

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 June 2025

DOCKET NUMBER: AR20240011737

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

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)

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 while serving as a young man and just returning from his Somalia deployment, the Army wanted him to go to Bosnia which was under Turkish leadership with the United Nations at the time. He was under different leadership in Somalia and did not want that again and told his leadership he was not going to deploy. Since his discharge, he has matured and has realized how it has hindered him in many aspects of his life. He wants an upgrade in order to be able to advance his career opportunities.
3. He enlisted in the Regular Army on 1 September 1992 in the rank/grade of private two/E-2. He was promoted to specialist/E-4 effective 1 September 1994.
4. His records show he was assigned to the 32d Signal Battalion, Federal Republic of Germany on or about 25 October 1995.
5. Commander, Charlie Company, 32d Signal Battalion, APO AE memorandum (Request for Immediate Mental Evaluation), 17 November 1995 requested he receive a mental evaluation from the Heidelberg Mental Health Services. His commander noted he wanted to "quit the Army," was not obeying orders, plans not to come to work, and dissatisfaction with other aspects of the Army.

6. His commander in a Memorandum for Record (Request for a Complete Chapter Physical/Mental Evaluation), 5 December 1995 requested he be given a complete physical as he was being considered for administrative separation under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 13 for unsatisfactory performance and failure to adapt.

7. A DA Form 3822-R (Report of Mental Status Evaluation), 21 December 1995 shows he underwent a mental examination prior to commencement of elimination proceedings for unsatisfactory performance and failure to adapt. The medical professional determined the applicant's behavior was normal; he was fully alert with clear thinking process and normal thought content. The applicant had no mental illness, he was mentally responsible, and he was able to distinguish right from wrong. He had the mental capacity to understand and participate in board proceedings and met the retention standards prescribed in chapter 3, Army Regulation 40-501 (Standards of Medical Fitness).

8. On 1 March 1996, his immediate commander notified him of his intent to take elimination actions against him under the provisions of Army Regulation 635-200, chapter 13 for unsatisfactory performance with a recommendation to be furnished a general discharge. He acknowledged receipt of the notification, and noted he would submit statements in his behalf on the same date. (Note: His record is void of a statement)

9. He consulted with legal counsel on 17 March 1996, he was advised of the basis for the contemplated separation action, his right to present his case before a board of officers, to submit a statement in his own behalf, and to be represented by counsel. He elected to waive his rights, waived consideration of his case by a board of officers and elected not to submit matters in his own behalf. He also indicated he understood he might expect to encounter substantial prejudice in civilian life by reason of a general discharge under honorable conditions.

10. His chain of command recommended approval for discharge under the provisions of Army Regulation 635-200 for unsatisfactory performance with a general discharge. The separation authority approved the recommendation.

11. He was discharged accordingly on 9 April 1996, under the provisions of Army Regulation 635-200, chapter 13 by reason of unsatisfactory performance. His DD Form 214 (Certificate of Release or Discharge from Active Duty) show his service was characterized as under honorable conditions (general) and he completed 3 years, 7 months, and 9 days of total active service.

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. The evidence of record indicates that on 17 November 1995 the applicant's commander requested that he undergo a mental evaluation at Heidelberg Mental Health Services. The commander noted that the applicant expressed a desire to "quit the Army," was failing to obey orders, planned not to report for duty, and demonstrated dissatisfaction with other aspects of military service. The applicant's discharge was executed in accordance with the governing regulation. Upon review, the Board determined that no error or injustice occurred in the characterization of the applicant's service. Accordingly, the Board denied the requested 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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is what the Army did was correct. It is not an investigative agency. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
3. Army Regulation 635-200 sets forth the requirements and procedures for administrative discharge of enlisted personnel.
 - 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. Chapter 13 provides for separation due to unsatisfactory performance when in the commander's judgment the individual will not become a satisfactory Soldier; retention will

have an adverse impact on military discipline, good order and morale; the service member will be a disruptive influence in the future; the basis for separation will continue or recur; and/or the ability of the service member to perform effectively in the future, including potential for advancement or leadership, is unlikely. Service of Soldiers separated because of unsatisfactory performance under this regulation will be characterized as honorable or under honorable conditions.

4. 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.

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, 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//