

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 June 2025

DOCKET NUMBER: AR20240011694

APPLICANT REQUESTS: upgrade of his discharge under honorable conditions

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

- DD Form 149 (Application for Correction of Military Record)
- self-authored statement
- Standard Form 88 (Report of Medical Examination), 22 May 1982
- DD Form 4 (Enlistment/Reenlistment Document), 28 May 1982
- DD Form 214 (Certificate of Release or Discharge from Active Duty) covering the period ending 3 February 1983
- Headquarters, First U.S. Army Orders 140-17, 23 August 1983
- partial Standard Form 93 (Report of Medical History), 9 August 1983
- partial Standard Form 88, 9 Aug 1983
- DD Form 4, 10 August 1983/2 September 1983
- Standard Form 601 (Immunization Record) 7 September 1983
- Standard Form 603 (Dental Record), undated
- Standard Form 93, 15 April 1985
- partial Standard Form 88, undated
- multiple newspaper articles and photographs, February and April 1984
- Standard Form 46 (U.S. Government Motor Vehicle Operator's Identification Card) 18 April 1984
- DA Form 3749 (Equipment Receipt), undated
- U.S. Army Regional Personnel Center Schweinfurt Orders 116-3, 15 May 1985
- DA Form 3686-1 (Jumps Army Leave and Earnings Statement), 31 May 1985
- U.S. Army Transfer Point Memorandum, 21 June 1985
- DA Form 2-1 (Personnel Qualification Record – Part II)
- DD Form 214 covering the period ending 21 June 1985
- National Personnel Records Center (NPRC) letter, 15 May 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:

a. His service record looks incomplete along with his narrative reason for separation of misconduct – drug abuse, which is misleading. The only thing he is requesting is for his discharge to be changed from under honorable conditions to honorable.

b. When he was discharged he was ashamed and embarrassed. He did not know any better. He was 20 years old and joined on 28 May 1982, when he turned 17 years old. He did Basic Combat Training (BCT) and Advanced Individual Training (AIT) at Fort Leonard Wood, MO. After that he went to 926th Engineer Battalion in Alabama.

c. After over 1 year in the U.S. Army Reserve (USAR), he went active Army on 8 August 1983 and was sent back to his second week of BCT at Fort Benning, GA, with a new AIT and Military Occupational Specialty (MOS) 11B (Infantryman). He was then stationed at the 2nd Battalion, 30th Infantry Regiment in Schweinfurt, Germany through 6 June 1985, which was 3 years.

d. Not reflected on his DD Forms 214 is that he never fell out of a run or a march. He qualified as the best 203 Gunner in the battalion in Grafenwoehr. He won the battalion push-up contest, doing 120 in 2 minutes. He ran 2 miles in 12 minutes and also 11 minutes 45 seconds. He was on the Army Powerlifting Team. He's included articles. He was not just a soldier, but a good one.

e. One urinalysis found THC (pot) [marijuana] and he goes from E-4 to E-1 and then he's out. So, misconduct is sort of misleading and drug abuse sounds like he was some kind of addict or dealer. It was one urinalysis and his name was mud. He was not offered any counsel or treatment. In his youth, he didn't think there was anything to do but go home.

3. The applicant enlisted in the USAR on 28 May 1982 and completed initial active duty for training (IADT) on 3 February 1983, where he was awarded the MOS 62B (Construction Equipment Repairer). He was honorably discharged from the USAR effective 9 August 1983.

4. The applicant enlisted in the Regular Army on 2 September 1983, for a period of 3 years and was awarded the MOS 11B.

5. The applicant provided multiple newspaper articles and photographs, dating from February and April 1984, reflecting his participation and success in powerlifting competitions as a member of an Army military community powerlifting team.

6. A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)), shows the applicant accepted nonjudicial punishment (NJP) under Article 15 of the UCMJ on 15 April 1985, for using marijuana on or about 6 February 1985. Among his punishments was reduction in grade from E-3 to E-1.

7. On 18 April 1985, the applicant was notified by his immediate commander of his initiation of action to discharge him with a general discharge under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 14, after testing positive for the use of marijuana during a unit urinalysis sweep. He was advised of his right to request legal counsel and submit statements in his own behalf.

8. On 18 April 1985, the applicant acknowledged notification of action to separate him under the provisions of Army Regulation 635-200, chapter 14. On the same date, he indicated he requested consulting counsel, was advised by counsel on the basis for the contemplated action to separate hi for misconduct, and the rights available to him. He did not submit statements in his own behalf.

9. On 22 April 1985, the applicant's immediate commander further counseled him regarding his elimination under the provisions of Army Regulation 635-200, chapter 14, after testing positive for THC (marijuana) for which he was punished with NJP under the UCMJ. He was advised that rehabilitation was not warranted due to the serious nature surrounding the incident.

10. On 24 April 1985, the applicant's battalion commander recommended approval of the applicant's discharge under the provisions of Army Regulation 635-200, chapter 14, for the offense of using marijuana. Rehabilitation was not warranted due to his lack of potential based on the serious nature of the offense.

11. On 7 May 1985, the approval authority directed the applicant's general discharge under honorable conditions under the provisions of Army Regulation 635-200, chapter 14, due to misconduct.

12. The applicant's DD Form 214 shows he was given a general discharge under honorable conditions on 21 June 1985, under the provisions of Army Regulation 635-200, chapter 14, due to misconduct – drug abuse, with corresponding Separation Code JKK. He was credited with 1 year, 9 months, and 20 days of net active service this period.

BOARD DISCUSSION:

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. Upon review of the applicant's petition and available military records the Board noted the applicant's contentions that his record is incomplete and that the narrative reason of misconduct – drug abuse is misleading, emphasizing his youth, athletic achievements, and overall good performance as a soldier.

2. However, the evidence of record clearly shows he accepted nonjudicial punishment under Article 15 of the UCMJ for wrongful use of marijuana on or about 6 February 1985, resulting in reduction in grade. The Board determined there is insufficient evidence of in-service mitigating factors to overcome the misconduct of drug use. Furthermore, the applicant's commander determined rehabilitation was not warranted due to the serious nature of the offense, and the separation authority approved a general discharge under honorable conditions. In accordance with regulatory guidance, the characterization of service was commensurate with the applicant's misconduct and overall record. In the absence of error or injustice, the Board found no basis to upgrade his discharge to honorable. Therefore, relief is denied.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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:	:	:	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.
 - a. When a soldier is to be discharged under other than honorable conditions, the separation authority will direct an immediate reduction to the lowest enlisted grade.
 - b. Chapter 14 (Separation for Misconduct) establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, use of illegal drugs, and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally considered appropriate for a Soldier discharged under this chapter.
 - c. Chapter 3 (Character of Service and Description of Separation) provides:

(1) An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct.

(2) 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. 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 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//