

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 August 2025

DOCKET NUMBER: AR20250000925

APPLICANT REQUESTS:

- upgrade of his under honorable conditions (general) discharge to honorable
- a video or telephone hearing with the Board

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

- DD Form 149 (Application for Correction of Military Record), 3 September 2024
- Court Custody Ruling, 20 January 2012
- Court Consent Judgement, 20 May 2012
- certificates of appreciation/achievement (five), dated between 1997 and 1998

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 his former spouse falsely accused him of abusing his son while she was committing adultery. The accusations were dismissed in court. His commanding officer and first sergeant were informed of his innocence; however, he was already discharged. He was later granted full custody of his children and raised them alone.
3. The applicant provides copies of certificates of training earned while he was in the Army. He also provides copies of court consent judgement, dated 20 January 2012, reflecting he was granted, in part, full custody of his sons and joint custody of his daughter with the paternal grandparents. A Court judgment, dated 20 May 2013, granted him sole custody of his daughter.
4. A review of the applicant's service records show the following:
 - a. On 24 September 1996, he enlisted in the Regular Army for 4 years.

b. On 6 May 1998, he provided a sworn statement admitting to assault and battery on his wife at the time, arising out of a dispute they had in their kitchen.

c. On the same date, he was counseled by his commanding officer for spousal and child abuse.

d. On 11 June 1998, he accepted summarized nonjudicial punishment for two specifications of failing to go to his appointed place of duty. He was given extra duty and restriction.

e. On 12 June 1998, the Chief, Social Work Services, Womack Army Medical Center, reported a substantiated case of spousal abuse but unsubstantiated child abuse.

f. On 29 July 1998, his commander notified him of his intent to initiate separation proceedings against him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12b for a pattern of misconduct, and advised him of his rights. He understood he was being recommended for an under honorable conditions (general) characterization of service as the result of spousal abuse and two specifications of failure to go.

g. His commander subsequently recommended his discharge and forwarded his recommendation to the separation authority.

h. On 5 August 1998, the separation authority approved the recommended discharge with an under honorable conditions (general) characterization of service

i. On 31 August 1998, he was discharged. His DD Form 214 (Certificate of Release or Discharge from active Duty) reflects he was discharged under the provisions of Army Regulation 635-200, paragraph 14-12b for misconduct. He completed 1 year, 11 months, and 7 days of net active service.

4. On 2 June 2025, in the processing of this case the U.S. Army Criminal Investigation Division, searched their criminal file indexes, which revealed a reacted Military Police Report Number [REDACTED], reflecting the findings of its investigation into allegations of spousal and misdemeanor child abuse. The report notes insufficient evidence was found as to allegations of misdemeanor child abuse.

5. In reaching its determination, the Board can consider the applicant's petition and 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 charged with a pattern of misconduct. The Board noted the applicant was granted full custody of his children; however, spousal abuse was substantiated. The Board found no error or injustice in the separation proceedings and designated character of service assigned by the commander during separation. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate.

2. The applicant's request for a video or telephone 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:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

: : : GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

■ ■ ■ 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 (Army Board for Correction of Military Records) 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.

a. 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 (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

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 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter.

//NOTHING FOLLOWS//