

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 September 2025

DOCKET NUMBER: AR20240011741

APPLICANT REQUESTS: an upgrade of his character of service from under honorable conditions(General).

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

- Two DD Forms 149 (Application for Correction of Military Record), 6 September 2024 and 9 September 2024
- Self-authored statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 24 October 1985

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 early in his service he experimented with marijuana and failed a drug test. He remained drug free for over 3 months and performed well. However, during a weekend trip; he was in a vehicle with others who were smoking marijuana. He did not smoke marijuana but did report the incident to the duty sergeant. Despite him not smoking and reporting the incident, he was drug tested and received a positive result, which he disputed the results. He accepted the under honorable conditions (General) discharge and asserts his overall performance and integrity support an ungraded discharge.
3. A review of the applicant's service record shows the following:
 - a. He enlisted in the Regular Army on 22 September 1983, for a 3-year period.
 - b. He received nonjudicial punishment on:

- 19 December 1984, for on or about 18 December 1984, failing to obey a lawful order by leaving his wall locker unlocked during an absence from his room
- 21 August 1985, for on or about 2 August 1985, wrongfully using marijuana; he was reduced to private first class/E-3

c. On 11 September 1985, his commander notified him of the intent to separate him under the provisions (UP) of Army Regulation (AR) 635-200 (Personnel Separation – Enlisted Personnel), Chapter 14, due to misconduct. Further stating, the basis for the action was due to his repeated acts of misconduct as evidenced by his repeated use of marijuana as evidenced by his two positive uranalysis results.

d. He was advised by consulting counsel of the basis for the contemplated action to separate him for misconduct UP of Chapter 14, AR 635-200 and its effects; of the rights available to him; and the effects of any action by him waiving his rights. Additionally, he elected to not submit a statement in his own behalf.

e. His chain of command recommended approval of the separation UP of AR 635-200, Chapter 14.

f. On 3 October 1985, the separation authority approved separation UP of AR 635-200, Chapter 14, for misconduct. Further, directing issuance of a General Discharge Certificate (DA Form 257A).

g. Accordingly, he was discharged under honorable conditions (General) on 24 October 1985. His DD Form 214 shows he served 2 years, 1 month, and 3 days of net active service.

4. On 11 June 1987, the Army Discharge Review Board after careful consideration of his military records and all other available evidence, had determined that he was properly and equitably discharged. His request for a change in the character and/or reason of his discharge was denied.

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 the applicant received two NJP's for failure to obey a

lawful order and for drug use. The Board believed the applicant exhibited poor judgement and did not provide any post service accomplishments to mitigate his misconduct. The Board found no error or injustice and determined relief was not warranted and denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XX	XX	XX	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. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions (a pattern of misconduct consisting solely of minor military disciplinary infractions), a pattern of misconduct (consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline). 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 appropriate for a Soldier discharged under this chapter; however, the separation authority may direct a general discharge if merited by the Soldier's overall record.

b. 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.

c. 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/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.

//NOTHING FOLLOWS//