

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 July 2025

DOCKET NUMBER: AR20240012008

APPLICANT REQUESTS: through counsel, correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 22 June 1971 to show:

- a. his characterization of service as honorable or alternatively, under honorable conditions (general), and
- b. his narrative reason for separation as "Secretarial Authority" and the corresponding separation code.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S Code, Section 1552) with enclosures
- Enclosure 1 – Counsel's Letter, 31 July 2024
- Enclosure 2 – Counsel's Brief in Support of Application for Correction of Military Record, 31 July 2024 with supporting documents labeled in exhibits

- Exhibit A – Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018
- Exhibit B – Applicant's Declaration, 12 January 2024
- Exhibit C – Headquarters, U.S. Army Reception Station, Fort Bragg, NC Special Orders Number 5, 6 January 1969
- Exhibit D – FB [Fort Bragg] Form 1547-R (Certificate of Accelerated Advancement to Private/E-2), 28 February 1969
- Exhibit E – DA Form 20 (Enlisted Qualification Record), pages 2,3, and 4 only
- Exhibit F – DD Form 214 (Armed Forces of the United States Report of Transfer of Discharge) for the period ending 22 June 1971
- Exhibit G – Headquarters, 1st Infantry Division, APO San Francisco Special Orders Number 182, 1 July 1969
- Exhibit H – Headquarters, 1st Infantry Division, APO San Francisco Special Orders Number 332, 28 November 1969

- Exhibit I – DA Form 20B (Insert Sheet to DA Form 20 – Record of Court-Martial Conviction), 22 February 1971
- Exhibit J – Standard Form 89 (Report of Medical History), 26 May 1971
- Exhibit K – Applicant's memorandum (Request for Discharge for the Good of the Service (Army Regulation 635-200 [Personnel Separations – Enlisted Personnel])), 28 May 1971
- Exhibit L – Chain of Commander Recommendations
- Exhibit M – Separation Authority Approval of Discharge
- Exhibits N through R – Character Reference Statements
- Exhibit S – Civilian Medical Documents (seven pages)
- Exhibit T – Character Reference Statement

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, in a 14-page brief (see attachment for further additional details):

a. The applicant began serving in the Army at 19 years old. Upon completion of advanced training, he honorably served a combat deployment to Vietnam. He received a variety of awards and medals for his service. When he returned from his deployment, he met and got engaged to the woman who would later become his wife while on authorized leave. Not wanting to leave her alone, he remained away from the base without authorization from October 1970 to January 1971. Upon return, he was subjected to a special court-martial and pled guilty.

b. In March 1971, he learned that his fiancée was pregnant with their first child. Wanting to care for his family, he left base without authorization from March to May 1971. In lieu of trial by court-martial, he requested to be discharged "For the Good of the Service." On 22 June 1971, he was discharged with an "Under Conditions Other Than Honorable" characterization and "For the Good of the Service" narrative.

c. Since his discharge, the military has committed to ensuring veterans are aware of their opportunity to request discharge reviews. The Department of Defense released the Wilkie Memorandum ("Wilkie Memo") on 25 July 2018, which outlines standards for review to determine whether relief is warranted on the basis of equity, injustice, or clemency. The Wilkie Memo authorizes the ABCMR to grant relief in order to ensure fundamental fairness. As set forth below these standards for review when applied to the quality of his service and compelling post-discharge record warrant an upgrade in his characterization of service and reason for separation.

d. He notes five reasons for consideration in warranting the applicant's requested relief.

(1) Within the standards and guidance outlined in the Wilkie Memo, to remove an injustice while ensuing fundamental fairness.

(2) The applicant's quality of service outweighs his misconduct. He was accelerated in promotion for demonstrating exemplary conduct and qualities of leadership. He served in Vietnam and earned several decorations.

(3) His misconduct was non-violent and a youthful indiscretion. He expresses responsibility and accountability for his actions and feels remorse.

(4) His positive post-discharge conduct outweighs his prior misconduct and evidence of rehabilitation. He was employed for over 40 years and displayed outstanding character and had an exceptional reputation. He has been married for over 50 years and is a devoted family man.

