

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 August 2025

DOCKET NUMBER: AR20240011943

APPLICANT REQUESTS:

- an upgrade of his discharge under other than honorable conditions (UOTHC) to honorable or, alternatively, to under honorable conditions (general)
- to change his narrative reason for separation to "Secretarial Authority"
- Corresponding separation code for "Secretarial Authority"

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

- DD Form 149 (Application for Correction of Military Record)
- Counsel's Cover Sheet
- Counsel's Memorandum in Support of Application for Correction of Military Record (19 pages), with exhibits –
 - 1 – Two DD Forms 214 (Armed Forces of the U.S. Report of Transfer or Discharge), two DD Forms 214 (Report of Separation from Active Duty), and DD Form 214 (Certificate of Release or Discharge from Active Duty)
 - 2 – Applicant's Personal Statement)
 - 3 – DA Form 2-1 (Personnel Qualification Record – Part II)
 - 4 – DA Form 2166-5A (Senior Enlisted Evaluation Report), 7 January 1980
 - 5 – DA Form 2166-5A, 7 October 1980
 - 6 – 10 Pages of DD Forms 4 (Enlistment/Reenlistment Documents)
 - 7 – DA Form 2166-6 (Enlisted Evaluation Report), 5 December 1984
 - 8 – DA Form 2166-5A, 12 September 1980
 - 9 – Promotion Records
 - 10 – Record of Awards (19 pages)
 - 11 – Discipline Records
 - 12 – Request for Discharge for the Good of the Service
 - 13 – Permanent Change of Station (PCS) Orders
 - 14 – Assignment Orders
 - 15 – Nine Character Support Letters
 - 16 – Department of Veterans Affairs Rating Decision

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 defers to counsel, and counsel states in a 19-page memorandum:

a. He proudly and successfully served for more than 19 years. He was dealing with marital and financial issues at Fort Polk, LA, when he was approached by a superior noncommissioned officer (NCO) to participate in fraudulent check-cashing. He regrettably agreed to assist the senior NCO in a single instance but then refused to participate despite pressure from the senior NCO. Due to his misconduct, court-martial charges were brought against him in February 1986 for violations of the Uniform Code of Military Justice (UCMJ). He subsequently requested to be discharged in lieu of court-martial with an UOTHC discharge.

b. He has worked hard to overcome the challenges of his discharge characterization for nearly 40 years. He and has been a productive citizen, working at Speedway, Orkin and as an owner operator truck driver. He is the father of two daughters. At 79 years of age with declining health, he seeks to clear his otherwise exemplary record and restore the pride in his Army service.

c. The requested changes are warranted due to the applicant's service record prior to the misconduct, post-discharge conduct, length of time since the misconduct, his old age and failing health, and remorse and acceptance of responsibility.

3. The applicant provides over 160 pages of documents through counsel, including:

- numerous service documents, including award orders and certificates, evaluation reports, and promotion, assignment, and PCS orders
- a personal statement attesting to his personal and service history
- disciplinary records, including five nonjudicial punishments (NJP) under the provisions of Article 15 of the UCMJ
- nine support letters attesting to his character
- VA ratings decision letter showing a 0-percent combined evaluation rating for pension

