

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 19 August 2025

DOCKET NUMBER: AR20240011784

APPLICANT REQUESTS: Through counsel:

- An upgrade of his characterization of service from dishonorable to honorable
- Change in narrative reason for separation to "Secretarial Authority"
- An upgrade of his separation code

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

- DD Form 149 (Application for Correction of Military Record), 8 August 2024
- Legal Counsel's Brief in Support of Application, undated
- Letter of Commendation, 28 September 1987
- Certificate of Achievement, 24 June 1981
- 198th Personnel Service Company Order 26-212. 25 September 1981
- Headquarters Fort Carson and Headquarters, 4th Infantry Division (Mechanized) Orders 056-701, 20 March 1985
- Headquarters, 3rd Infantry Division, General Court-Martial Order Number 18, 15 March 1990
- U. S. Army Court of Military Review, Memorandum Opinion, 8 March 1991
- Nine DA Forms 2166-6 (Enlisted Evaluation Report), covering the period from July 1982 to May 1988
- Eight-character references, from 18 February 2022 to 23 August 2023
- Self-authored statement, undated

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. Counsel states the applicant served in the U.S. Army as an Indirect Fire Infantryman for over thirteen years. On September 25, 1981, he was promoted to the rank of Sergeant. Over the years, he received at least one letter of commendation and

numerous positive evaluations recognizing his value as a soldier. His service included two tours in Germany, first from January 1980 to February 1983, and again from June 1985 to November 1988.

a. Despite a largely honorable service record, he was convicted at a General Court-Martial in December 1989 for the wrongful distribution of amphetamines. He was reduced in rank to private/E-1, forfeited all pay and allowances, sentenced to four years of confinement, and dishonorably discharged. He was incarcerated at Fort Leavenworth in March 1990 and paroled in October 1991. His official discharge occurred in January 1993 with a "Dishonorable" characterization due to the court-martial conviction.

b. Following his release, he worked diligently to rebuild his life. He sought employment immediately, starting by cleaning a barbershop and working through office agencies. He later connected with a local martial arts supply store, where he found a supportive community that helped him reintegrate.

c. The applicant accepts responsibility for his misconduct and is truly remorseful of the dishonor that he brought onto himself. However, since his discharge the applicant has worked exceedingly hard to prove to himself, his family, and his community that his misconduct was an aberration and that he is truly a man that can be relied upon and looked up to.

3. The applicant enlisted in the Regular Army on 15 July 1976.

4. Headquarters, 3rd Infantry Division, General Court Martial Order Number 18, 15 March 1990, shows the applicant was convicted by a general court-martial for violation of Article 112a (Wrongful Use, Possession, of a Controlled Substance), in that he did, on or about 2 April 1989, wrongfully distribute 0.922 grams of amphetamines. His sentence, adjudged on 22 December 1989, consisted of reduction to the rank/grade of private/E-1, forfeiture of all pay and allowances, confinement for four years, and to be dishonorably discharged from service. On the same day, the sentence was approved and executed.

5. The U.S. Army Court of Military Review, Memorandum Opinion, 8 March 1991, shows a review of the applicant's appeal by appellate military judges revealed, after evaluating the claim or error in record, they were unable to find any unfair prejudicial impact. The finds of guilty and sentence were affirmed.

6. U.S. Disciplinary Barracks, General Court-Martial Order Number 25, 12 January 1993, shows the sentence adjudged on 22 December 1989 was affirmed and directed the dishonorable discharge to be executed.

7. His DD Form 214 (Certificate of Release of Discharge from Active Duty) shows he was discharged in the rank/grade of private/E-1 on 29 January 1993 under the provisions of Army Regulation 635-200 (Personnel Separation – Enlisted Personnel), paragraph 3-11, as a result of court-martial. He completed 10 years, 10 months, and 6 days of net active service during this period with lost time from 22 December 1989 to 29 January 1992. His service was characterized as dishonorable. He was issued the separation code “JJD” and the reentry code “RE-4”. Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized), shows he was awarded or authorized the following:

- Army Good Conduct Medal (4th Award)
- Army Achievement Medal
- Noncommissioned Officer Development Ribbon
- Army Service Ribbon
- Overseas Service Ribbon
- Expert Infantryman Badge

8. Counsel provided:

a. Eight-character references letters from individuals who have known the applicant on both a personal and professional level. The individual’s states, in part, the applicant is a respected martial artist, teacher, and community leader with over twenty-five years of experience. Known for his discipline, integrity, and dedication to others, he has taught martial arts to students of all ages—including those with physical and mental challenges—while building strong, lasting relationships. A U.S. veteran and committed family man, he is admired for his calm demeanor, problem-solving skills, and deep commitment to mentoring youth, especially in underserved communities. Highly regarded by peers and students alike, the applicant is seen as a role model, trusted friend, and invaluable contributor to both martial arts and the broader community.

b. Twenty pages of military correspondence from the applicant’s service record to include orders, certificates, letters, and nine evaluations. The full twenty pages are available for the Board to review in the supporting documents. (Note: some documents are illegible.)

