

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 August 2025

DOCKET NUMBER: AR20250000276

APPLICANT REQUESTS: reconsideration of his previous requests for upgrade of his under other than honorable conditions discharge to honorable.

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

- Two-Counsel letters, 18 March 2022 and 22 July 2024
- Three-self authored letters, 9 February 2022 and undated
- Two-Standard Form 515 (Clinical Record), 9 November 1973
- Two- DA Form 3349 (Medical Condition – Physical Profile Record), 31 August 1973
- Standard Form 515 (Clinical Record), 9 November 1973
- DD Form 458 (Charge Sheet), 2nd page
- DA Form 2823 (Witness Statement), 1 February 1974
- DA Form 2496 (Disposition Form), April 1974
- Special Court Martial Orders Number 13, 11 April 1974
- Darnall Army Hospital letter, 15 May 1974
- Memorandum, 22 August 1974
- DA Form 2496 (Disposition Form), 23 August 1974
- Separation packet
- Record of Trial, 22 October 1974
- Summary of Evidence, undated
- Summarized Court Proceedings, undated
- Presentation of Defense Case, undated
- DD Form 214 (Report of Separation from Active Duty)
- Department of Veteran Affairs (VA) letter, 2 April 1975
- VA Form 1-646 (Statement of Accredited Representative in Appealed Case), 25 April 1975
- Docket Number AC-81-02331, 24 January 1981
- Memorandum, 6 July 1981
- Letter, 1 August 1986
- Ten-Congressional letters
- ABCMR letter, 17 June 1991
- VA letter, undated

- Army Review Boards Agency letter, 10 January 2008
- Record of Proceedings AR20090002674, 5 June 2008
- Record of Proceedings AR20170011759, page 2 and 3, undated
- ABCMR letter, 3 June 2021
- Congressional Liaison and Inquiries, 26 August 2021
- Three-Character Witness letters
- ABCMR letter, 19 May 2022
- DD Form 149, 14 August 2023

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 AR20080002674 on 5 June 2008; and AR20170001759 on 22 May 2019.

2. The applicant states he was absent without leave for 20 minutes; at the time he only had six months of active duty left. Men in the 1970's hated black men. He joined the military to get away from hate. He takes full responsibility for everything he has done. These men knew the game and played on him. He forgot their names but not their faces.

3. The applicant provides three-character witness letters that show:

a. A\_\_\_\_ G\_\_\_\_, 14 February 2022, states they worked together, she has known him for 30 years. The [applicant] is sincere and has high moral and ethical standards. He is a family man and during the pandemic he was dedicated to the elderly and sick.

b. Reverend D\_\_\_\_ H\_\_\_\_, 22 February 2022, states he has known the applicant for 30 years, they were neighbors and grew up together. The [applicant] has impeccable character and donates to the church.

c. State Senator M\_\_\_\_ S\_\_\_\_, 1 March 2022, states we should continue to support our Veterans and that she supports his request.

4. Review of the applicant's record shows:

a. He enlisted in the Regular Army on 1 November 1972.

b. On 6 February 1974, he was convicted by a special court-martial of one specification of being disrespectful to his superior commissioned officer. The court sentenced him to \$100.00 forfeiture of pay for one month and a reprimand. The imposing authority approved the sentence on 14 February 1974.

c. On 19 March 1974, he accepted nonjudicial punishment under Article 15, Uniform Code of Military Justice for failing to go to his appointed place of duty and failing to stay on his post on 12 March 1974. His punishment included a reduction to pay grade E-1.

d. On 1 April 1974, he was convicted by a special court-martial of one specification of being absent without leave and disobeying a lawful order. The court sentenced him to confinement for 1 month and a \$150.00 forfeiture of pay for one month. The imposing authority approved the sentence on 11 April 1974.

e. A DA Form 2800 (Criminal Investigation Division Report of Investigation), 19 July 1974, shows he was apprehended for accepting bribes at the Central Issue Facility, Fort Hood, TX.

f. His DD Form 458 (Charge Sheet), 23 August 1974, shows court-martial charges were preferred against the applicant for one specification of wrongfully and unlawfully accepting money as compensation for services rendered on 15 July 1970 and one specification of being AWOL from 16 July to 21 August 1970.

g. On 23 August 1970, after consulting with legal counsel. He was advised of the basis of contemplated trial by court-martial and the maximum permissible punishment authorized under the Uniform Code of Military Justice. Following this consult, he requested a discharge for the good of the service under the provisions of chapter 10, Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel). He acknowledged:

- maximum punishment
- if his request for discharge was accepted, he may be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate
- he may be deprived of many or all Army benefits
- he may be deprived of his rights and benefits as a veteran under both Federal and State law
- he may expect to encounter substantial prejudice in civilian life

h. Consistent with the chain of command recommendations, the separation authority approved his request for discharge in lieu of trial by court-martial with the issuance of an Undesirable Discharge Certificate, and reduction to the lowest enlisted grade (if applicable).

i. The applicant was discharged from active duty on 25 September 1974. His DD Form 214 shows he was discharged under the provisions of chapter 10 of AR 635-200. He completed 1 year, 7 months, and 15 days of net active service.

j. On 5 June 2008, the ABCMR rendered a decision in Docket Number AR20080002674. The Board noted the applicant was convicted by a Special Court-Martial on three occasions. His last Special Court-Martial sentenced him to a suspended bad conduct discharge, and before it could be executed, the applicant committed two more offenses. Subsequently, the Board denied his request.

k. On 22 May 2019, the ABCMR rendered a decision in Docket Number AR20170001759. The Board found based upon the relatively short term of service completed prior to a pattern of misconduct and the lack of character evidence submitted by the applicant to show he learned grown from the events leading to his discharge. The Board concluded the characterization the applicant received at the time of discharge was appropriate.

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 separated for accepting money as compensation for services and being AWOL from 16 July to 21 August 1970, 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 assigned during separation. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate. Therefore, the Board found reversal of the previous Board determination is without merit and denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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 amendment of the ABCMR decision rendered in Dockets Number AR20080002674 and AR20170001759, on 5 June 2008 and 22 May 2019, respectively.

<p><b>X</b> //SIGNED//</p>
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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. 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 ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
2. Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel. The regulation stated in:
  - a. Paragraph 3-7a (Honorable Discharge) – an honorable discharge was a separation with honor. The honorable characterization was appropriate when the quality of the Soldier's service generally had met the standards of acceptable conduct and performance of duty for Army personnel or was otherwise so meritorious that any other characterization would be clearly inappropriate.
  - b. Paragraph 3-7b (General Discharge) – a general discharge was a separation from the Army under honorable conditions. When authorized, it was issued to a Soldier whose military record was satisfactory, but not sufficiently meritorious to warrant an honorable discharge.
  - c. Chapter 10 – an individual who has committed an offense or offenses, the punishment for which included an undesirable discharge, could submit a request for discharge for the good of the service. A discharge under other than honorable conditions normally was appropriate for a Soldier who was discharged for the good of the service; however, the separation authority could direct a General Discharge Certificate, if such was merited by the Soldier's overall record during the current enlistment.
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//