4. A review of the applicant's service records show:

- On 23 November 1964, he enlisted in the Regular Army, served through several periods of enlistment, four assignments to Germany and attained the rank/grade of staff sergeant (SSG)/E-6 on 8 October 1971
- On 21 January 1986, court-martial charges were preferred against the applicant for violations of the UCMJ, the relevant DD Form 458 (Charge Sheet) shows he was charged with –
 - falsely making a check in the signature of J_____ D. B_____ to the England Air Force Base Exchange, Fort Polk, LA, in the amount of \$766.10 with the intent to defraud on or about 7 April 1983
 - falsely making the signature of J_____ D. B_____ to a DD Form 2A (Military Identification Card) with the intent to defraud between on or about 1 February 1983 and 7 April 1983 at Fort Polk, LA, bearing the social security number [REDACTED], the grade of chief warrant officer 3, an indefinite expiration date, and his photograph, while wearing a uniform bearing chief warrant officer 3 rank
- On 27 January 1986, the applicant consulted with legal counsel and was advised of the basis for the contemplated trial by court-martial, the maximum permissible punishment authorized under the UCMJ, the possible effects of a less than honorable discharge, and the procedures and rights that were available to him
 - Subsequent to receiving legal counsel, the applicant voluntarily requested discharge under the provision of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10, for the good of the service – in lieu of trial by court-martial
 - In his request for discharge, he acknowledged his understanding that by requesting discharge, he was admitting guilt to the charges against him, or of a lesser included offense that also authorized the imposition of a bad conduct or dishonorable discharge
 - He further acknowledged he understood that if his discharge request was approved, he could be deprived of many or all Army benefits, he could be ineligible for many or all benefits administered by the VA, and he could be deprived of his rights and benefits as a veteran under both Federal and State laws
 - He was advised he could submit any statements he desired on his own behalf, his statement is attached for review
- On 30 January 1986, his commander noted the applicant admitted he was wrong and his chain of command recommended approval of his discharge request under the provisions of Army Regulation 635-200, Chapter 10
- On 4 February 1986, the separation authority approved the applicant's request for discharge under the provisions of Army Regulation 635-200, Chapter 10, in

lieu of trial by court-martial, and directed the applicant's reduction to the lowest enlisted grade and the issuance of a UOTHC discharge

- On 7 February 1986, the applicant was discharged, under the provisions of Army Regulation 635-200, Chapter 10, with a narrative reason for separation "for the good of the service - in lieu of trial by court-martial, and a separation code "KFS" the DD Form 214, he was issued confirms –
 - he was discharged in the lowest enlisted grade and his service was characterized as UOTHC
 - he was credited with completing 8 years, 6 months, and 17 days of net active service this period, and 10 years, 8 months, and 17 days of total prior active service
 - he was awarded or authorized –
 - Army Service Ribbon
 - Good Conduct Medal (6th Award)
 - National Defense Service Medal
 - Overseas Service Ribbon
 - NCO Professional Development Ribbon (3)
 - Army Commendation Medal (3rd oak leaf cluster)
 - Army Achievement Medal (1st oak leaf cluster)
 - Expert Rifle Badge (M16)

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.

a. Upgrade Character of Service. Deny. The Board noted the applicant was pending court-martial charges for falsely signing a check with the name of another person in the amount of \$766.10, for falsely signing the name of another person on a military identification card, in the unauthorized rank of a warrant officer, with a social security number that was not his, and in the uniform of a warrant officer, which were punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board also noted the applicant's character references and documents in support of his request; however, the Board found insufficient evidence to warrant an

upgrade to his characterization of service, which he received at the time of his separation and denied relief.

b. Narrative Reason for Separation. Deny. The Board determined that based upon the applicant's service record, his character references, supporting documents, and his voluntarily request for discharge in lieu of a trial by court-martial due to his multiple misconducts, there was no error or injustice in the narrative reason for separation assigned during his separation processing and denied relief.

c. Separation Code. Deny. The Board determined that based upon the applicant's misconduct, the separation code he received at the time of his separation was not in error nor was there an injustice 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. Title 10, United State Code, section 1556 provides the Secretary of the Army shall ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. Army Regulation 635-5-1 (SPD Codes) provides that separation codes are three-character alphabetic combinations that identify reasons for and types of separation from active duty. Separation code narrative reasons are aligned with applicable regulatory authority paragraphs. The separation code "KFS" is the appropriate code to assign Soldiers separated under the provisions of Army Regulation 635-200, by narrative reason of administrative discharge conduct triable by court-martial.

4. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided 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.

c. Chapter 10 provided, in pertinent part, that a member who had committed an offense or offenses for which the authorized punishment included a punitive discharge, could submit a request for discharge for the good of the service in lieu of trial by court-martial. The request could be submitted at any time after charges had been preferred and must have included the individual's admission of guilt. Although an honorable or

general discharge was authorized, an UOTHC discharge was normally considered appropriate.

5. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Navy Records (BCM/NR) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

6. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

7. 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//