

Army Agrees to Review Thousands of Unfavorable Discharges for Veterans

If approved by a federal judge, the settlement agreement in a class-action lawsuit could result in thousands of veterans gaining access to the Department of Veterans Affairs' full array of benefits.



By **John Ismay**

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The U.S. Army would review the cases of thousands of former soldiers who were separated from the service after Oct. 7, 2001, with less-than-honorable discharges and potentially upgrade their service paperwork to read “honorable,” under a settlement agreement filed this week in U.S. District Court in Connecticut.

The agreement, which requires a judge’s approval, could result in thousands of veterans gaining access to the full array of Department of Veterans Affairs benefits, which they were previously not guaranteed because of minor misconduct while in uniform.

The agreement, which was filed on Tuesday, was a result of a class-action lawsuit filed against the service in 2017 by two Army veterans from Connecticut, Steve Kennedy, 34, of Fairfield, and Alicia Carson, 32, of Southington.

Their lawsuit alleged that the Army Discharge Review Board had systematically failed to follow guidance set by then-Secretary of Defense Chuck Hagel in 2014 that required the service to consider mental health conditions when veterans request that their discharge status be upgraded.

Mr. Kennedy was granted a discharge upgrade in 2018, after being denied twice before, he said. Ms. Carson also had her discharge upgraded to honorable in 2017, after the lawsuit was filed, according to the Veterans Legal Services Clinic at Yale University, which represents the plaintiffs together with the firm of Jenner & Block.

The agreement would compel the Army to automatically review the cases of about 3,500 former soldiers who have displayed symptoms of, or claimed, mental health and behavioral disorders or who experienced sexual trauma on active duty, and had their applications for discharge upgrades rejected by the Army Discharge Review Board.

As many as 50,000 to 100,000 additional former soldiers may be eligible for upgrade reviews as members of the class-action suit, according to the Yale clinic.

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“I think for me and a lot of people there was a lot of shame associated with it, and it was something I wanted to keep it to myself,” Mr. Kennedy said of his general discharge. In the years since being forced out of the Army, he earned a bachelor’s degree and is now studying for a law degree at the University of Connecticut.

“The board in my case directly reconsidered and approved my honorable discharge,” Mr. Kennedy said. “The most important thing to me is that everyone else gets that same review.”

In a statement on Thursday, Alexander Conyers, deputy assistant secretary of the Army, said, “The Army Review Boards Agency, which acts on behalf of the secretary of the Army, impartially reviews and assesses cases in a manner that is fair and equitable to soldiers, former soldiers and the Army.”

“As the U.S. District Court for the District of Connecticut has not yet approved a settlement and *Kennedy v. McCarthy* remains in litigation,” he added, “any comment regarding a proposed settlement would be premature.”

Messages left with lawyers representing the Army in the settlement agreement on Thursday were not immediately returned.

Following a 14-month tour as an infantry soldier in Iraq, Mr. Kennedy said, he committed a minor infraction in 2009 and was sent to a mental health clinic at Fort Bragg, N.C., where doctors found he had depression and recommended him for separation, saying they could not provide adequate care. As a result, he received a general discharge, not an honorable one.

According to the legal clinic at Yale, the Army has discharged about 150,000 soldiers since the Sept. 11, 2001, attacks with so-called bad paper discharges like Mr. Kennedy, many of whom showed symptoms of mental health disorders like depression and post-traumatic stress, or suffered from traumatic brain injuries following their combat service.

When a soldier, sailor, airman, Marine or Coast Guardsman is discharged from the military, the service is characterized as honorable, general under honorable conditions, other-than-honorable, bad conduct, or dishonorable. Only the first, honorable, guarantees the new veteran access to the Department of Veterans Affairs' full array of benefits.

The type of discharge a service member receives after being separated for minor misconduct is subjective and can vary.

Veterans who receive what are often referred to as "bad paper discharges," the clinic says, can suffer from a prolonged stigma, often harming their ability to find civilian jobs.

If you are having thoughts of suicide, call the National Suicide Prevention Lifeline at 1-800-273-8255 (TALK). You can find a list of additional resources at [SpeakingOfSuicide.com/resources](https://www.speakingofsuicide.com/resources).

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