

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 August 2025

DOCKET NUMBER: AR20240011731

APPLICANT REQUESTS: an upgrade of his general discharge under honorable conditions to honorable.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 his current service characterization is general under honorable conditions. He requests an honorable discharge.
 - a. He desires to wear his Army green service uniform for traditional ceremonies, Memorial Day, and Remembrance Day; to be laid to rest in his Army green service uniform with Infantry dress aiguillette, beret, and parachutist badge (airborne wings); and access to Army installations.
 - b. He is 60 years old and desires an honorable discharge.
3. A review of the applicant's service records shows:
 - a. He enlisted in the Regular Army on 2 February 1988 for a period of 4 years.

b. His DA Form 2-1 (Personnel Qualification Record – Part II) shows he served overseas in Germany from 12 June 1988 through 11 June 1990 and in Saudi Arabia from 14 January 1991 through 13 June 1991.

c. His DA Forms 4187 (Personnel Action) show he was reduced to the rank/grade of private/E-2 during Article 15 proceedings on 24 May 1989 and to the rank/grade of private/E-1 during Article 15 proceedings on 22 August 1989.

d. He received nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice, on:

- 8 February 1991 for violating a lawful order by wrongfully storing a privately owned weapon in his barracks room at Fort Bragg, NC, on or about 26 January 1991
- 20 February 1991 failing to go at the time prescribed to his appointed place of duty for without authority at Fort Bragg on or about 12 February 1991

e. His DA Form 3822 (Report of Mental Status Evaluation), undated, shows the examining physician determined he had the mental capacity to understand and participate in the proceedings, he was mentally responsible, and he met the retention requirements of Army Regulation 40-501 (Standards of Medical Fitness).

f. His company commander notified him of his intent to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 14, paragraph 14-12c, due to misconduct – commission of a serious offense for receiving field-grade nonjudicial punishments on 8 February 1991 and on 20 February 1991. He acknowledged receipt of the notification on 26 February 1991.

g. He was advised by consulting counsel of the basis for the contemplated action to separate him for misconduct – a commission of a serious offense under the provisions of of Army Regulation 635-200, and its effects; of the rights available to him; and the effects of any action by him waiving his rights.

h. His chain of command recommended approval of his separation and recommended issuance of a general discharge under honorable conditions.

i. His records are void of the separation authority approval; however, his DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under honorable conditions (general) on 22 March 1991. He completed 3 years, 1 month, and 21 days net active service during this period. He was awarded or authorized the:

- Army Service Ribbon

- Expert Marksmanship Qualification Badge with Rifle Bar (M-16)
- Sharpshooter Marksmanship Qualification Badge with Grenade Bar
- Overseas Service Ribbon
- Parachutist Badge
- Army Good Conduct Medal
- Unspecified Marksmanship Qualification Badge with Recoilless Rifle Bar (Tube-launched, Optically tracked, Wire-guided)

4. There is no evidence indicating the applicant applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

5. In reaching its determination, the Board may 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, 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 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 Board noted he received multiple nonjudicial punishments for failing to obey a lawful order and failing to go to his appointed place of duty. The Board found no error or injustice in the separation proceedings and the designated characterization of service assigned during separation. The Board noted the applicant provided no documentation to support his request, including post-service achievements or letters of reference to support clemency. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate.

BOARD VOTE:

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

misconduct, commission of a serious offense, conviction by civil authorities, desertion, or absences without leave. 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 was normally considered appropriate. However, the separation authority could direct a general discharge if such were merited by the Soldier's overall record.

d. Paragraph 14-12c stated a Soldier was subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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//