

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 July 2025

DOCKET NUMBER: AR20240010970

APPLICANT REQUESTS: an upgrade of his under other than honorable conditions discharge.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Self-Authored Statement
- Spouse Statement
- Marriage License
- Family Photo
- Reference Letters (2)
- Military Certificates (15)
- Military Education (7)
- DA Form 256A (Honorable Discharge Certificate), 26 April 1978
- DA Form 256A (Honorable Discharge Certificate), 26 February 1981
- CID Form 44 (Interview Worksheet) (3)
- Department of Veterans Affairs (VA) Claim Form 21-4138, 21 September 2012
- Arkansas Criminal History Report, 17 July 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 he is requesting a change in his characterization of service from an under other than honorable conditions discharge to honorable.
 - a. He contends his discharge was improper, he did not have counsel, and he was not informed of his options at the time. He believes he is entitled to due process rights under the Fifth Amendment. He felt he was coerced into signing documents under

duress and the legal protections to safeguard military personnel from coercion were not in place.

b. He believes his service time prior to the incident should have been considered in addition to his advanced promotion from corporal to sergeant, a testament to his hard work and leadership abilities. Six letters of commendations along with several awards and various education programs received while on active duty were not considered. The circumstances leading to his discharge involved immense pressure and duress, severely limiting his options. The correction is crucial for his personal reputation and for the benefits and opportunities deserved based on service. An upgrade would accurately reflect the quality and integrity of his military career. He has taken accountability for the choices and recognizes the use of marijuana did not provide the solace he was looking for and he regrets his actions. For the past 41 years, he committed to learning from his mistake and made better choices.

3. The applicant provides:

a. The applicant's spouse is asking the Board to consider his exemplary record prior to the tragic loss of his barracks mate due to alcoholic poisoning. She contends this event had a profound effect on him which eventually led to him using marijuana. She also claims the discharge had a significant impact on the family. The stigma associated with it made it difficult for her husband to receive his benefits. While he was able to obtain employment, now that his health is failing, he is unable to use benefits because of the discharge received. Further, their children were unable to utilize financial assistance for their training and educational benefits. She feels the upgrade will reflect the dedication, service and integrity he had demonstrated throughout his life.

b. A family photo is provided showing his spouse, children and grandchildren.

c. Two reference letters were provided, however, both individuals are deceased. One individual stated he had known the applicant for 40 years and supervised him for 8 years. He delivered exceptional performance in his daily trucking route tasks and exceeded expectations. The second individual knew him for 25 years as his pastor. He indicated the applicant had been an active member of their church, participating in leadership programs and attending services weekly. He felt the applicant was an excellent role model for those seeking a more active and rewarding relationship with God.

d. He provided 14 letters and certificates of accolades between 30 August 1979 and 1 July 1983.

e. Two documents that reflect his promotions to Corporal and Sergeant.

f. Two Honorable Discharge Certificates, dated 26 April 1978 and 26 February 1981.

g. Three CID Forms 44 (Interview Worksheets) pertaining to the offense for which he was charged.

h. A VA Form 21-4138 (Statement of Claim), wherein the applicant provides a statement outlining the reasons for the discharge shown on his DD Form 214.

i. A recent police records check from the Arkansas State Police, to show he did not have a criminal record.

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

a. He enlisted in the Regular Army on 25 August 1975.

b. His DA Form 2-1 (Personnel Qualification Record) shows the applicant served in Korea and Germany

c. On 4 March 1983, a DD Form 458 (Charge Sheet) shows court-martial charges were preferred on the applicant for seven specifications of wrongfully possessing and distributing 1.5 grams, more or less of marijuana in the hashish form, a schedule I controlled substance on or about:

- 12 May 1983
- 21 May 1983
- 23 May 1983
- 01 September 1983

d. After consulting with legal counsel, the applicant requested a discharge for the good of the service under the provisions of chapter 10, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel). He acknowledged:

- maximum punishment
- he was guilty of the charges against him or of a lesser included offense
- he does not desire further rehabilitation or further military service
- if his request for discharge was accepted, he may be discharged under other than honorable conditions and furnished an Under Other Than Honorable Conditions Discharge Certificate
- he would be deprived of many or all Army benefits, he may be ineligible for many or all benefits administered by the Veterans Administration

- he may be deprived of his rights and benefits as a veteran under both Federal and State law
- he may apply to the Army Discharge Review Board or the ABCMR for a review of discharge
- he may expect to encounter substantial prejudice in civilian life
- he elected to submit a statement on his behalf

e. On 26 October 1983, consistent with the chain of command recommendations, the separation approval authority approved the applicant's request for discharge for the good of the service. He would be issued an under other than honorable conditions discharge and reduced to the lowest enlisted pay grade.

f. On 15 November 1983, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 shows he completed 8 years, 2 months and 22 days of active service with no lost time. It also shows he was awarded or authorized:

- Good Conduct Medal (2nd Award)
- Army Commendation Medal (1st Oak Leaf Cluster)
- Noncommissioned Officer Professional Development Ribbon w/Numeral 2
- Army Service Ribbon
- Overseas Service Ribbon
- Marksman Marksmanship Qualification Badge with M-16 Rifle Bar

5. On 14 July 1986, the applicant was notified the Army Discharge Review Board (ADRB) reviewed his discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

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

BOARD DISCUSSION:

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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. The evidence of record shows that court-martial charges were preferred against the applicant for seven specifications of wrongfully possessing and distributing approximately 1.5 grams of marijuana in hashish form, a Schedule I controlled substance, on multiple occasions. These offenses were punishable under the Uniform Code of Military Justice and carried the possibility of a punitive discharge. After being charged, the applicant consulted with counsel and voluntarily requested separation in lieu of trial by court-martial.

Upon review, the Board found no error or injustice in the applicant's separation proceedings or the resulting characterization of service. However, the Board noted that the applicant completed a fully honorable period of service from 27 April 1978 through 26 February 1981 and determined that this period should be properly annotated on the DD Form 214 ending 15 November 1983. Accordingly, the Board granted partial relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined that the evidence presented was sufficient to warrant a recommendation for 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, ending on 15 November 1983 to show "Continuous Honorable Active Service From" 19780427 through 19810226.

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to upgrading the applicant's character of service.

//SIGNED//

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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, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) states 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.

b. Paragraph 3-7b (General Discharge) states 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. Chapter 10 of this regulation states an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

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//