

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 September 2023

DOCKET NUMBER: AR20230001968

APPLICANT REQUESTS:

- Reconsideration of his previous requests to correct the provision cited for his separation and his reenlistment code
- As a new request, he asks the Board to remove derogatory information pertaining to allegations of fighting and indications he was referred into the Army's Alcohol and Drug Abuse Prevention and Control Program (ADAPCP)
- Permission to appear personally before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Two letters from applicant's Department of Veterans Affairs (VA) psychiatrist
- Extract from Army Board for Correction of Military Records (ABCMR) Docket Number AC93-13662
- VA letter with rating decision
- DA Form 2627 (Record of Proceedings under Article 15, UCMJ (Uniform Code of Military Justice))
- Two Standard Forms (SF) 88 (Report of Medical Examination) (second page only)
- Two SF 93 (Report of Medical History) (one with only first page, and one with second page only)
- AE (Army Europe) Form 3133 (Unit Commander's Report for Psychiatric Examination)
- Memorandum, subject: Psychiatric Evaluation – [Applicant]
- USAREC (U.S. Army Recruiting Command) Form 300 (Screening Physical Examination for Army Recruitment)
- SF 519-A (Radiographic Report)
- SF 601 (Immunization Record)
- DA Form 2173 (Statement of Medical Examination and Duty Status)
- DA Form 2496 (Disposition Form)
- Letter
- DD Form 261 (Report of Investigation – Line of Duty and Misconduct Status)

- SF 600 (Health Record – Chronological Record of Medical Care)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Numbers:

- AC93-13662, on 4 May 1992
- AR20060017740, on 7 June 2007
- AR20110000337, on 2 May 2011
- AR20110024060, on 23 May 2012
- AR20190007649, on 6 November 2019
- AR20200007999, on 9 March 2021

2. The applicant states, in effect, he is asking the Board to administratively correct his military records because the chapter within Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel) is wrong, as is his reenlistment classification.

a. The applicant disputes information stated in his last record of proceedings (ROP) (AR20200007999); the ROP inaccurately claimed the military police (MP) in Grafenwoehr made accusations against him, and the applicant contends there were no records of this before the 2000s. In fact, none of the incidents described in that ROP happened; the Board should instead consider the document made by Captain (CPT) R__ in October 1978. Further, the only reason he signed off on his separation documents was because they told him he would get a dishonorable discharge if he did not agree. The applicant states, "I was not put into an alcohol program...period. I was only discharged."

b. The applicant goes on to declare that, in the name of justice, the Board should affirm he was not guilty of fighting. The applicant maintains he told the CPT of the 70th U.S. Army Field Artillery Detachment (USAFAD) in Greece that a Soldier named U__ called him the N-word; the CPT failed to do anything about it, and the incident was never reported.

c. In item 13 (Are Any of the Following Issues/Conditions Related to Your Request) on his DD Form 149, the applicant has checked blocks for PTSD (post-traumatic stress disorder), Other Mental Health Issues, and Sexual Assault/Harassment.

3. The applicant provides documents from his official military personnel file, evidence he has previously submitted to the Board, and letters from his VA psychiatrist. Included are the following:

a. The applicant's VA psychiatrist wrote two letters in October 2022, in which he affirmed the VA had granted the applicant a 70 percent service-connected disability rating, and the doctor was treating him for Major Depressive Disorder and PTSD. In addition, the applicant had told the doctor that, despite what "someone else outside the VA" was claiming, the applicant affirmed he never received any alcohol-related treatment while in the Army, and the applicant had erroneously told the Board that his traumatic assault occurred in February 1978 when it actually happened in December 1977.

b. The applicant offers documentation pertaining to an incident that occurred, on 15 July 1977, and while the applicant was participating in advanced individual training (AIT) for military occupational specialty (MOS) 05F (Radio Teletype Operator (Non-Morse Code)).

(1) DA Form 2173 shows the applicant received medical treatment at the Fort Gordon, GA military hospital after falling about two feet from his bed, striking the floor, and injuring his face; he was under the influence of alcohol at the time.

