

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 June 2025

DOCKET NUMBER: AR20240010217

APPLICANT REQUESTS: upgrade of his under other than honorable conditions (UOTHC) discharge to honorable.

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 his discharge was unwarranted. He should have been dropped to a lower rank with restriction but not discharged. He was traumatized after his roommate peed on his face while he was sleeping. He fought with him. He later got into a fight with his brother ending in his death. He would not have been incarcerated for 30 days and put on 8 years' probation. He is legally blind and needs help.
3. A review of the applicant's service records show the following:
 - a. On 12 June 1981, he reenlisted in the Regular Army for 3 years in the rank of private first class, following an earlier period of active service in the Army National Guard, and completion of initial active duty for training.
 - b. A Military Police Report Number 82-MPCxxx-xxxxx, dated 13 January 1982, reflects he was the subject of an investigation for assault of another Soldier. On 14 January 1982, he gave a sworn statement, admitting to assaulting another Soldier.
 - c. On 2 February 1982, his commander suspended favorable personnel actions pending court-martial charges for assault.
 - d. On 7 February 1982, he was confined by civil authorities.

e. On 25 March 1982, he was released by civil authorities and returned to control of military authorities.

f. On 1 April 1982, court-martial charges were preferred against him. A DD Form 458 (Charge Sheet) shows he was charged with two specifications of assault of another Soldier and one specification of consuming alcoholic beverages in the barracks.

g. On 4 May 1982, he was advised of the basis for the contemplated trial by court-martial, the maximum permissible punishment, the possible effects of a UOTHC discharge, and the procedures and rights available to him. After receiving legal counsel, he voluntarily requested discharge, in lieu of trial by court-martial, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10. He did not submit a statement in his own behalf.

h. On 10 May 1982, his intermediate commander recommended approval of his discharge with an under honorable conditions (general) characterization of service.

i. On 25 May 1982, the brigade commander provided an addendum to his request for discharge for the good of the service. The memorandum shows he was involved in three additional incidents; possession of marijuana, absence without leave for 1 week, and civilian charges of voluntary manslaughter of his brother. The charge of marijuana possession and AWOL were added to his court-martial charges.

j. The separation approval authority memorandum is not available for review.

k. On 8 June 1982, he was discharged. His DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects he was discharged under provisions of Army Regulation 635-200, chapter 10 for conduct triable by court-martial, with an UOTHC characterization of service. He completed 2 years, 1 month, and 8 days of net active service this period with 3 months and 27 total prior active service. He had 46 days' time lost.

4. In reaching its determination, the Board can consider the applicant's petition and service record in accordance with the published equity, injustice, or clemency determination guidance.

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 not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the short term of honorable service completed prior to the misconduct leading to the applicant's separation, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

//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 635-200 (Personnel Separation – Enlisted Personnel), in effect at the time, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Chapter 3-7 provided:

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

(2) 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

b. Chapter 10 stated a member who has committed an offense or offenses, the punishment of which under the UCMJ and the Manual for Court Martial, 1969 (Revised Edition) includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The discharge request may be submitted after court-martial charges are preferred against the member, or, where required, after referral, until final actions by the court-martial convening authority.

c. An under other than honorable discharge certificate normally is appropriate for a member who is discharged for the good of the service. However, the separation authority may direct a General Discharge Certificate if such is merited by the member's overall record during the current enlistment.

//NOTHING FOLLOWS//