

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 September 2025

DOCKET NUMBER: AR20240010135

APPLICANT REQUESTS: reconsideration of his earlier request for upgrade of his under other than honorable conditions discharge to honorable.

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

DD Form 149 (Application for Correction of Military Record), 12 August 2024

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 AC90-08600 on 10 July 1990.

2. The applicant states, in effect, he needs an upgrade for disability benefits. He did nothing wrong.

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

a. On 31 May 1979, he reenlisted for 4 years in the Regular Army at the rank of specialist, following two periods of honorable service: from 2 December 1976 to 30 May 1979 and from 31 May 1979 to 26 July 1983.

b. On 27 July 1983, he reenlisted in the Regular Army at the rank of staff sergeant for 6 years.

c. On 22 October 1985, a urinalysis sample taken from him tested positive for Tetrahydrocannabinol (THC).

d. On 8 January 1986, he accepted nonjudicial punishment (NJP) for using marijuana in the hashish form between 22 September 1986 and 22 October 1986. His punishment included a suspended reduction to sergeant, a suspended forfeiture of pay for 2 months, and 45 days of extra duty.

e. On 25 June 1987, a urinalysis sample taken from him tested positive for Tetrahydrocannabinol (THC).

f. On 25 June 1987, the Unit Alcohol and Drug Coordinator provided a statement, indicating the applicant provided two earlier suspicious urine samples that appeared to be adulterated; not consistent in color (clear), cold to the touch, with an odor of methanol or peppermint, not typical of urinalysis samples. After consulting with the company commander and first sergeant, a third sample the Soldier provided was in fact urine and processed for testing.

g. On 23 July 1987, he accepted NJP for using a schedule I controlled substance (THC) between 24 May 1987 and 25 June 1987. His punishment consisted of reduction to sergeant, forfeiture of pay for 2 months, a reprimand, and 45 days of extra duty.

h. On 18 August 1987, his company commander notified him of his intention to initiate action to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12c, for submitting two drug testing samples that appeared suspicious; and a subsequent third sample which tested positive for THC. His company commander advised him of his rights. He understood he could receive an under other than honorable conditions characterization of service.

i. On 21 August 1987, he acknowledged receipt of his company commander's notification and elected his rights. In electing his right to a hearing before a board of officers, he understood he may expect to encounter substantial prejudice in civilian life and a result of issuance of an Under Other than Honorable Conditions Discharge Certificate.

j. His intermediate commanders recommended his elimination.

k. On 3 November 1987, the board of officers met and after considering his testimony, the testimony of his fellow Soldiers, and all the evidence, recommended his separation with an under other than honorable conditions characterization of service.

l. On 10 December 1987, he was discharged. His DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects he was discharged under the provisions of Army Regulation 635-200, paragraph 14-12 for misconduct-abuse of illegal drugs. He completed 8 years, 6 months, and 10 days of active service this period and 2 years, 5 months, and 25 days of prior active service.

4. On 27 April 1989, the Army Discharge Review Board reviewed his request for an upgrade and found it was both proper and equitable.

5. On 10 July 1990, in Docket Number AC90-08600, the ABCMR found the discharge proceedings in his case were conducted in accordance with law and regulations applicable at the time, and there was no basis for granting his request.

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 partial 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 separated for submitting two drug testing samples that appeared suspicious; and a subsequent third sample which tested positive for drugs. The Board found no error or injustice in the separation proceedings. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate.

2. Upon review of the applicant's service record, the Board determined he served a period of continuous honorable service from 31 May 1979 to 26 July 1983 and his record should reflect that service accordingly.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial 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 10 December 1987, to show Continuous Honorable Active Service from 31 May 1979 to 26 July 1983.

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. Therefore, the Board determined the overall merits of this case are insufficient as a basis for amendment of the ABCMR decision rendered in Docket Number AC90-08600 on 10 July 1990.


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 15-185 (Army Board for Correction of Military Records) 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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

2. Army Regulation 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 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 14 established policy and prescribes procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, convictions by civil authorities, and abuse of illegal drugs. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter.

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//