

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 August 2025

DOCKET NUMBER: AR20240012295

APPLICANT REQUESTS:

- Upgrade of his uncharacterized characterization of service
- Permission to appear personally before the Board, via video/telephone

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

- Two DD Forms 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Letter
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 is seeking this upgrade so he can gain eligibility for VA medical benefits; he provides a VA letter that reflects his character of service as honorable
- The applicant contends the Army discharged him and sent him home with no explanation

3. A review of the applicant's service record shows the following:

- On 28 December 1983, the applicant enlisted into the Regular Army
- On 5 January 1984, he arrived at Fort Sill, OK for One-Station-Unit-Training (OSUT), consisting of basic combat training and advanced individual training in military occupational specialty 31V (Tactical Communications Systems Operator/Mechanic)
- Between 7 January and 3 February 1984, the applicant's leadership issued nine counseling statements:

- 7 January 1984 – a drill sergeant counseled the applicant for displaying a negative attitude and showing an inability to complete basic drill movements, requiring the drill sergeant to stop and provide one-on-one instruction
- 21 January 1984 – a drill sergeant cited the applicant for a lack of motivation, as demonstrated by an inability to answer simple questions about the chain of command and for showing a lack of attention to detail
- 25 January 1984 – the applicant's drill sergeant counseled the applicant for not qualifying on basic rifle marksmanship (BRM) and for offering another Soldier \$20 to change the BRM results
- 27 January 1984 – a drill sergeant referred the applicant for a mental hygiene evaluation because the applicant showed hyperactivity and difficulty with comprehending and following instructions
- 27 January 1984 – a drill sergeant advised the applicant the command intended to recycle him due to his failure to achieve BRM qualification
- 1 February 1984 – a drill sergeant completed a counseling form after the applicant failed BRM for the third time
- 1 February 1984 – the applicant's OSUT commander informed the applicant that he intended to initiate separation action under the Trainee Discharge Program (chapter 11 (Entry Level Status Performance and Conduct (TDP)), Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel):
  - "After many counseling sessions w/ your D/S (drill sergeants), you have continually failed to improve. Your continuous misbehavior, bad attitude, and dishonest nature are grounds for TDP action"
  - "You offering a PVT (private) scoring you \$20 to pass you on BRM is just one example of your character. Today you failed the third time to qualify w/ your weapon. I am recommending discharge action rather than recycle because I believe that it is in the better interest of the Army"
- 2 February 1984 – the unit's chaplain stated on a counseling form that he had seen the applicant on 25 January 1984:
  - The chaplain noted that, "there seems to be a lack of communication between (applicant) and Charlie Battery's drill sergeants"
  - The chaplain continued, "[applicant] said he came into the U.S. Army because he wants a new life. As we talked, he admitted that he cannot express himself at times...but he is willing to learn..."
  - "he does seem to try very hard and I do think he has the capacity to be taught...I cannot say at this time I would recommend a discharge for [applicant]"
- 3 February 1984 – a drill sergeant counseled the applicant for sleeping on charge of quarters/fire guard duty

- On 3 February 1984, the Chief, Community Mental Hygiene Service (CMHS) provided a psychiatric evaluation of the applicant:
  - CMHS evaluated the applicant on two occasions; the initial evaluation revealed no overt problems; however, further input from the applicant's unit necessitated further evaluation
  - That second assessment showed the applicant had "difficulty dealing with authority figures and (had) a tendency to externalize his troubles, i.e., ascribe blame for his problems to others and therefore make few attempts to adjust to his situation"
  - "It is the opinion of the examiner that [applicant] manifests difficulties which make the prognosis for adjustment to the military extremely poor"
- On 6 February 1984, the applicant's OSUT commander advised him, via memorandum, that he was initiating separation action against the applicant under chapter 11, AR 635-200:
  - The commander stated his basis was the applicant's lack of motivation and failure to pass BRM
  - While the final decision rested with the separation authority, an approval of the separation action would result in the applicant receiving an entry level separation with an uncharacterized character of service
- On or about 6 February 1984, after consulting with counsel, the applicant acknowledged his commander's notification and stated he understood he would receive an entry level separation; he elected to submit a statement in his own behalf and wrote the following:
  - While he was unable to qualify on the M-16, it was not from a lack of effort; he had asked for an eye examination and maintained that, with corrective lenses, he would achieve BRM qualification; thus far, the command had not allowed him to have his vision checked
  - Concerning his inability to communicate, the applicant conceded he found it difficult to talk to his drill sergeants, but he was paying attention to what they said and did the best that he could; he argued he was motivated and asked the command to give him another chance
- On 15 February 1984, the applicant's commander forwarded his separation recommendation
  - The commander depicted the applicant as "marginal" and stated the applicant's "attitude (was) exceptionally poor"

- Additionally, the commander countered the applicant's contention about poor vision, noting the applicant's physical had shown 20/20 vision with no correction required
- On 17 February 1984, the applicant accepted nonjudicial punishment for pushing one fellow trainee and punching another with his closed fist
- On 21 February 1984, the separation authority approved the commander's separation recommendation and directed the applicant separation with an entry level – uncharacterized characterization of service
- On 24 February 1984, the Army discharged the applicant; his DD Form 214 shows he completed 1 month and 27 days of his 3-year enlistment contract; the report additionally reflects the following:
  - Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) – "Nothing Follows"
  - Item 24 (Character of Service) – "Entry Level Status" (i.e., uncharacterized)
  - Item 25 (Separation Authority) – AR 635-200, paragraph 11-3a (Separation Policy)
  - Item 26 (Separation Code) – "JGA"
  - Item 27 (Reenlistment (RE) Code) – RE-3
  - Item 28 (Narrative Reason for Separation) – "Entry Level Status Performance and Conduct"

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 review based on law, policy and regulation. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The evidence of record shows the applicant was counseled on multiple occasions, did not pass BRM, and accepted NJP for assaulting two Soldiers and the immediate commander initiated separation IAW AR 635-200, chapter 11 which was subsequently approved by the separation authority. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

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 (AR) 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, prescribed policies and procedures of enlisted administrative separations.

a. Paragraph 3-7a (Honorable Discharge) stated an honorable discharge was separation with honor.