(5) His physical and mental health, misunderstanding of the full consequences of the discharge, and family situation are mitigating facts in his upgrade. He is now critically ill with emphysema and stage three lung cancer, his doctor cited exposure to Agent Orange during his service in Vietnam as a possible contributing factor. He further has physical symptoms and suffers from nervous trouble and depression.

3. A review of the applicant's records show:

a. He was inducted into the Army of the United States on 2 January 1969. He was promoted to the rank/grade of private two/E-2 on 28 February 1969 and to private first class/E-3 on 1 July 1969.

b. He was assigned to the 1st Administration Company, 1st Infantry Division, U.S. Army Pacific – Vietnam on or about 22 June 1969 through 21 June 1970 (1 year).

c. He was promoted to specialist/E-4 on 5 November 1969.

d. Special Court-Martial Order Number 46, on 22 February 1971, shows he plead guilty and was found guilty of violating Article 86 of the Uniform Code of Military Justice (UCMJ); specifically, in that he did, on or about 10 October 1970, without proper authority absent himself from his unit, and did remain so absent until on or about 24 January 1971 (3 months and 15 days). The court sentenced him to forfeiture of \$100.00 pay per month for 3 months, restriction for 2 months, and reduction to the grade of private/E-2. The sentence was adjudged on 18 February 1971. Only so much of the sentence was approved on 22 February 1971, for forfeiture of \$75.00 per month

for two months, restriction for 2 months, and reduction to E-2, restriction was suspended unless sooner vacated.

e. Court-martial charges were preferred against him on 26 May 1971, for violations of the UCMJ. His DD Form 458 (Charge Sheet) shows, he was charged with one specification of violation of Article 86, in that he did on or about 17 March 1971, without proper authority, absent himself from his unit, and did remain so absent until on or about 20 May 1971.

f. After consulting with legal counsel on 28 May 1971, he voluntarily requested discharge for the good of the service under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10, for the good of the service in lieu of trial by court-martial.

(1) He was making this request of his own free will and has not been subjected to any coercion whatsoever by any person. By submitting this request for discharge, he acknowledges that he understood the elements of the offense charged and is guilty of the charges against him, which authorizes the imposition of a bad conduct or dishonorable discharge. Moreover, he states that under no circumstances does he desire further rehabilitation, for he has no desire to perform further military service.

(2) He acknowledged he understood that if his discharge request were approved, he could be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate. He further acknowledged that as a result of such a discharge, he could be deprived of many or all Army benefits, he could be ineligible for many or all benefits administered by the Veterans Administration (now known as the Department of Veterans Affairs), he could be deprived of his rights and benefits as a veteran under both Federal and State laws, and he could expect to encounter substantial prejudice in civilian life by reason of an undesirable discharge.

g. His chain of command, by memoranda, recommended disapproval of his request for discharge under the provisions of Army Regulation 635-200, chapter 10, and that he be court-martialed.

h. On 15 June 1971, the separation authority approved his request for discharge in lieu of trial by court-martial, directed he be reduced to the lowest enlisted grade, and be issued an undesirable discharge certificate (DD Form 258A).

4. The applicant was discharged on 22 June 1971. His DD Form 214 shows in:

- item 5a (Grade, Rate, or Rank) – Private
- item 5b (Pay Grade) – E-1

- item 11c (Reason and Authority) – CHAP 10, AR [Army Regulation] 635-200 SPN [Separation Program Number] 246, For the Good of the Service
- item 13a (Character of Service) – Under Conditions Other Than Honorable
- item 22a(1) (Net Active Service This Period) – 1 year, 11 months, and 15 days
- item 22b (Total Active Service) – 1 year, 11 months, and 15 days
- item 22c (Foreign and/or Sea Service) – 1 year
- item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) –
 - Army Commendation Medal
 - National Defense Service Medal
 - Vietnam Service Medal
 - Republic of Vietnam Campaign Medal with Device (1960)
 - Civil Action Medal [formally known as the Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation]
 - Marksman Marksmanship Qualification Badge with Rifle Bar (M-14)
 - Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
 - 2 Overseas Bars
- item 26a (Non-Pay Periods Time Lost), contains the entries:
 - 14 April 1969 – 21 April 1969
 - 10 October 1970 – 31 January 1971
 - 17 March 1971 – 19 May 1971
- item 30 (Remarks), contains the entry – "Item 22c: Served in Vietnam for the period 22 June 1969 to 21 June 1970 inclusive"

