

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 July 2025

DOCKET NUMBER: AR20240011636

APPLICANT REQUESTS: Upgrade of his under other than honorable conditions discharge and amendment of his National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) to list "Secretarial Authority" as the narrative reason for separation

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

- DD Form 149 (Application for Correction of Military Record)
- Exhibit A – Character Statements and Personal Statement
- Exhibit B – Résumé
- Exhibit C – Federal Bureau of Investigation (FBI) Background Check
- Exhibit D – Local Background Check
- Exhibit E – National Guard Military Record, 55 pages

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. During the applicant's era of service, the National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) did not state a narrative reason for separation; as such, that portion of the applicant's request will not be further addressed in this Record of Proceedings.
3. The applicant states:
 - In September 1978, he enlisted into the Illinois Army National Guard (ILARNG); he was 17 years old at the time and, as a young Soldier, he did not understand the specific details of the National Guard regulations that governed monthly drills and discharges

- In November 1980, his son was born; he was supposed to attend drill that weekend, and when he told his commander that his wife was having a baby, the commander asked him why he was still there
- When the applicant returned, he was surprised that everyone congratulated him, and that there were no consequences for having been absent; after that, it became easier to ask for time off because of work or family time
- After missing some weekends, a very young warrant officer approached the applicant and told him he understood the problems the applicant was having in attending meetings; he said he could help the applicant get a discharge "without any negative records," so the applicant agreed
- "I was later told that I did not have to come to drill anymore...With this information, I decided to focus on working...";
- "Recently, when I reached out to the VA (Department of Veterans Affairs) to see what benefits I had, I learned that I was discharged with an 'Under Other Than Honorable Conditions' (character of service)...I never received discharge papers, and this was a surprise to me..."
- Since leaving the service, the applicant has worked in the heating, ventilation, and air conditioning (HVAC) business, and, in 1994, he opened his own HVAC business; he has no criminal record, and he has been a continuous supporter of his local community

4. Counsel states:

- Citing the 25 July 2018 memorandum, issued by the Under Secretary of Defense for Personnel and Readiness (referred to as the "Wilkie Memo"), counsel argues the memorandum offers rules for reviewing discharge upgrade applications, and it authorizes the Board to grant relief for errors and injustices
- The memorandum lists a number of factors the Board should consider:
 - Relief should not be reserved only for those with exceptional aptitude; rather character and rehabilitation should weight more heavily than achievement alone
 - An honorable discharge characterization does not require flawless military service
 - Evidence in support of relief may come from sources other than a Veterans' service record
 - A Veteran or Service member's sworn testimony alone, oral or written, may establish the existence of a fact supportive of relief
 - Changes in policy, whereby a Service member under the same circumstances today would reasonably be expected to receive a more favorable outcome than the applicant received, may be grounds for relief
 - Relief is generally more appropriate for nonviolent offenses than for violent offenses

- The "Wilkie Memo" goes on to identify factors that counsel contends apply to the applicant's case:
 - The aggravating and mitigating facts related to the record or punishment for which the Veteran or Service member wants relief
 - Severity of misconduct
 - Length of time since misconduct
 - Acceptance of responsibility, remorse, or atonement for misconduct
 - Character and reputation of applicant
 - Meritorious service in government or other endeavors
 - Evidence of rehabilitation
 - Job History
 - Whether misconduct may have been youthful indiscretion
 - Character references
 - Letters of recommendation
- Counsel provides a definition of error and points out the following:
 - The applicant consistently attended unit drills until the birth of his son; at the birth of his son, the applicant's superiors advised him to prioritize his family over attending drills
 - After receiving this guidance, the applicant missed several drills and this was when the warrant officer approached him about a possible discharge without "any negative consequences"
 - Based on the conversation with the warrant officer, the applicant believed he would be separated for hardship or parenthood, both of which normally resulted in an honorable or general discharge under honorable conditions
 - "In summary, the applicant's discharge under 'Other Than Honorable Conditions' for unsatisfactory participation – willful and continuous absence, was a clear error resulting from a misunderstanding and miscommunication between him and his command"
 - The applicant maintained a spotless record before the birth of his son; he reasonably relied on what the warrant officer said; and he never received critical notifications pertaining to any separation proceedings, as evidenced by the "return to sender" stamps on documents in the service record
- Counsel also offers a definition of injustice and contends the following:
 - The applicant faced significant challenges as a young father, and he thought he would be discharged with no negative consequences; "Unbeknownst to the applicant, however, he was discharged with...(an) 'Under Other Than Honorable Conditions'" character of service

