

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 April 2025

DOCKET NUMBER: AR20240010951

APPLICANT REQUESTS:

- an upgrade of service characterization to honorable
- a personal appearance hearing before the Board

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Letter of Support

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 separated because he could not pass the Army Physical Fitness Test (APFT). He was injured on active duty so he should be eligible for Department of Veterans Affairs (VA) medical benefits; however, he can only receive VA benefits if this Board grants him relief.
3. The applicant provides a letter of support from a retired Navy boatswain's mate and current pastor stating the applicant is a man of great moral character who serves as a very honorable man of God. He asks the Board to grant the applicant an honorable discharge so he can receive VA benefits for himself and his children.
4. A review of the applicant's service record shows:
 - a. His Standard Form 88 (Report of Medical Examination), 10 July 1997, shows he underwent a physical examination for the purpose of enlistment in the Army. Block 77 (Examinee) was marked "is qualified for enlistment."
 - b. He enlisted in the Regular Army on 11 September 1997.

c. On 6 March 1998, his company commander notified him in writing of his intent to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 11, for entry-level performance and conduct. The commander's reason for his proposed action was the applicant's inability to adapt to the military environment and inability to pass the APFT. He acknowledged receipt the same day.

d. On 9 March 1998 after consultation with legal counsel, he:

- acknowledged the basis for his contemplated separation
- acknowledged the rights available to him and the effect of waiving said rights
- elected not to submit a statement in his own behalf

e. On 24 March 1998, his company commander initiated separation action against him for entry-level performance and conduct and recommended uncharacterization of his service.

f. On the same day, the separation authority approved the recommendation for the applicant's immediate separation under the provisions of Army Regulation 635-200, chapter 11, for entry-level performance and conduct and uncharacterized service.

g. On 3 April 1998, he was discharged from active duty. His DD Form 214 shows he completed 6 months and 23 days of net active service with no lost time. He did not complete initial entry training and he was not awarded a military occupational specialty. His service was uncharacterized.

5. His military records contain no evidence of an injury sustained during initial entry training.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 and executed a comprehensive review based on law, policy and regulation. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The applicant did not complete training and was released from active duty for entry-level performance and conduct. In addition, the Board found insufficient evidence to show he had served on active duty for the appropriate amount of time for an honorable discharge. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

3. 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:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

: : : GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

■ ■ ■ 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.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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 was 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 member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. A separation will be described as an entry-level separation with service uncharacterized if processing is initiated while a Soldier is in entry-level status.

d. Chapter 11 provided guidance for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. When separation of a member in entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, the member normally will be separated per this chapter. Service will be described as uncharacterized under the provisions of this chapter. This separation policy applies to Soldiers who enlisted in the Regular Army, Army National Guard, or U.S. Army Reserve who are in entry-level status and, before the date of initiation of separation action, have completed no more than 180 days of creditable continuous active duty or initial active duty for training by the date of separation and have demonstrated they are not qualified for retention for one or more of the following reasons:

- cannot or will not adapt socially or emotionally to military life
- cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation or self-discipline
- have demonstrated character and behavior characteristics not compatible with satisfactory continued service

- failed to respond to counseling

3. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised post-traumatic stress disorder (PTSD) criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

4. 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 DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; traumatic brain injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

5. 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.

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 on the basis of 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//