

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 July 2025

DOCKET NUMBER: AR20240011713

APPLICANT REQUESTS: correction of his DD Form 214 (Report of Separation from Active Duty) to show:

- Block 1. (Last Name – First Name – Middle Name) Hathaway vice Hathway
- Block 6a. (Grade, Rate or Rank) Private 2 (PV2) vice Private 1 (PV1)
- Block 6b. (Pay Grade) PV2 vice PV1
- addition of the Expert Marksmanship Qualification Badge with Hand Grenade Bar
- an upgrade of his under other than honorable conditions discharge to general, under honorable conditions
- a change in the narrative reason for separation and respective separation code

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

- DD Form 149 (Application for Correction of Military Record)
- National Personnel Records Center Letter dated 15 November 2019
- DD Form 214
- DD Form 215 (Correction to DD Form 214)

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 after his discharge from the Army, he began working for the Forest Service at the age of 20. However, over the past 15 years, he has repeatedly been denied employment opportunities without understanding the reason. In April 2024, a Veterans' representative suggested a possible reason. The applicant explains that his discharge was characterized as "general, under honorable conditions," as indicated on his plaque. However, his DD Form 214 was altered without his request, his last name was changed, his service number was omitted, his reenlistment code was changed from RE-1 (eligible to reenlist) to RE-4 (ineligible), and the separation reason indicates he was separated under Chapter 10 with a separation designator code of JFS. These

discrepancies have caused confusion and may have affected his employment prospects.

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

a. He enlisted in the Regular Army on 24 September 1976.

b. His DA Form 2-1 (Personnel Qualification Record) shows his grade as PV1 and the date of rank of 21 September 1976 and 25 May 1977. It also shows in Block 9 (Awards, Decorations & Campaigns) he received the following in October 1976:

- Expert Marksmanship Qualification Badge with Rifle Bar (M-16)
- Expert Marksmanship Qualification Badge with Hand Grenade Bar

c. Two DA Forms 458 (Charge Sheet) show that court-martial charges were preferred on the applicant for being absent without leave (AWOL) on the following dates:

- 27 January 1977 – 6 January 1977 to 22 January 1977 (17 days)
- 13 May 1977 – 23 January 1977 to 30 April 1977 (98 days)

d. On 11 May 1977, the applicant consulted with legal counsel and requested a discharge for the good of the service under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10. He acknowledged:

- he was making the request of his own free will
- maximum punishment
- he was guilty of at least one or more 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 conditions other than honorable
- 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 must apply to the Army Discharge Review Board or the Army Board for the Correction of Military Records for a review of discharge, but there was no automatic upgrading
- he may expect to encounter substantial prejudice in civilian life

e. The applicant included a self-authored statement which noted he entered the service for the experience; however, family problems caused him to go AWOL. He

believed the Army was not what he expected, and he understood he would lose all benefits if discharged under other than honorable conditions.

f. On 18 May 1977, 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 Certificate and reduced to the lowest enlisted pay grade.

g. On 2 June 1977, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 shows he completed 4 months and 16 days of active service with 113 days of lost time. He was assigned separation code JFS and the narrative reason for separation listed as "Chapter 10, AR 635-200 SPD," with reentry code 4. It also shows he was awarded or authorized the Expert Marksmanship Qualification Badge with Rifle Bar.

h. On 22 November 2019, a DD Form 215 was issued correcting the applicant's last name to Hathaway vice Hathway. Block 3 (Social Security Number) of the applicant's DD Form 214 and DD Form 215 accurately list his social security number and did not include a block for the service number.

4. On 10 May 1991, the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

5. A review of the applicant's record confirms he is eligible for an award not recorded on his DD Form 214. The entry will be added to his DD Form 214 as an administrative correction and will not be considered by the Board.

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

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 partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the Board made the following findings and recommendations related to the requested relief:

- Change Last Name: DENY, based upon the applicant already being issued a DD Form 215 correcting the error.
- Change Rank/Pay Grade: DENY, based upon the regulatory guidance stating that when an enlisted service member is given an Under Other Than Honorable Conditions Discharge, he will be reduced to the lowest enlisted grade.
- Add the Expert Marksmanship Qualification Badge: GRANT, based upon the information on the applicant's DA Form 2-1 showing he qualified for the requested award.
- Upgrade Characterization of Service: DENY, based upon the short term of honorable service completed prior to a pattern of misconduct leading to the applicant's separation.
- Change Narrative Reason for Separation/Separation Code: DENY, based upon the lack of justification for such a change. The Board found the current narrative reason for separation accurately annotates the justification for the applicant's separation.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:XXX	:XXX	:XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by amending the applicant's DD Form 214 by awarding and adding the Expert Marksmanship Qualification Badge with Hand Grenade Bar.
2. The Board further determined 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 all other requested relief.

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 635-5 (Separation Documents), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. The information entered thereon reflects the conditions as they existed at the time of separation. The authority and reason for separation is based on regulatory or other authority and can be checked against the cross reference in AR 635-5-1 (Separation Program Designators (SPD)).
3. Army Regulation 635-5-1 (Separation Program Designators) provides separation program designator (SPD) codes are three-character alphabetic combinations that

identify reasons for, and types of, separation from active duty. The narrative reason for the separation will be entered on the DD Form 214 exactly as listed in the appendices.

4. 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.

5. Army Regulation 601-210 (Active and Reserve Components Enlistment Program), in effect at the time, governs eligibility criteria, policies and procedures for enlistment and processing of persons, with or without prior service, into the Regular Army and the U.S. Army Reserve. Reentry eligibility (RE) codes are used for administrative purposes only and are not to be considered derogatory in nature. They are codes used for identification of an enlistment processing procedure. Table 3-1 lists the following:

a. RE-1 applies to persons immediately eligible for reenlistment at time of separation.

b. RE-3 applies to persons who may be eligible with waiver-check reason for separation.

c. RE-4 applies to persons ineligible for enlistment.

6. 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//