

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 August 2025

DOCKET NUMBER: AR20240012351

APPLICANT REQUESTS: an upgrade of his under other than honorable conditions (UOTHC) character of service to under honorable conditions (general).

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Army Service Records (4 pages)

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 the documents used for his discharge were signed using fraudulent information. The Army preaches family values, but his leadership was insensitive and lacked understanding of his family situation. He would like to upgrade his discharge to enroll in school.

3. A review of his service record shows:

a. He enlisted in the Regular Army on 17 January 2001.

b. He was reported absent without leave (AWOL) on 13 November 2001 and returned to duty on 15 November 2001.

c. He accepted non-judicial punishment on 28 November 2001 for three specifications of failure to report, for being AWOL, from on or about 13 November 2001 until on or about 15 November 2001, and for wrongfully using marijuana, between on or about 4 August 2001 and 3 September 2001. His punishment included reduction to private/E-1.

d. He was reported AWOL on 9 December 2001 and subsequently dropped from the rolls on 10 December 2001.

e. He surrendered to military authorities on 13 December 2001 and was reassigned to the U.S. Army Personnel Control Facility, Fort Knox, KY, on that same date.

f. On 9 January 2002, his commander notified him of her intent to separate him, prior to his expiration term of service, under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c(1), by reason of commission of a serious offense.

g. He was advised by consulting counsel of the basis for the contemplated action and its effects; of the rights available to him; and the effect of any action taken by him to waive his rights. In an attached statement, he requested a general discharge and noted he was AWOL due to his fiancé's health issues during her pregnancy. On one occasion she was hospitalized for heart complications. On the other occasion, she went into labor. Both times he requested emergency leave, which was denied. He had no choice but to go to her. He turned himself back in both times.

h. His chain of command recommended approval, with a UOTHC characterization of service.

i. On 6 May 2002, the separation authority approved the recommended separation and directed the issuance of a UOTHC characterization of service.

j. Accordingly, he was discharged on 17 May 2002, by reason of misconduct, with an UOTHC characterization of service. He completed 1 year, 3 months, and 18 days of net active service.

4. The applicant provides four pages of Army Service Records which are summarized, in pertinent part, in the Record of Proceedings above.

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 applicant’s contentions, the military record, and regulatory guidance were carefully considered. 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. The applicant was charged with being absent without leave, 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 found no error or injustice in the separation proceedings and designated characterization of service. Based on a preponderance of the evidence, the Board concluded that the character of service the applicant received upon separation was not in error or unjust.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	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 Army Board for Correction of Military Records (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 (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. 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.

b. Chapter 14 established policy and prescribed procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, or absences without leave. Action would be taken to separate a member for misconduct when it was clearly established that rehabilitation was impracticable or was unlikely to succeed. A discharge under other than honorable conditions was normally considered appropriate. However, the separation authority could direct a general discharge if such were merited by the Soldier's overall record.

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//