

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 August 2025

DOCKET NUMBER: AR20240013123

APPLICANT REQUESTS: in effect:

a. correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty), by:

- upgrading his under honorable conditions (General) discharge
- restoring his rank to private first class (PFC)/E-3
- changing item 28 (Narrative Reason for Separation) from "Drug Abuse-Rehabilitation Failure" to an undisclosed reason

b. a personal appearance hearing before the Board via video/telephone.

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 states he was discharged due to failing a urinalysis which was later voided due to a chain of custody failure voiding all test results. He was punished under the provisions of Article 15 after being caught in possession of and using marijuana with his roommate. He was not offered rehabilitation. A few months later a battalion-wide drug testing was done, and many Soldiers and noncommissioned officers (NCO) failed the test. He was told that since he was a prior offender he would be discharged. This has affected his entire life, and he would like it corrected before he dies.
3. A review of the applicant's service records shows:
  - on 15 September 1980, he enlisted in the Regular Army
  - his DA Form 2-1 (Personnel Qualification Record – Part II) shows –

- on 3 March 1981, he reported to Hawaii
- on 20 April 1981, he was promoted to private (PV2)/E-2
- on 20 July 1981, he was promoted to PFC
- on 15 January 1982, he was promoted to specialist/E-4
- on 5 January 1983, he was reduced to PFC (his record does not contain supporting documentation for his reduction)
  
- on 31 March 1983, he accepted nonjudicial punishment (NJP) under the provisions of Article 15 of the Uniform Code of Military Justice (UCMJ) for a breach of peace by yelling profanity towards two NCOs and five Soldiers in correctional custody on or about 15 March 1983 –
  - his punishment included a suspended reduction to PV2/E-2 to be remitted if not vacated before 17 April 1983 and 14 days of extra duty
  - he did not appeal the Article 15 or demand trial by court-martial
  
- on 18 July 1983, the Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) director notified his chain of command –
  - the applicant registered positive for tetrahydrocannabinol on a unit sweep urine sample on 11 April 1983 and was referred to the ADAPCP on 28 June 1983
  - upon close scrutinization of his case, and in conjunction with a rehabilitation team meeting convened on 29 June 1983 it was determined that rehabilitation effort for the applicant was not practical and would likely be unsuccessful
  - the recommendation was that the applicant be separated from the service under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 9 (Alcohol or Other Drug Abuse Rehabilitation Failure)
  - the recommendation was invalid 30 days from the date of the letter
  
- on 27 July 1983, his commander counseled him on his intent to separate him as an ADAPCP rehabilitative failure
- on 10 August 1983, his commander initiated action to separate him under the provisions of Army Regulation 635-200, chapter 9
- on 10 August 1983, he was afforded the opportunity to consult with legal counsel concerning his proposed separation, the applicant signed a statement indicating he declined; however, he acknowledged and received all his rights
- on 10 August 1983, the separation authority approved the applicant's discharge under the provisions of Army Regulation 635-200, chapter 9, and issuance of a

general discharge under honorable conditions consistent with the chain of command recommendations

- on 25 August 1983, he accepted NJP under provisions of Article 15 of the UCMJ for wrongfully using marijuana on or about 24 June 1983 –
  - his punishment included reduction to E-2, forfeiture of \$321, and 30 days of extra duty
  - he did not appeal the Article 15 or demand trial by court-martial
- on 31 August 1983, he was discharged in the rank/grade of PFC/E-3 with an under honorable conditions characterization of service, his DD Form 214 shows he completed 2 years, 11 months, and 16 days of net active service, with a narrative reason for separation as "Drug Abuse – Rehabilitation Failure"

#### 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 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 had multiple infractions throughout his career and was deemed an ADAPCP rehabilitative failure and his commander initiated separation under the provisions of Arm Regulation 635-200, chapter 9. The Board noted the applicant did not provide supporting documents attesting to any notable post-service accomplishments/achievements. The Board also noted the applicant's DD Form 214 shows his rank as PFC. The Board found no error or injustice in the applicant's characterization of service or narrative reason for separation.

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 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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 635-5 (Separation Documents) states:

a. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

b. Item 28 (Narrative Reason for Separation) of the DD Form 214 will show the narrative reason for separation as shown in Army Regulation 635-5-1 (Separation Program Designators) based on the regulatory or other authority.

4. Army Regulation 635-200 (Personnel Separations Enlisted Personnel) 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. Chapter 9 states a member who has been referred to the Army Drug and Alcohol Prevention and Control Program (ADAPCP) for alcohol/drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and

rehabilitation efforts are no longer practical. Nothing in this chapter prevents separation of a Soldier who has been referred to such a program under any other provisions of this regulation. Initiation of separation proceedings is required for Soldiers designated as alcohol/drug rehabilitation failures. The service of Soldiers discharged under this chapter will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status.

5. 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//