

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 May 2025

DOCKET NUMBER: AR20240011934

APPLICANT REQUESTS: upgrade of his under other than honorable conditions discharge to under honorable conditions (General).

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

- DD Form 149 (Application for Correction of Military Record), 23 July 2024
- 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. The applicant states:
 - a. He was a good Soldier for the majority of his service.
 - b. He began having financial struggles and was not given any counseling for his issues. In today's society, a Soldier would have been given every resource possible to help them recover.
 - c. He requested a transfer for a fresh start but was denied. He would have started fresh and possibly corrected his issues.
 - d. It has been 32 years, and he has become successful in life, and this is the only negative item in his record.
3. A review of the applicant's service records show the following:
 - a. On 14 July 1989, he enlisted in the Regular Army for 4 years.

b. On 12 June 1990, he accepted nonjudicial punishment for failing to provide support equal in amount to his basic allowance for quarters to his wife and for failing to obey his superior commissioned officer to provide proof of payment of his financial support to his spouse. He received a suspended reduction to private, forfeiture of pay for 2 months, and extra duty for 2 weeks.

c. He was counseled on:

- 20 February 1990, for a phone debt he owed, for not following procedures for the alert roster, and for not calling his supervisor as ordered
- 23 February 1990, for not being at his place of duty on time, for a board
- 23 July 1991, for failing to remove his furniture from a rental apartment, an argument with another Soldier, failure to pay a bill for rental furniture, and a bill of delinquency for furniture
- 26 August 1991, for delinquent payment of a furniture bill and failing to make payments on 8 July 1991
- 10 October 1991, for being absent from his dental clinic duties based on a court summons being served on him
- 22 October 1991, for numerous counseling instances for failure to pay his just debts

d. On 2 December 1991, his commanding officer notified him he was recommending his separation under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12b, for a pattern of misconduct, and notified him of his rights. The specific reasons for his proposed action were he failed to provide support for his wife, failed to pay his just debts, he failed to report to his appointed place of duty, and he received a bar to reenlistment. His commander recommended his service be characterized as under other than honorable conditions.

e. On the same date, he acknowledged receipt of his company commander's separation notification, and he elected his rights. He waived his right to consulting counsel, and elected not to submit statements in his own behalf.

f. On the same date, his company commander recommended approval of his separation with a under other than honorable conditions discharge.

g. On 6 December 1991 and 8 December 1991, his intermediate commanders recommended approval his separation.

h. On 12 December 1991, the separation authority approved his discharge with an under other than honorable conditions characterization of service and ordered his reduction to the lowest grade.

i. On 2 January 1992, he was discharged. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under the provisions of paragraph 14-12b, Army Regulation 635-200, for misconduct-a pattern of misconduct with an under other than honorable conditions characterization of service. He completed 2 years, 5 months, and 19 days of net active service this period.

4. On 6 June 1995, the Army Discharge Review Board denied his request for an upgrade, finding it was both proper and equitable. The Board voted to administratively change the narrative reason for his discharge to misconduct and issued him a DD Form 215 (Correction to DD Form 214) to reflect this change.

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, all supporting documents, and the evidence found within the military record, the Board found that relief was 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. Upon review of the applicant's petition and available military record, the Board determined the discharge characterization for the pattern of misconduct was too harsh for the circumstances. Based on liberal consideration, the Board found an upgrade to under honorable (general) conditions discharge was more appropriate. As such, the Board granted relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

| | | | |
|---|---|---|----------------------|
| █ | █ | █ | GRANT FULL RELIEF |
| : | : | : | GRANT PARTIAL RELIEF |
| : | : | : | GRANT FORMAL HEARING |
| : | : | : | DENY APPLICATION |

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 for the period ending 2 January 1992, showing his characterization of service as General Under Honorable Conditions.

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. 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.

c. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, and convictions by civil authorities. 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.

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//