5. The applicant provides through counsel:

a. Exhibit A contains the Under Secretary of Defense memorandum concerning guidance related to discharge upgrade requests by Veterans claiming issues with equity, injustice, or clemency determinations that were mitigating issues in their separation from the service.

b. Exhibit B contains the applicant's declaration noting he was drafted and sent to Vietnam in 1969 as a cook. He took pride in serving his country; however, when he returned and went home on leave his girlfriend became pregnant and he did not want to leave her. Therefore, he went absent without leave on several occasions. He is now 74 years old and feels he deserves an upgrade to his discharge.

c. Exhibit J contains a Standard Form 89, 26 May 1971, that shows he was provided a medical examination for the purpose of his separation. It was noted he has no significant medical problems while on active duty.

d. Exhibits N through R and T contains numerous statements from work associates, family, and friends attesting to his character, work ethic, and parenting championing his request for a discharge upgrade.

e. Exhibit S contains civilian medical documents, 3 April 2024, showing he was examined for a lung mass as the result of exposure to Agent Orange. It further shows his assessment and history of illness.

6. The Board should consider the applicant's overall record in accordance with the published equity, injustice, or clemency determination guidance.

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under conditions other than honorable discharge. He contends that he experienced mental health conditions that mitigate his misconduct. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) The applicant was inducted in the Regular Army on 02 January 1969; 2) The applicant served in Vietnam from 22 June 1969 to 21 June 1970; 3) On 22 February 1971, the applicant was found guilty by special court-martial of going AWOL from 10 October 1970 to 24 January 1971; 4) On 26 May 1971, court-martial charges were preferred against him for another specification of AWOL from 17 March 1971 until 20 May 1971; 5) The applicant was discharged on 22 June 1971, Chapter 10- for the good of the service. His character of service was under conditions other than honorable. He completed 1 year, 11 months, and 15 days of net active service with time lost from 14 April 1969 to 21 April 1969, 10 October 1970 to 31 January 1971, and 17 March 1971 to 19 May 1971.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service and medical records. The VA's Joint Legacy Viewer (JLV) was also reviewed. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts he experienced mental health conditions that mitigate his misconduct. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition while on active service. The applicant underwent a Chapter 10 medical history evaluation on 26 May 1971 as a part of the separation process. During this evaluation, the applicant was not diagnosed with any physical or mental health condition and was cleared from a medical perspective for separation. However, as a

part of this evaluation, the applicant answered in the affirmative regarding experiencing “depression or excessive worry” and “nervous trouble of any sort” without any further information provided.

d. A review of JLV did not reveal any additional results or documentation. The applicant has not been diagnosed with a service-connected mental health condition and does not receive any service-connected disability.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence to support the applicant had a mental health condition or experience that mitigates his misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced mental health conditions during his time in service, which mitigate his misconduct. There was insufficient evidence that the applicant was diagnosed with any mental health conditions during his time in service. However, the applicant did report mental health symptoms during his separation physical examination, without additional information available.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions while on active service. There was insufficient evidence that the applicant was diagnosed with mental health conditions during his time in service. However, the applicant did report mental health symptoms during his separation physical examination, without additional information available.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence the applicant has been diagnosed with or treated for any mental health condition that occurred during military service. The applicant did report “depression or excessive worry” and “nervous trouble of any sort” without any further information provided during his separation medical evaluation. The applicant did engage in avoidant and erratic behavior during active service such as going AWOL on a number of occasions. This behavior can be a natural sequelae to some mental health conditions. However, the presence of misconduct is not sufficient evidence of a mental health condition. Yet, the applicant contends he experienced a mental health condition or experience while on active service that mitigates his misconduct, and the applicant’s contention is sufficient for consideration per the Liberal Consideration Policy.

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 determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition, available military records and medical review, the Board concurred with the advising opinion of the Agency Medical Advisor that there is insufficient evidence to support the applicant had a mental health condition or experience that mitigates his misconduct.