- The command should have considered the positive aspects of the applicant's service record and granted him at least a general discharge under honorable conditions
- Counsel maintains his argument is further supported by the "Wilkie Memo," wherein it states character and rehabilitation should weigh more heavily than achievement alone, and a flawless service record is not required for an honorable character of service
- Since his discharge, the applicant has demonstrated his character and his commitment to his community; he has successfully managed a business, mentored others, and engaged in various charitable activities
- The characterization of "Under Other Than Honorable Conditions" was a clear injustice that requires correction

5. The applicant provides an extract from his service record and the following:

- Character Statements, wherein a retired U.S. Army Reserve lieutenant colonel, a former employee, and a family friend all attest to the applicant's excellent character, business acumen, and outstanding contributions to his community
- FBI and local background checks that revealed the applicant has no criminal history

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

- On 13 September 1978, the applicant enlisted into the ILARNG for 6 years; he was 17 years old
- He entered initial active duty for training, on 17 November 1978, and after the award of military occupational specialty 76Y (Unit Supply Specialist), orders honorably released the applicant and returned him to the ILARNG
- Effective 2 September 1980, the applicant's leadership promoted him to specialist four (SP4)/E-4
- On 14 October 1980, the applicant signed an MNIL Form 135-178C (ARNG Participation Requirements Certificate); on the form, he acknowledged being counseled as to his Reserve obligations and responsibilities; specifically:
 - If not excused from scheduled training periods by proper authority, he could be considered as absent without leave (AWOL) and charged with an unexcused absence
 - If the unit charged him with 9 unexcused absences, he could be separated for misconduct and reduced in grade
 - He was responsible for reporting any changes in address
 - He was required to immediately contact his unit commander should any condition arise that would preclude him from attending a scheduled training period

- If there was a change in his personal status that would affect his ability to participate regularly with his unit, he was required to continue attending scheduled training until excused or otherwise relieved of his unit assignment by proper authority
- He was required to attend scheduled training in the proper uniform and reply promptly to all military correspondence received
- On 17 December 1980, the applicant's company commander initiated separation action against him, under the provisions of chapter 7 (Misconduct), Army Regulation (AR) 135-178 (ARNG and Army Reserve – Separation of Enlisted Personnel); the specific reason was "willful and continuous absence"
- On or about 17 January 1981, the applicant wrote his commander a letter, in which he requested permission to return to active status in his unit; he additionally stated the following:
 - "I recognize I have been remiss in my duties and responsibilities and acknowledge that I should have followed my company's chain of command when I missed drill days"
 - "I promise that I will try to be a good, loyal, and dependable guard'sman to your command if you see fit to allow me to rejoin my company"
- On 4 February 1981, the applicant's company commander wrote an indorsement to the applicant's pending separation action, stating "Subject individual returned to drill status after appealing his Sep action with company commander...Returned to duty 17Jan81"
- On 16 November 1981, and again, on 8 December 1981, the applicant's company commander sent Letters of Instruction – Unexcused Absence notifications, advising the applicant he was accumulating unexcused absences; both notices were returned to the unit because of the applicant had moved
- On 1 March 1982, the company commander sent a Letter of Instruction – Unexcused Absence notification showing the applicant had accrued unexcused absences; on 12 March 1982, the return receipt certificate was signed by Ms. "M__ C__"
- On 13 March 1982, the applicant signed an acknowledgement that, due to his failure to attend drills and obey orders, the unit commander intended to reduce him from SP4 to private first class (PFC)/E-3
- On or about 14 March 1982, the company commander sent the applicant a Letter of Instruction – Unexcused Absence notification, showing missing drills, conducted on 14 March 1982; on 2 April 1982, the applicant signed the return receipt
- Effective 9 April 1982, Orders announced the applicant's demotion from SP4 to PFC

