

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 September 2025

DOCKET NUMBER: AR20240011030

APPLICANT REQUESTS:

- upgrade of his under other than honorable conditions discharge to under honorable conditions (general)
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- third-party character reference letter

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:

a. His discharge took place over 27 years ago. He believes he has truly paid his debt for his actions and has reestablished himself as a productive member of society and his community. He would love to close this chapter and be able to move on with his life and provide for his kids in the best way he can.

b. He comes before the Board asking for consideration in getting his discharge changed from an under other than honorable conditions to a general discharge. He has been out of the service since 1996 and not a day goes by that he is not haunted and reminded of the mistakes he made as a young man. He believes that he has paid his debt to society for his wrongs and would truly like to put this chapter behind him and move on with his life so he can provide for his children and give them every chance at a good life.

c. It has been almost 30 years, and he just want to be able to provide for those that need him most. He has become a very productive member of society and has worked as the general manager of Mercedes Benz for 14 years and now have gone on to own his own solar company. Being able to get this blemish changed will greatly increase his ability to provide for his children and to open as many doors as possible that can be made available to them. He asks that the Board please consider his request and allow a father the ability to better provide for his children.

3. Following service in the Army National Guard, the applicant enlisted in the Regular Army on 15 February 1994. He arrived in Korea on 14 October 1995.

4. A DA Form 31 (Request and Authorization for Leave) shows the applicant departed on ordinary leave on 4 September 1996. The form also shows his returned date from leave was 3 October 1996.

5. A DA Form 4187 (Personnel Action), dated 7 October 1996, shows the applicant did not return from ordinary leave on his schedule return date and was declared absent without leave (AWOL). A second DA Form 4187 shows he returned to military control on 16 October 1996 and placed in confinement.

6. On 18 October 1996, court-martial charges were preferred against the applicant for, on or about 3 October 1996, without authority and with intent to remain away thereafter permanently, absent himself from his unit and did remain so absent in desertion until he was apprehended on or about 13 October 1996.

7. On 13 November 1996, after consulting with legal counsel, the applicant voluntarily requested discharge under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 10, for the good of the service in lieu of trial by court-martial, due to the charges preferred against him under the Uniform Code of Military Justice which authorized the imposition of a bad conduct or dishonorable discharge.

8. In his request, he acknowledged he was guilty of the charges against him which authorized the imposition of a bad conduct or dishonorable discharge. He further acknowledged that:

- he had not been subjected to any coercion whatsoever by any person with respect to his request for discharge
- he was advised of the facts which must be established by competent evidence beyond reasonable doubt to sustain a finding of guilty
- the possible defenses which appear to be available at the time; and the maximum permissible punishment if found guilty

- he could be discharged under other than honorable conditions and he could be ineligible for many, or all benefits administered by the Veterans Administration
- he could be deprived of many, or all Army benefits and he could be ineligible for many or all benefits as a veteran under both Federal and State laws
- he could expect to encounter substantial prejudice in civilian life by reason of discharge under other than honorable conditions

9. On 27 November 1996, the separation authority approved the applicant's request for discharge and directed issuance of an Under Other Than Honorable Discharge Certificate.

10. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged on 24 December 1996 under the provisions of Army Regulation 635-200, chapter 10, in lieu of trial by court-martial, with his service characterized as under other than honorable conditions.

11. The applicant provided a third-party character reference letter attesting to the applicant's positive character and outstanding work ethics and contributions. The complete letter was provided to the Board for their review and consideration.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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 charged with being absent without leave from on or about 3 October 1996 to on or about 13 October 1996, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consult-ed with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board was convinced by the compelling evidence submitted by the applicant of his sustained honorable conduct and personal growth since discharge. Therefore, the Board determined an upgrade to Under Honorable Conditions (General) was warranted.

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:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant 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, for the period ending 24 December 1996 to show an Under Honorable Conditions (General) characterization of service.

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 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 provides that a member who has committed an offense 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. Commanders would ensure that an individual was not coerced into submitting a request for discharge for the good of the service. Consulting counsel would advise the member concerning the elements of the offense or offenses, the type of discharge normally given under the provisions of this chapter, the loss of Department of Veterans Affairs benefits, and the possibility of prejudice in civilian life because of the characterization of such a discharge. Although a general discharge is authorized, an under other than honorable conditions discharge is normally considered appropriate.

b. Paragraph 3-7a provides that an honorable discharge is 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.

c. Paragraph 3-7b provides that 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.

3. Army Regulation 15-185 (ABCMR) provides Department of the Army policy, criteria, and administrative instructions regarding an applicant's request for the correction of a military record. Paragraph 2-11 states applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//