

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 May 2025

DOCKET NUMBER: AR20240010078

APPLICANT REQUESTS: upgrade his under other than honorable conditions

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- 2 Character Reference Statements indicates the applicant's work ethic, professionalism, and his leadership qualities post military service are unmatched and he demonstrates the highest level of character and integrity (available for the Board's review)
- Orders indicates the applicant's discharge 5 May 1995 (available for the Board's review)
- ADRB Case Report-AR2000048376
- 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 states he was falsely charge with a crime that he did not commit. He was an outstanding soldier with a very promising career. He was in his room watching a football game with his roommate. Another soldier stopped passed and invited them upstairs where others were having drinks. He declined initially but eventually he was persuaded to tag along. As the three of them made their way upstairs, they entered the room. He immediately knew something was wrong. There was a strong stench of alcohol and a German female in the room. She was extremely inebriated. He told his friend right then "let's Go Now"! His friend made his choice and decided to stay along with the other platoon member. He left and went back to my room.

a. The next morning, He was greeted with officers from Criminal Investigation Command (CID). He and the two members from his platoon were all escorted to the CID's office. They were all asked to write statements of the events that occurred the night before, including two other soldier's that were in the room that he was unaware of. After writing the statements we were all asked to participate in a lineup. He was the only person in the lineup the German woman did not pick out from the lineup. After more questioning from CID, he was allowed to leave. That was the last time he saw any of the other soldiers involved again. In the months to follow, he was placed on restricted duty. He was no longer allowed to participate with his platoon during an ongoing investigation. CID members concluded that he was not part of any wrongdoing, but he was still not able to go to morning physical fitness training (PT) or any field training events. He was in an office daily to do paperwork. During this time, he never had to go any court hearings or speak with any other officials regarding this case. He was eventually discharged from the army with an "Other Than Honorable" classification and confused as to why he was being sent home.

b. Not long after being discharged from the military, he began the process of trying to upgrade his discharge classification. He has attempted multiple times to try and change his other than honorable character of service. He has copies of his military record that show absolutely no disciplinary action whatsoever which confused him further as to the discharge he was given. Not even an explanation! he felt he was punished without rightful cause. The situation has caused anxiety, stress and years of sleepless nights. (Self-Authored Statement available for the Board's review)

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

a. He enlisted in the Regular Army on 16 March 1994.

b. He served in Germany from 19940727-19960726.

c. The available service record is void facts and circumstances regarding the events that led to a discharge from the Army (discharge in lieu of trial by court-martial) under the provisions (UP) of Chapter 10, AR 635-200.

d. He was discharged with an under other than honorable conditions on 5 May 1995, he completed 1 years, 1 months, and 20 days net active service this period.

4. On 22 May 1998, the applicant was notified the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

5. By regulation, an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable

discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

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 warranted. 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. Although the specific events cannot be determined based upon a lack of documentation, the Board found that based upon the single event of misconduct leading to separation and the character evidence presented by the applicant, granting clemency was warranted by upgrading the applicant's characterization of service to General, Under Honorable Conditions.

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 a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Under Honorable Conditions (General)
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change

//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 635-5 (Separation Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.
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.
 - a. Honorable Discharge states 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.

b. General Discharge states 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. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

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//