

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 September 2025

DOCKET NUMBER: AR20240010176

APPLICANT REQUESTS:

- upgrade of his characterization of service from under honorable conditions (General)
- 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), 4 August 2024
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 19 March 1998
- Department of Veterans Affairs (VA) Rating Decision showing he receives 70% service-connected disability for unspecified anxiety disorder, cannabis use disorder, moderate to severe, and unspecified personality disorder and he is entitled to individual unemployability granted 20 January 2024

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 after experiencing severe hazing, physical violence, and being coerced into an inappropriate sexual relationship by a command staff member, which led to his unfair discharge from the Army due to accusations of misconduct. After his discharge he sought mental health support from the VA where he recognized that the treatment he received was abnormal and went against the Army's values.
3. A review of the applicant's service record shows the following:
 - a. He enlisted in the Regular Army on 16 January 1997, for 4-year period.

b. On 5 February 1998, he was notified by his immediate commander of the intent to initiate him for separation, under the provisions (UP) of Army Regulation (AR) 635-200 (Personnel Separations –Enlisted Personnel) Chapter 14 (Separation for Misconduct) paragraph 12b (Pattern of Misconduct) and paragraph 14c (Commission of a Serious Offense) with issuance of an under honorable conditions (General) characterization of service. The immediate commander cited the following reasons for the proposed separation:

- For failing to go to his appointed place of duty on nine occasions on or about 16 May 1997, on or about 16 May 1997, on or about 3 June 1997, on or about 3 October 1997, on or about 6 October 1997, on or about 7 October 1997, on or about 13 October 1997, on or about 20 October 1997, and on or about 22 October 1997
- On or about 28 May 1997, his room was not in accordance with the company Standard Operating Procedure (SOP)
- On or about 2 June 1997, he was derelict in his performance of duties
- On or about 13 August 1997, he was counseled for lack of effort and discipline in the classroom
- On or about 18 August 1997, he violated the company SOP having in his possession items that glorified alcohol
- On or about 15 January 1997, he received a Field Grade Article 15 for disobeying a lawful order on or about 5 October 1997, and unlawfully pulling and pushing another Soldier on or about 5 October 1997
- On or between 21 December and 3 January 1998, he was absent without leave (AWOL)

c. On 5 February 1998, he was advised by consulting counsel of the basis for the contemplated action to separate him for misconduct UP of Chapter 14, AR 635-200 and its effects; of the rights available to him; and the effects of any action by him waiving his rights. Additionally, he requested an administrative board and elected to submit a statement in his own behalf where he rebuts his immediate commander's reasons for the proposed separation and requested to remain on active duty in the Army or an honorable discharge.

d. His chain of command recommended approval of his separation, recommended denial of his request for an administrative board, and recommended he be issued an under honorable conditions (General) characterization of service.

e. On 24 February 1998, the separation authority approved his separation, denied his request for an administrative board, and directed issuance of an under honorable conditions (General) characterization of service.

f. His DD Form 214 shows he was discharged on 19 March 1998 UP of AR 635-200, paragraph 14-12b for misconduct, in the grade of E-1. He received an under honorable conditions (General) characterization of service. He completed 1 year, 1 month, and 22 days of active service with time lost from 22 December 1997 to 2 January 1998. He was not awarded a military occupational specialty.

4. On 13 May 2025, in the processing of this case, the U.S. Army Criminal Investigation Division (CID), searched their criminal file indexes, which revealed no sexual assault records pertained to the applicant.

5. 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.

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 frequency and nature of the applicant's misconduct and the reason for separation. The applicant was separated for misconduct under the provisions of Army Regulation 635-200, chapter 14-12b. The Board noted the applicant did not provide any evidence of post-service accomplishments and determined there was no basis for an upgrade to his under honorable conditions (General) characterization of service under the DoD policy for clemency. The Board determined his discharge and the characterization of service the applicant received upon separation was appropriate.
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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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 //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 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set 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 Soldier'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 used for a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 14 established policy and prescribed procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, or absences without leave. Action would be taken to separate a member for misconduct when it was clearly established that rehabilitation was impracticable or was unlikely to succeed. A discharge under other than honorable conditions was normally considered appropriate. However, the separation authority could direct a general discharge if merited by the Soldier's overall record.

3. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including Post-Traumatic Stress Disorder; Traumatic Brain Injury; sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on those conditions or experiences.

4. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs 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.

//NOTHING FOLLOWS//