9. The applicant provided a self-authored statement, wherein states, in part:

a. After leaving the military in 1991, he moved to Houston determined to rebuild his life with discipline and purpose. Within days, he found work, connected with a martial arts community, and began meeting parole requirements. Even after setbacks, including a fire that destroyed everything he owned, he stayed focused, landing a job at Bank United and earning early parole through hard work and integrity.

b. Over the years, he built a life centered on martial arts, fatherhood, and resilience. He married, adopted a stepdaughter, and balanced his roles as a teacher, competitor, and provider. In banking, he stood up to unethical practices, even at the cost of his job, choosing integrity over comfort.

c. A divorce in 2007 brought personal loss, but he adapted again, working security, retail, and eventually returning to his true calling: teaching martial arts to kids. With contracts across Houston daycares, he found fulfillment mentoring young lives. Despite life's storms, he remained a steady, disciplined presence, always moving forward.

BOARD DISCUSSION:

1. 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. 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.

a. Upgrade from Dishonorable to Honorable. Deny. The Board determined the applicant was convicted at a general court-martial for wrongfully distributing .922 grams of amphetamines and sentenced to four years in confinement and a dishonorable discharge. The Board noted his years of good service and his post service accomplishments; however, the Board found no error or injustice in the separation proceedings. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate and denied relief.

b. Amend Narrative Reason to "Secretarial Authority". Deny. The Board determined the applicant was separated for conviction by a general court-martial conviction. The Board noted the applicant's remorse and his post-service; however, the Board found no error or injustice in the narrative reason for separation assigned during his separation processing and denied relief.

c. Upgrade to his Separation Code. Deny. The Board determined the applicant was convicted at a general court-martial for distributing illegal drugs. The Board found insufficient evidence that warrants a change to his separation code based upon his serious misconduct and denied relief.

d. The applicant was given a dishonorable discharge pursuant to an approved sentence of a court-martial. The appellate review was complete and the affirmed sentence was ordered duly executed. All requirements of law and regulation were met with respect to the conduct of the court-martial and the appellate review process and the rights of the applicant were fully protected.

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, in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge was a separation with honor. The honorable characterization was appropriate when the quality of the member's service generally had met the standards of acceptable conduct and performance of duty for Army personnel or was otherwise so meritorious that any other characterization would be clearly inappropriate.

b. A general discharge was a separation from the Army under honorable conditions. The regulation authorized separation authorities to issue a general discharge to Soldiers whose military record was satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Paragraph 3-11 (Bad Conduct Discharge Certificate) states a member will be given a bad conduct discharge pursuant only to an approved sentence of a general- or special court-martial. The appellate review must be completed, and the affirmed sentence ordered duty executed.

d. a. Paragraph 5-3 (Secretarial Plenary Authority) provided that:

(1) Separation under this paragraph is the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the best interest of the Army. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memorandums.

(2) Secretarial separation authority is normally exercised on a case-by-case basis but may be used for a specific class or category of Soldiers. When used in the latter circumstance, it is announced by special Headquarter, Department of the Army directive that may, if appropriate, delegate blanket separation authority to field commanders for the class category of Soldiers concerned.

3. AR 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-1 provides a list of RE codes.

- RE code "1" applies to Soldiers completing their term of active service, who are considered qualified for enlistment if all other criteria are met.

- RE code "2" is no longer in use but applied to Soldiers separated for the convenience of the government, when reenlistment is not contemplated, who are fully qualified for enlistment/reenlistment.
- RE code "3" applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, whose disqualification is waivable; they are ineligible unless a waiver is granted.
- RE code "4" applies to Soldiers separated from last period of service with a non-waivable disqualification
- RE code "3B" applied to Soldiers who had lost time during their last period of service, who were ineligible for enlistment unless a waiver was granted.
- RE code "3C" applied to Soldiers who had completed over 4 months of service who did not meet the basic eligibility pay grade requirements or who have been denied reenlistment under the Qualitative Retention Process and were ineligible for enlistment unless a waiver was granted.

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 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//