

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 April 2025

DOCKET NUMBER: AR20240010673

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

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Veterans Affairs (VA) letter stating he was entitled to health care benefits for any disability determined to be service connected
- VA decision letter, 5 June 2024, showing he was service connected for treatment purposes for bilateral hearing loss and tinnitus
- Support letter (J.H.) stating the applicant has always displayed exceptional integrity, reliability and a strong work and family ethic; he is of strong moral character (the complete letter is available for the Board's review in supporting documents)
- Support letter (M.A.T.) the nephew of the applicant stating his time as a kid, him being pushed into the military ultimately leading to him being a deserter (the complete letter is available for the Board's review in supporting documents)

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 AR20190013646 on 15 July 2021.

2. The applicant states when he went into service his parents made him. It was not his choice. He was young indecisive and immature. He was raised in a boys home and had no discipline nor did he like authority. He had no one to turn to and was mistreated in the boys home. He does not read or understand/comprehend well.

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

a. He enlisted in the Regular Army on 30 June 1972.

b. On 26 January 1973, at Fort Sill, OK, the applicant was found guilty by a special court-martial (SPCM) of being absent without leave from on or about 21 November 1972 until on or about 4 January 1973. He was sentenced to be confined at hard labor for two months and forfeiture of \$200 pay per month for two months.

c. On 30 January 1973, the convening authority approved the sentence and ordered it duly executed, but the execution of the portion thereof adjudging confinement was suspended for six months.

d. The applicant's record is void of the complete facts and circumstances that led to his separation. However, his service record contains a DD Form 214 (Report of Transfer or Discharge) that shows he was discharged on 30 August 1973, for the good of the service in lieu of trial by court martial with a characterization of service of under conditions other than honorable under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 10. It also shows he completed 9 months and 28 days net service this period.

4. On 2 September 1986, the Army Discharge Review Board after careful consideration of his military records and all other available evidence, determined that he was properly and equitably discharged. Accordingly, his request for a change in the type and nature of his discharge was denied.

5. In his previous request (AR20190013646) on 15 July 2021, after reviewing the application and all supporting documents, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. The application submitted was denied by the ABCMR.

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:

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. One potential outcome discussed was to upgrade to GD based upon the statement of the applicant and the record showing his AWOL offense ended as a result of the applicant turning himself in. However, based upon the short term of honorable service completed prior to a pattern of 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

:XXX	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	: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. Army Regulation (AR) 635-200 (Personnel Separations-Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

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.

2. 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//