

IN THE CASE OF [REDACTED]

BOARD DATE: 21 April 2025

DOCKET NUMBER: AR20240009877

APPLICANT REQUESTS:

- Upgrade of his uncharacterized discharge
- Personal appearance before the Board via video/telephone

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

DD Form 149 (Application for Correction of Military Record)

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 was injured during training, he was told by his Colonel that due to his injury he cannot complete his training as an 11B (Infantryman) that he will be receiving a discharge (General) under honorable conditions. He was told he can reenlist under a different a branch or military occupational specialty. He was not present to sign his separation papers to notice the correction needed to be made. Since his separation he has been under the impression that his separation was general. He is requesting the correction be made for employment and promotion in his civil service career.
3. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 23 July 1998.
 - b. On 10 August 1998, he underwent a mental status evaluation which shows an adjustment disorder not otherwise specified. It was recommended in the best interest of the individual and the U.S. Army for him to be expeditiously separated from active duty. Otherwise, the soldier will most probably remain a constant potential accidental suicide self-disabling risk.

c. On 12 August 1998, his commander notified him of his intent to separate him for adjustment disorder, verbal notification of wanting to commit suicide, and inability to adapt to military lifestyle, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), paragraph 11-2. He acknowledged the same day.

d. Having been advised by his commander of the basis for the contemplated separation and its effects, the rights available to him, and the effect of a waiver of his rights; he declined to make a statement, declined a separation medical examination, and did not desire to consult with legal counsel.

e. His immediate commander recommended that he be discharged from the U.S. Army and his service be uncharacterized.

f. On an unspecified date, the separation authority approved discharge under the provisions of AR 635-200, chapter 11.

g. Accordingly, he was discharged on 27 August 1998, under the provisions of AR 635-200, chapter 11, with an uncharacterized character of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 1 month and 5 days 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:

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. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. Upon review of the applicant's petition, available military records, the Board noted the applicant did not receive a military occupational specialty (MOS), and served 1 month and 5 days of active service. For that reason, the Board recommended that denying the requested relief was appropriate.

2. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for his or her character of service to be rated as honorable or otherwise.

3. 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. 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 [REDACTED]

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 (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.

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

a. 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. Only the honorable characterization may be awarded a member upon completion of his or her period of enlistment or period for which called or ordered to active duty or active duty for training, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. A characterization of under honorable conditions may be issued only when the reason for the member's separation specifically allows such characterization. It will not be issued to members upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

d. Chapter 11 of this regulation, in effect at the time, provided for the separation of personnel due to unsatisfactory performance or conduct, or both, while in an entry level status. This provision of regulation applied to individuals who had demonstrated that they were not qualified for retention because they could not adapt socially or emotionally to military life, or because they lacked the aptitude, ability, motivation, or self-discipline for military service, or they had demonstrated characteristics not compatible with satisfactory continued service. The separation policy applied to Soldiers who could not meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline. The regulation required an uncharacterized description of service for separation under this chapter. Army Regulation 635-200 stated, in pertinent part, that separation under this chapter applied to Soldiers who were in an entry level status and, before the date of the initiation of separation action, completed no more than 180 days of continuous active duty and demonstrated that they could not or would not adapt socially or emotionally to military life.

4. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and 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. 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 on the basis of 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. 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//