

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 August 2025

DOCKET NUMBER: AR20240013312

APPLICANT REQUESTS: reconsideration of his prior request to upgrade his undesirable discharge to a under honorable conditions (general).

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

- DD Form 149 (Application for Correction of Military Record)
- Vocational Culinary Arts Diploma, 10 September 1997
- Certificate of Achievement, undated
- Trainee Competencies Performance Evaluation, 29 September 1997
- two Life Skills Foundation Certificates, 26 February 1998
- High School Diploma, 8 March 1999
- Certificate of Completion, 30 July 2002
- Certificate of Achievement, 20 August 2004
- Certificate of Achievement, 18 November 2009
- Certificate of Completion, 22 February 2011

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20120022184 on 18 July 2013.

2. The applicant states:

a. He is requesting upgrade of his discharge from other than honorable to general under honorable conditions, for future opportunities that may become available and to further his improvement as a responsible, productive member of society.

b. He volunteered to serve and defend our country and he honored that oath to the best of his ability. He did not know that upgrade was possible.

3. The Applicant enlisted in the Regular Army on 3 November 1972.

4. A DA Form 20B (Insert Sheet to DA Form 20 (Enlisted Qualification Record)) shows:

a. The applicant was convicted by a special court-martial of resisting apprehension, aggravated assault by striking a Soldier with a wooden chair and his fists, assault, and breaking restriction.

b. He was sentenced to confinement for 30 days, forfeiture of \$200.00 pay per month for 3 months, and reduction to the rank/grade of private (PVT)/E-1. The convening authority approved the sentence on 18 October 1973.

5. The complete facts and circumstances surrounding the applicant's discharge are unknown, as his discharge packet is not in his available records for review.

6. The applicant's DD Form 214 (Report of Separation from Active Duty) shows:

a. He was discharged under other than honorable conditions on 1 February 1974, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 10, with Separation Program Designator (SPD) 246 (For the Good of the Service).

b. He was credited with 1 year, 2 months, and 7 days of active service, including 6 months and 18 days of foreign service in Germany and 22 days of lost time.

7. An ADRB Brief shows:

a. The applicant previously applied to the Army Discharge Review Board (ADRB) on 26 March 1974, requesting discharge upgrade.

b. In addition to the special-court martial conviction, discussed above, the applicant also received nonjudicial punishment (NJP) under the provisions of Article 15, Uniform Code of Military Justice (UCMJ) on four occasions, for multiple counts of being absent without leave (AWOL), behaving with disrespect toward two commanders, disobeying a lawful command, and failing to obey a lawful order.

c. His request was denied by the ADRB.

8. The applicant previously applied to the Board requesting discharge upgrade. On 18 July 2013, the Board denied his request, determining the evidence presented did not demonstrate the existence of a probable error or injustice and the overall merits of his case were insufficient as a basis for correction of his records.

9. The applicant provided numerous certificates of achievement and achievement, to include a Vocational Culinary Arts Diploma and a High School Diploma, between the dates of September 1997 – February 2011, all of which have been provided in full to the

Board and demonstrate the applicant's completion of numerous vocational and personal development programs.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, a minority of the Board found relief was warranted based on the applicant's post-service achievements and attendance at anger management classes, while a majority of 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 complete facts and circumstances surrounding the applicant's discharge are unknown; however, the evidence of record shows the applicant was convicted by a special court-martial of resisting apprehension, aggravated assault by striking a Soldier with a wooden chair and his fists, assault, and breaking restriction. He was discharged from active duty under the provisions of Army Regulation 635-200, chapter 10. Additionally, his ADRB case shows he received NJP under the provisions of Article 15, UCMJ on four occasions, for multiple counts of being AWOL, behaving with disrespect toward two commanders, disobeying a lawful command, and failing to obey a lawful order. Therefore, the Board determined the applicant's characterization of service was not in error.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	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 amendment of the ABCMR decision rendered in Docket Number AR20120022184 on 18 July 2013.

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. 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 court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds. This guidance does not mandate relief, but rather provides standards and principles to guide BCM/NRs 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. 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.

2. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 provides that a member who had committed an offense or offenses for which the authorized sentence included a punitive discharge could submit a request for discharge for the good of the service in lieu of trial by court-martial. The request could be submitted at any time after charges were preferred. Although an honorable or general discharge could be directed, an Undesirable Discharge Certificate would normally be furnished to an individual who was discharged for the good of the service.

b. 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.

c. 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.

d. A discharge under other than honorable conditions (UOTHC) is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial. When a Soldier is discharged UOTHC, the separation authority will direct an immediate reduction to the lowest enlisted grade.

3. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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.

//NOTHING FOLLOWS//