

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 June 2025

DOCKET NUMBER: AR20240011416

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)
- Honorable Discharge Certificate, dated 14 December 1987
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 15 January 1988

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 submitted his paperwork for early release from his Active Guard Reserve (AGR) tour. He received an honorable discharge certificate on 14 December 1987.
3. A review of the applicant's available service record reflects the following:
 - a. He honorably served in the U.S. Marine Corps from 23 November 1970 to 22 November 1974. His DD Form 214 confirms he completed 4 years of net active service this period.
 - b. He enlisted in the Regular Army, on 23 February 1982. He was separated on 14 December 1984 and transferred to the U.S. Army Reserve (USAR) Control Group. His DD Form 214 confirms he completed 2 years, 9 months, and 22 days of net active service this period.
 - c. He enlisted in the USAR on 15 December 1984.

d. He was ordered to active duty in an AGR status, with a 17 August 1986 report date.

e. A DA Form 4187 (Personnel Action) shows he requested curtailment of his AGR tour due to a change in his career as a civilian, on 2 April 1987. The available record is void of a document approving the request for curtailment of his AGR tour.

f. He was reported as absent without leave (AWOL) on 1 August 1987 and remained absent until he surrendered to military authorities on 17 November 1987.

g. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing. However, by memorandum on 18 November 1987, the applicant knowingly, willingly, and voluntarily declared that he was AWOL. He made this admission for administrative purposes only so he could process out of the Army and realized in doing so, he may be given an UOTHC discharge. He further declared that his military defense counsel had explained to him to his complete understanding and satisfaction, all the legal and social ramifications of that type of discharge and what it would mean to him in the future.

h. The applicant was discharged on 15 January 1988. His DD Form 214 confirms he was discharged under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10, for the good of the service – in lieu of trial by court-martial. He was discharged in the lowest enlisted grade and his service characterized as UOTHC. He completed 1 years and 28 days of net active service this period with 108 days of lost time. He had 6 years, 9 months, and 22 days of prior active service.

i. Additionally, his DD Form 214 shows he was awarded or authorized the Army Service Ribbon, Rifle M-16 Expert Badge, National Defense Service Medal, Overseas Service Ribbon, Good Conduct Medal, Army Achievement Medal, Army Commendation Medal, Vietnam Service Medal, Hand Grenade Expert Qualification Badge, and Pistol Caliber .45 Expert Qualification Badge.

j. The applicant petitioned the Army Discharge Review Board for upgrade of his UOTHC discharge. On 2 November 1980, the Board voted to deny relief and determined his discharge was both proper and equitable.

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

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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 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 establishes that the applicant was AWOL beginning on 1 August 1987 and remained absent until he surrendered to military authorities on 17 November 1987. The complete facts and circumstances surrounding his discharge are not available for review; therefore, the Board must presume the actions of the Army were proper. By his own admission, the applicant acknowledged that he was AWOL.

2. He stated that this admission was made solely for administrative purposes to facilitate his separation from the Army, with the understanding that such admission could result in an under other than honorable conditions discharge. The applicant further affirmed that his military defense counsel had explained the consequences to his full understanding and satisfaction. The applicant's DD Form 214 reflects that he was discharged under the provisions of Army Regulation 635-200, Chapter 10, in lieu of trial by court-martial. The Board found no error or injustice with the applicant's character of service. Therefore, the Board denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

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 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:
 - a. 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.
 - b. 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.
 - c. Chapter 10 provided that a member who had committed an offense or offenses, for which the authorized punishment included a punitive discharge, could submit a request for discharge for the good of the service in lieu of trial by court-martial. The

request could be submitted at any time after charges had been preferred and must have included the individual's admission of guilt. Although an honorable or general discharge was authorized, a UOTHC discharge was normally considered appropriate.

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/NR) 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.

//NOTHING FOLLOWS//