15) shows the applicant accepted non-judicial punishment, under the provisions of Article 15 of the Uniform Code of Military Justice, on 3 August 1987, for derelict in the duties in that he consumed alcoholic beverages on or about 17 July 1987. His punishment included reduction to private first class/E-3. The specification in the DA Form 2627 has been crossed out.

d. On 27 January 1988 a DD Form 458 (Charge Sheet) shows charges were preferred against the applicant for one specification of absence without leave (AWOL) from on or about 17 August 1987 until on or about 18 January 1988.

e. The applicant underwent an interview on 25 January 1988 and stated he went AWOL due the treatment he was receiving from fellow Soldiers due to the impending Article 15 for drinking and driving and receiving a reduction in his rank. He also received a letter from his mother informing him of her heart problems and the possibility of his little sister going blind. He asked his command if he could go home but his request was denied, and the unfair treatment got worse. He could not take much more and went AWOL.

f. On 28 January 1988, after consulting with legal counsel he requested a discharge for the good of the service under the provisions of chapter 10, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel). He acknowledged:

- maximum punishment
- he was guilty of the charges against him or of a lesser included offense
- he does not desire further rehabilitation or further military service
- if his request for discharge was accepted, he may be discharged under other than honorable conditions and furnished an Under Other Than Honorable Conditions Discharge Certificate
- he would be deprived of many or all Army benefits, he may be ineligible for many or all benefits administered by the Veterans Administration,
- he may be deprived of his rights and benefits as a veteran under both Federal and State law
- he may expect to encounter substantial prejudice in civilian life
- he elected not to submit a statement on his own behalf

g. On 7 February 1988, consistent with the chain of command recommendations, the separation approval authority approved the applicant's request for the good service. He would be issued an Under Other Than Honorable Conditions Discharge Certificate and reduced to the lowest enlisted pay grade.

h. On 11 March 1988, the applicant was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 2 years, 7 months, and 19 days of active service with 154 days of lost time.

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 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 character letter, the frequency and nature of the applicant's

misconduct and the reason for separation. The applicant was charged with one specification of absence without leave from on or about 17 August 1987 until on or about 18 January 1988 punishable by the Uniform Code of Military Justice. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board found no error or injustice in the separation proceedings and designated characterization of service. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was not in error or unjust.

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

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice as it pertains to the applicant's characterization of service. 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 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.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) in effect at the time sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

a. 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. 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.

c. Chapter 10 provided that a member who had committed an offense or offenses, for which the authorized punishment included a punitive discharge, could submit a request for discharge for the good of the service in lieu of trial by court-martial. The request could be submitted at any time after charges had been preferred and must have included the individual's admission of guilt. Although an honorable or general discharge

was authorized, a under other than honorable conditions discharge was normally considered appropriate.

4. 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//