- On 17 June 1982, the company commander sent a Letter of Instruction – Unexcused Absence notification the applicant, based on missing drills held in June 1982; on 22 June 1982, Ms. "M___ C___" signed the return receipt
- On 4 August 1982, the company commander sent the applicant a Letter of Instruction – Unexcused Absence notification, indicating he had missed drills conducted in July 1982; (on 9 August 1982, the applicant signed the return receipt)
- On 4 August 1982, the applicant's company commander advised the applicant, via memorandum, that he had initiated separation action against him, under the provisions of chapter 7, AR 135-178
 - The specific reason was "willful and continuous absence"
 - The commander stated he was suspending the separation action for 45 days (i.e., until 17 September 1982) to allow the applicant time to consult with a Judge Advocate General officer, appear with counsel before an administrative separation board, and submit written statements in his own behalf
 - While this action was pending, the applicant was not required to attend training assemblies or annual training
 - If separated, the applicant could receive an under other than honorable conditions character of service; however, the final decision rested with the Adjutant General of Illinois
 - Failure to acknowledge the notification would not prohibit processing of the separation action
 - On 19 August 1982, the applicant signed the return receipt
- In or around August 1982, the applicant's company commander signed a statement affirming that the applicant had been AWOL from drills for no apparent cause and had made no attempt to contact the unit and offer an explanation or reason for his absence
- On 27 October 1982, ILARNG Orders announced the applicant's reduction in grade from PFC to private (PV2)/E-2, due to misconduct; the orders additionally showed, effective that same date, the ILARNG discharged the applicant under other than honorable conditions and transferred him to the U.S. Army Reserve
- On 27 October 1982, the ILARNG issued the applicant an NGB Form 22, which showed his under other than honorable conditions character of service; the report additionally reflected the following:
 - Item 8b (Authority and Reason) – Applicant's Separation Orders
 - Item 9 (Reenlistment Eligibility) – "NA" (not applicable)
 - Item 11(a) (Net Service This Period) – 4 years, 1 month, and 15 days of ILARNG service

- Effective 5 November 1984, U.S. Army Reserve Personnel Center Orders discharged the applicant from the Ready Reserve with an under other than honorable conditions character of service

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. Based upon the lengthy pattern of misconduct leading to the applicant's separation and insufficient mitigating and/or clemency evidence for such misconduct, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service and/or narrative reason for separation.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

//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 (AR) 135-91 (Army National Guard (ARNG) and Army Reserve (USAR) – Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures), in effect at the time, stated the following:

a. Paragraph 3-9 (General Participation Requirements). Participation and/or service in the Ready Reserve was contingent upon the terms of the contract under which an enlisted member became a member of the Armed Forces. ARNG enlisted members were also members of the Reserve of the Army. Those ARNG members who were discharged from the ARNG but not the Reserve of the Army before completing their military service obligation were to be transferred to the U.S. Army Reserve for the remainder of their service obligation.

b. Paragraph 4-1 (Guidance). Chapter 4 (Absences) provided guidance governing absences from Ready Reserve training for enlisted and officer personnel of the ARNG and USAR.

c. Paragraph 4-5 (Conditions of Excused Absence). Absence from scheduled drills, training periods, or annual training could be excused when sickness, injury, or some other circumstance beyond the Soldier's control caused the absence. At the discretion of the appropriate commander, equivalent training could be scheduled to make up the excused absence.

d. Paragraph 4-6 (Documentary Evidence). Soldiers who the commander had excused from training could be required to provide documentation to support the absence, normally within 15 days of the absence. Absences caused by sickness or injury required certification from a physician or medical officer.

e. Paragraph 4-9 (Conditions of Unexcused Absence).

