

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 September 2025

DOCKET NUMBER: AR20250000758

APPLICANT REQUESTS:

- an upgrade of his under honorable conditions discharge to honorable
- a video/telephonic appearance before the Board

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 was unaware he could request a discharge upgrade, and seeks an honorable discharge.
3. A review of the applicant's record shows:
 - a. He was inducted into the Army of the United States on 28 October 1970.
 - b. He served in Japan from 22 April 1971 to 8 November 1971.
 - c. On 24 September 1971, the applicant underwent a mental health examination at the request of the command due to exhibiting abnormal behavioral patterns. The behavioral health staff noted his problems seemed to be depression as well as thoughts of suicide. The applicant came from a disadvantaged background, with inadequate parenting and early self-sufficiency, and exhibited social paranoia toward white authority figures due to past racial trauma. He perceived military service as an extension of racial oppression, which, combined with his personality traits, hindered his ability to adjust to the military environment.

d. On 1 October 1971, his immediate commander notified him of his intent to separate him under the provisions of Army Regulation (AR) 635-212 Personnel Separations – Discharge – Unfitness and Unsuitability) by reason of unsuitability. The specific reason for separation is based on recommendations from the chaplain, social worker, and psychiatrist, as well as the applicant's demonstrated inability to accept and adhere to military authority.

e. On 6 October 1971, he accepted nonjudicial punishment for sleeping while on sentinel duty. His punishment included forfeiture of \$15.00 pay per month for one month.

f. On 6 October 1971, after consulting with counsel he acknowledged, the rights available to him and the effect of waiving said rights. He elected not to submit a statement on his own behalf.

g. On 19 October 1971, the immediate commander initiated separation action against the applicant for unsuitability. The commander stated that the applicant's separation is due to his inability to adopt a military posture and his significant social inadaptability. He has demonstrated no ability to adjust his behavior or manage relationships with authoritative figures.

h. On 1 November 1971, the separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-21 for unsuitability. He would be issued a General Discharge Certificate.

i. On 11 November 1971, he was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 1 year, and 14 days of active service with no lost time. He was assigned separation code SFN 264 and the authority for separation listed as "AR 635-212," with reentry code 3. It also shows he was awarded or authorized the National Defense Service Medal.

4. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

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:

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 was separated for unfitness with the commander citing that the applicant's separation is due to his inability to adopt a military posture and his significant social inadaptability. He has demonstrated no ability to adjust his behavior or manage relationships with authoritative figures. The Board found no error or injustice in the separation proceedings under the regulation and subsequent characterization of service assigned at separation. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate and denied relief.

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
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 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.

a. 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.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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 635-212 (Personnel Separations – Discharge – Unfitness and Unsuitability), in effect at the time, set forth the policy for administrative separations for unfitness.

a. Paragraph 3 (Policy) states action will be taken to separate an individual for unfitness when it is clearly established that:

- despite attempts to rehabilitate or develop him as a satisfactory Soldier, further effort is unlikely to succeed
- rehabilitation is impracticable (as in cases of confirmed drug addiction) or he is not amenable to rehabilitation measures (as indicated by the medical and/or personal history record)
- an unfitting medical condition is not the direct or substantial contributing cause of his unfitness

b. Paragraph 4 (Types of Separation) states an individual separated by reason of unfitness will be furnished an Undesirable Discharge Certificate except that an honorable or general discharge certificate may be awarded if the individual being discharged has been awarded a personal decoration or if warranted by the particular circumstances in a given case.

4. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), currently in effect, provides the policy and procedures 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 Soldier'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 Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

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//