(1) Issuance of an honorable discharge certificate was appropriate when the quality of the Soldier's service generally met the standards of acceptable conduct and performance of duty or was otherwise so meritorious that any other characterization would clearly be inappropriate.

(2) Where there were infractions of discipline, commanders were to consider the extent thereof, as well as the seriousness of the offense. Separation authorities could furnish an honorable discharge when subsequent honest and faithful service over a greater period outweighed disqualifying entries in the Soldier's military record. It was the pattern of behavior, and not the isolated instance, which commanders should consider as the governing factor.

b. Paragraph 3-7b (General Discharge). 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. Paragraph 3-9 (Uncharacterized Separations (i.e., Entry-Level Status)).

(1) Effective 1 October 1982, a revision of AR 635-200 mandated the issuance of uncharacterized characters of service to Soldiers separated while in an entry-level status; for Regular Army Soldiers, entry-level status began upon their entrance on active duty and ended after 180 days of continuous active duty.

(2) The regulation stated the Secretary of the Army could issue an honorable character of service, on a case-by-case basis, when clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty.

d. Section II (Secretarial Authority) stated the separation of enlisted personnel was the prerogative of the Secretary of the Army and was to be executed only by his/her authority. The discharge or release of any enlisted member of the Army for the convenience of the Government will be at the Secretary's discretion and with the type of discharge as determined by him/her.

e. Chapter 11 (Entry Level Status Performance and Conduct (Trainee Discharge Program)).

(1) Paragraph 11-2 (Reasons for Separation). Entry Level Status members were to be separated under this chapter when warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by:

- Inability
- Lack of reasonable effort
- Failure to adapt to the military environment

(2) Paragraph 11-3 (Separation Policy). The policy applied to members who had voluntarily enlisted into the Regular Army, had completed no more than 180 days on their current enlistment, had failed to respond to counseling, and demonstrated they were not qualified for retention for one or more of the following reasons:

- Could not or would not adapt socially or emotionally to military life
- Could not meet minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline
- Demonstrated character and behavior characteristics not compatible with satisfactory continued service

(3) Paragraph 11-4 (Counseling and Rehabilitation Requirements) stated it was essential to fulfill the regulation's counseling and rehabilitation requirements because military service was a calling different from any civilian occupation; commanders should not separate a Soldier, using entry level performance and conduct as the sole basis, unless efforts at rehabilitation had been made.

(4) Paragraph 11-6 (Characterization of Service). Service was to be uncharacterized for separation.

(5) Paragraph 11-7 (Procedures). The regulation also stipulated commander's use of the notification procedure when advising the Soldier of the contemplated separation action. The notification procedure involved the following:

- Giving the Soldier a written notice of the proposed separation that specified the type of separation and the reason for the commander's action

- Advising the Soldier of his or her rights, under the regulation's separation process, which included: consulting with military counsel, submitting statements in his/her own behalf, receiving copies of documents sent to the separation authority, and waiving, in writing, the aforementioned rights
- The Soldier was to indicate on an "Election of Rights" document whether that Soldier had consulted with counsel and was or was not submitting matters on his/her own behalf

3. AR 635-5 (Separation Documents), in effect at the time, prescribed policies and procedures for DD Form 214 preparation.

a. The regulation stated the narrative reason for separation was tied to the Soldier's regulatory separation authority; the regulation directed DD Form 214 preparers to AR 635-5-1 (Separation Program Designators (SPD)) for the appropriate entries in items 26 (Separation (Separation Program Designators (SPD) Code) and 28 (Narrative Reason for Separation).

b. For item 27 (Reenlistment Code), the regulation referred preparers to AR 601-210 (Regular Army and Army Reserve Enlistment Program).

4. AR 635-5-1, in effect at the time, showed the narrative reason for separation assigned to Soldiers separated per chapter 11, AR 635-200 was, "Entry-Level Status Performance and Conduct," and the SPD was "JGA."

5. AR 601-210 (Regular Army and Army Reserve Enlistment Program), in effect at the time, covered eligibility criteria, policies, and procedures for the Active Army and U.S. Army Reserve enlistment program.

a. Table 3-6 (Armed Forces RE Codes, Regular Army RE Codes) included the following list of the RE codes:

- RE-1 – Soldiers completing their term of active service who were considered qualified to reenter the Regular Army; they were qualified for enlistment if all other criteria were met
- RE-3 – Soldiers who were not considered fully qualified for reentry or continuous service at time of separation, but their disqualification could be waived

b. Table 4-1 (Waivable Moral and Administrative Disqualifications).  
Line O (Disqualification) stated prior service applicants separated per chapter 11, AR 635-200 during their last period of service required a waiver to reenter the Regular Army.

6. 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, BCM/NRs 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.

7. AR 15-185 (ABCMR), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

c. Paragraph 2-11 (ABCMR Hearings). An applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

//NOTHING FOLLOWS//