(1) Enlisted Soldiers who were obligated by statute or contract were charged with unsatisfactory participation when, without proper authority, they:

- Accrued, in any 1-year period, a total of nine or more unexcused absences from scheduled drills
- Failed to attend or complete annual training

(2) Statutorily or contractually obligated enlisted Soldiers who were charged with unsatisfactory participation could be transferred to the Individual Ready Reserve (IRR) (i.e., U.S. Army Control Group (Annual Training) or U.S. Army Control Group (Reinforcement)).

f. Paragraph 4-11 (Unexcused Absence from Unit Training Assemblies).

(1) A member failed to participate satisfactorily when he/she accrued in any 1 year period a total of 9 or more unexcused absences from scheduled unit training assemblies.

(2) Unless an absence was authorized, a member who failed to attend a scheduled single unit training assembly (UTA) or multiple unit training assembly (MUTA) was charged with an unexcused absence. When absence involved a MUTA (or any portion of a MUTA), the charge was one unexcused absence for each four hour period not attended, but not to exceed 4 unexcused absences. If absent from a MUTA 5 or MUTA 6, the maximum number of unexcused absences charged was 4.

(3) For counting unexcused absences, the 1-year period began on the date of the training assembly from which the member was absent and ended 1 year later. Beginning dates were to be established from each succeeding unexcused absence. When longer than 1 year elapsed from the date of such absence, it no longer was counted and the new 1-year period was to begin on the date of the subsequent absence.

3. AR 135-178 (ARNG and Army Reserve – Separation of Enlisted Personnel), in effect at the time, prescribed policies, standards, and procedures for the administrative separation of Reserve Component Soldiers.

a. Paragraph 1-10 (Character of Discharge).

(1) A honorable discharge was a separation with honor. The issuance of an honorable discharge was conditioned upon proper military behavior and proficient and industrious performance of duty, giving due regard to the grade held and the capabilities of the member concerned.

(2) A general discharge under honorable conditions was granted to enlisted members whose military record was not sufficiently meritorious to warrant an honorable discharge.

b. Paragraph 1-27 (Character of Service). Normally, members transferred to the IRR due to separation for unsatisfactory participation received a tentative characterization of under other than honorable conditions.

c. Chapter 7 (Misconduct), section VII (Unsatisfactory Participation of Statutorily Obligated Members). This section prescribed policy and procedures for processing cases of statutorily obligated enlisted members who fail to participate satisfactorily in unit training as required by AR 135-91.

(1) Paragraph 7-45 (Separation). All members separated under this section who did not complete their statutory military service obligation were to be transferred to the IRR to complete that obligation.

(2) Paragraph 7-46 (Action by Unit Commander). When a member accrued 9 or more unexcused absences during a 12-month period, the unit commander was required to personally notify the member in writing of the proposed separation, his/her rights, and the proposed characterization of service.

(a) Commanders were to allow the member 45 days to reply, and reasonable efforts were to be made to furnish the notification to the member through personal contact. If such effort was unsuccessful, the unit was to send the separation notification via certified mail with a return receipt. The individual who mailed the notification had to prepare a sworn affidavit of service by mail.

(b) If the notice was properly and correctly mailed to the most recent address furnished by the member, it constituted constructive notice to the member and satisfied notification requirements for subsequent separation actions.

(3) Paragraph 7-51 (Provisions for upgrading Characterization of Service). A member who transferred to the IRR under this section with a tentative characterization of service of less than honorable were normally discharged at the expiration of his/her statutory service obligation with that same characterization. However, the member could earn a higher character of service by either rejoining the same or another ARNG unit and participating satisfactorily or volunteering for and serving satisfactorily on an active duty for training tour for at least 45 days.

4. 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//