

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 August 2025

DOCKET NUMBER: AR20240012499

APPLICANT REQUESTS: an 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)

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 stated that his discharge status was unexpectedly changed from "general" to "under other than honorable." Additionally, following his reenlistment, he was scheduled for deployment to Kuwait which was subsequently cancelled. During his service, he demonstrated exceptional physical fitness, earning an award for his performance. He successfully completed Air Assault School and received several commendations over the course of his four years in the military, including recognition as an expert marksman.
3. A review of the applicant's service record shows:
  - a. He enlisted in the Regular Army on 8 August 1996.
  - b. The service record is void of prior documentation of nonjudicial punishment.
  - c. A DD Form 458 (Charge Sheet) shows on 9 March 2000, court-martial charges were preferred on the applicant for one specification of unlawfully selling two "Motorola Talkabout" handheld transceivers, valued at \$159.90, and one specification of stealing the devices.

d. The applicant's request for discharge under the provisions of Chapter 10, AR 635-200 in lieu of trial by court martial is not contained in the available record.

e. On 15 March 2000, consistent with the chain of command recommendations, the separation authority approved the applicant's request for discharge in lieu of trial by courts-martial. He would be issued an Under Other Than Honorable Conditions Discharge Certificate and reduced to the lowest enlisted pay grade.

f. On 22 March 2000, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 3 years, 7 months, and 15 days of active service with no lost time. He was assigned separation code KFS and the narrative reason for separation listed as "In Lieu of Trial by Court-Martial," with reentry code 3. It also shows he was awarded or authorized:

- Army Achievement Medal
- Army Service Ribbon
- Sharpshooter Marksmanship Qualification Badge with Hand Grenade
- Marksman Marksmanship Qualification Badge with Rifle Bar (M16)
- Air Assault Badge

4. On 12 September 2011, the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

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 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. The applicant was charged with unlawfully selling two "Motorola Talkabout" handheld transceivers, valued at \$159.90, and one specification of stealing the devices, 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 and denied relief.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

:	:	:	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. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) states an honorable discharge is a separation with honor. 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 3-7b (General Discharge) states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 10 of this regulation states an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

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/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 based on 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.

//NOTHING FOLLOWS//