

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240013605

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

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

- DD Form 149 (Application for Correction of Military Record), with self-authored statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 29 August 2003

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 targeted by his first sergeant (1SG). He was constantly singled out, blamed for things, and treated unfairly. His 1SG had a personal grudge against him. The incident involving the check book was a mistake which he owned up to. It was not done fraudulently or maliciously. During his court-martial, his commander testified that he was an exemplary Soldier. Since his discharge, he has built a business, started a family, and created many memories that overpower his memories from the Army. However, his discharge is still a cloud that hangs over his head.

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

- a. He enlisted in the Regular Army on 16 July 2001.
- b. He accepted nonjudicial punishment on two occasions:
  - On 5 June 2002, for failure to be at his appointed place of duty, on or about 4 June 2002

- On 14 August 2002, two specifications of willfully disobeying a lawful order, on or about 17 June and 22 June 2002. His punishment included reduction to private/E-1
- c. He served in Kosovo from 11 November 2002 to 15 April 2003.
- d. Before a summary court-martial on 14 March 2003, at Camp Magrath, Kosovo, he pled guilty to and was found guilty of:
- three specifications of failure to go to his place of duty
  - willfully disobeying an order
  - two specifications of making a false statement
  - stealing a checkbook
  - stealing a watch
- e. His sentence included reduction to private/E-1, forfeiture of \$767.00 pay, and confinement for 15 days.
- f. On 10 June 2003, his commander notified him of his 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, by reason of commission of a serious offense.
- g. On that same date, his commander formally recommended his separation from service.
- h. 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. He waived consideration of his case by and administrative separation board.
- i. On 12 August 2003, the Commanding General, 1st Infantry Division, denied his request for a conditional waiver and referred the action to an administrative separation board.
- j. On 20 August 2003, the applicant resubmitted an unconditional waiver of administrative separation board.
- k. His chain of command and the Staff Judge Advocate (SJA) recommended approval of the separation action. The SJA, company and battalion commanders recommended the issuance of an UOTHC characterization of service. The brigade commander recommended an under honorable conditions (General) characterization of service.

I. On 25 August 2003, the separation authority approved the recommended separation action and directed the issuance of a UOTHC characterization of service.

m. Accordingly, he was discharged on 29 August 2003, by reason of misconduct, with an UOTHC characterization of service. He completed 2 years, 1 month, and 14 days of active service.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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 separated for misconduct under the provisions of Army Regulation 635-200, chapter 14-12c (Commission of a Serious Offense). The Board was convinced by the applicant's statement and the injustice that occurred during his service, his sustained honorable conduct and personal growth since discharge, demonstrating long-term commitment and stability, as well as law-abiding behavior. Therefore, the Board determined an upgrade to honorable conditions was warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 29 August 2003 to show:

- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) GWOTSM and NDSM
- Item 24 (Character of Service) Honorable

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. 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. 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.
  - c. 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//