

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 April 2025

DOCKET NUMBER: AR20240011796

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

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 he wants to use his Veterans Affairs (VA) benefits, mainly his car registration. He received a 100% VA rating and would like to utilize everything that is provided.
3. A review of his records show:
 - a. The applicant enlisted in the Regular Army on 30 September 1970.
 - b. On 20 September 1971, he accepted non-judicial punishment, under the provisions of Article 15, of the Uniform Code of Military Justice (UCMJ) for absenting himself from his place of duty and remained absent until 0130 hours, 16 September 1971. His punishment consisted of reduction to private first class; and forfeiture of \$42.00 per month for one month.
 - c. His records are void of a DD Form 458 (Charge Sheet).
 - d. On 29 February 1972, his commander notified him of his intent to separate him under the provisions (UP) of Army Regulation (AR) 635-212 (Discharge Unfitness and Unsuitability), paragraph 6b (3) by reason of unsuitability, through apathy. His commander further states his reason for this action is due to applicant receiving

numerous reprimands for infractions of army regulations and four Article's for failure to repair, AWOL (Absent without leave), and disobeying a lawful order. [Applicant] have constantly received Article 15's and has shown no justification for improvement. His attitude shows lack of willingness to perform and report for duty. His appearance and military bearing are far below the standards of the U.S. Army and the command. He has been counseled for his actions.

e. The records are void of the applicant's acknowledgment and his consult with counsel but shows he elected to submit a statement in his own behalf that shows:

- He does not deserve such actions
- He had had only two Article 15's
- He believes the company command is prejudice

f. Before a special court-martial on 12 May 1972, at Fort Hamilton, N.Y., the applicant was found the applicant undesirable for further retention in the military service because of apathy, manifested by lack of appropriate interest, defective attitude and the inability to expend effort constructively. In view of the findings, the board recommended that the applicant be discharged from the service because of unsuitability with issuance of a General Discharge under Honorable Conditions.

g. On 19 May 1972, the applicant appealed his elimination under AR 635-212 and requested retention in the U.S. Army with transfer to another installation for the following reason:

- He never had trouble with anyone
- He worked under the MOS (Military Occupational Specialty) 11B (Military Police (MP)); and he received awards
- He received four Article 15's and was never charged with anything serious enough to be charged with a Court-martial
- He completed Basic Training and AIT (Advance Individual Training) and was transferred to Fort Benning and Fort Hamilton as a MP
- He requested to go to Vietnam to work in the MOS 11B; 1st U.S. Army had a shortage of MP's, and his request was denied
- He was never really counseled by his command; they would only say something when he received an Article 15
- His girlfriend is pregnant and he would like to remain in the service and receive a creditable discharge

h. On 26 May 1972, his commanding officer approved his discharge under paragraph 6b (3), AR 635-212 and issued a General Discharge Certificate.

i. Accordingly, he was discharged on 2 June 1972. He completed 1 year, 8 months, and 3 days active service. He had 1 day of lost time.

j. His DA Form 20 (Enlisted Qualification Record) shows in:

- Item 39 (Campaigns) – “no entries”
- Item 41 (Awards and Decorations) – National Defense Service Medal and Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)

4. There is no evidence 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 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 relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the short term of honorable service completed prior to a pattern of misconduct leading to the applicant's separation, as well as a lack of demonstrated remorse from the applicant for the misconduct, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

//SIGNED//

X

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. This regulation provides that:
 - 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. 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 DRBs and 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 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//