2. The Board considered the following Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced mental health conditions during his time in service, which mitigate his misconduct. There was insufficient evidence that the applicant was diagnosed with any mental health conditions during his time in service. However, the applicant did report mental health symptoms during his separation physical examination, without additional information available.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions while on active service. There was insufficient evidence that the applicant was diagnosed with mental health conditions during his time in service. However, the applicant did report mental health symptoms during his separation physical examination, without additional information available.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence the applicant has been diagnosed with or treated for any mental health condition that occurred during military service. The applicant did report "depression or excessive worry" and "nervous trouble of any sort" without any further information provided during his separation medical evaluation. The applicant did engage in avoidant and erratic behavior during active service such as going AWOL on a number of occasions. This behavior can be a natural sequelae to some mental health conditions. However, the presence of misconduct is not sufficient evidence of a mental health condition. Yet, the applicant contends he experienced a mental health condition or experience while on active service that mitigates his misconduct, and the applicant's contention is sufficient for consideration per the Liberal Consideration Policy.

3. The Board acknowledged the applicant served in Vietnam and expresses that, due to his age and military service, he now feels deserving of an upgrade. However, the Board determined there is insufficient evidence of in-service mitigating factors to overcome the misconduct of being AWOL. The applicant provided no post service achievements or character letters of support for the Board to weigh a clemency determination. The Board determined there was insufficient evidence of an error or injustice which would warrant a change in the applicant’s separation codes and narrative reason. In light of these facts, the Board determined the overall merits of the case are insufficient to warrant relief. As such, relief is denied.

4. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, the Board found 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

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.

ADMINISTRATIVE NOTE(S):

The applicant is authorized administrative correction of his DD Form 214 for the period ending 22 June 1971 without Board action to show the following awards:

- three bronze service stars with his already awarded Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

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. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide

copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to ABCMR applicants (and/or their counsel) prior to adjudication.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of enlisted members for a variety of reasons. The basic authority for the separation of enlisted personnel.

a. Paragraph 3-7(a) stated 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. Paragraph 3-7(b) stated 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 (Discharge for the Good of the Service) provided that a Soldier who 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.

(1) Commanders would ensure that an individual would not be coerced into submitting a request for discharge for the good of the service. The member would be given a reasonable time (not less than 72 hours) to consult with consulting counsel and to consider the wisdom of submitting such a request for discharge.

(2) The request could be submitted at any time after charges were preferred and must have included the individual's admission of guilt.

(3) If the member elected to submit a request for discharge for the good of the service after receiving counseling, he would personally sign a written request certifying that he had been counseled, that he understood his rights, that he may receive a discharge under other than honorable conditions, and that he understood the adverse nature of such a discharge and the possible consequences.

(4) A discharge under other than honorable conditions normally were appropriate for a Soldier who was discharged for the good of the service. However, the separation authority could direct a general discharge if such were merited by the Soldier's overall record.

d. Paragraph 14-4 (Authority for Discharge or Retention) stated upon determination that a member is to be separated with a discharge under other than honorable conditions, the separation authority will direct reduction to the lowest enlisted grade by the reduction authority.

4. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), narrative reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. The regulation states that the appropriate narrative reason to assign to Soldiers separated under the provisions of Army Regulation 635-200, Chapter 10, with SPD Code 246 is "discharge for good of the service."

5. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. The Vietnam Service Medal is awarded to all members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. Qualifying service included attachment to or assignment for one or more days with an organization participating in or directly supporting military operations. Paragraph 2-13 provides that a bronze service star is authorized with this award for each Vietnam campaign a member is credited with participating in. Table B-1 shows during his service in Vietnam, campaign participation was awarded for the following three campaigns:

- Vietnam Summer-Fall 1969, 9 June 1969 – 31 October 1969
- Vietnam Winter-Spring 1970, 1 November 1969 – 30 April 1970
- DA Sanctuary Counteroffensive, 1 May 1970 – 30 June 1970

6. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in Vietnam. This pamphlet shows the unit he was assigned to was entitled to the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 31 March 1970 through 30 June 1970 in Department of the Army General Order Number 8, 1974.

7. 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 Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder; traumatic brain injury; sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on 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.

8. 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.

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//