(2) DD Form 261, dated 1 September 1977, reflects a line-of-duty investigating officer's (IO) findings that the applicant's injuries occurred after the "intemperate use of alcohol"; the IO recommended a determination of "Not-in-Line-of-Duty – Due to Own Misconduct." On 21 September 1977, and on behalf of the Secretary of the Army, the Fort Gordon Line-of-Duty authority approved the investigating officer's recommendation.

c. A psychiatric evaluation of the applicant, conducted by a U.S. Air Force psychiatrist, on 1 December 1977, and addressed to the commander, 70th USAFAD. The report states the following:

(1) "The evaluation was requested by this individual's commander with the following comments, '1a. SM (service member) seems unable to deal with either his peer group or his superiors. b. In the two (2) months [applicant] has been assigned to this unit, he has been involved in numerous conflicts with several individuals, including two (2) fights. c. When talking to SM about these incidents, he states he doesn't know why he acts in this manner. 2. Results of the evaluation will be used to determine if this individual is eligible for continued participation in the Personnel Reliability Program (PRP).'"

(2) "In talking with this individual, he did confirm that there have been a couple of incidents in which he became angry and became involved in a physical fight. He relates this to the fact that he feels there are a couple of people in his unit that 'pick' on him as a result of his reserved and quiet personality. He finds himself being bored quite frequently and not having enough activity to structure his day. Other than that, he denies any major problems."

(3) Summary and Recommendations: "I do not see any psychiatric problems that will disqualify this individual from the PRP. The hypersensitivity in his relationship with his peers, that is demonstrated by his recent actions, I feel is a function of his personality and does not represent any serious psychiatric impairment."

d. AE Form 3133, dated 22 January 1979, shows the applicant's commander requested an evaluation of the applicant for the purpose of "study and treatment."

(1) The commander reported that, overall, the applicant was doing his job well, and he was getting along with his supervisors; however, the applicant had had "repeated incidents of drunk and disorderly behavior," and most of the instances had taken place after 1 October 1978.

(2) As of the date of the request, the applicant was in the CDAAC (Community Drug and Alcohol Assistance Center) Program, and he had expressed a strong desire to rehabilitate himself, but the episodes involving alcohol had continued.

(3) The commander opined the applicant was a "prime candidate for the Chapter Nine (9)" (referring to chapter 9 (Alcohol or Other Drug Abuse (Exemption Policy)), AR 635-200). The commander added, "If he could control himself after duty hours, he would be a useful and productive member of the unit."

4. A review of the applicant's service record reveals the following:

a. On 28 February 1978, the applicant enlisted into the Regular Army for 3 years. Upon completion of initial entry training and the award of MOS 05F, orders assigned him to the 70th USAFAD in Greece, and he arrived at his new unit, on 31 August 1978.

b. On 20 December 1977, the applicant's commander advised him he was initiating action to disqualify the applicant from the PRP; he was doing this because he felt the applicant was not qualified to perform the duties required of his MOS. The applicant acknowledged the notification, indicated he would not appeal, and affirmed he would not be making any additional statements.

c. On 20 December 1977, the commander forwarded his PRP disqualification recommendation to the next higher commander; the commander stated he had determined the applicant should be disqualified for "inadequate group and/or social adjustment and relationships."

(1) Through his own observations and those of the other leaders, the commander had found that the applicant demonstrated "outward hostility to many members of this unit. This consisted both of verbal abuse and outward flagrant invitations to physical struggle."

(2) The applicant consistently displayed a pattern of abusive language to both peers and superiors, and his behavior "caused him to physically break one (1) window and one (1) mirror for no apparent reason except hostility." "On one particular occasion, (the applicant) accosted several members of this unit to try and provoke a fight."

(3) Based on the foregoing, the commander recommended the applicant undergo a psychiatrist evaluation to determine the cause and possible correction of the aforementioned problems.

d. In or around February/March 1978, orders reassigned the applicant to an armored division headquarters in Germany; he arrived, on 15 March 1978. On 5 July 1978, the applicant's platoon leader counseled him after the local MPs charged the applicant with drunk and disorderly conduct. In the counseling statement, the platoon leader reported that the applicant expressed regret over the incident but explained "he had family problems that he did not care to discuss," but that these problems had contributed to his state of mind.

e. On 10 August 1978, the applicant's platoon leader counseled the applicant again because the noncommissioned officers in the platoon had seen the applicant frequenting the local bars and drinking a lot. The applicant stated he was "still bothered by his family problems, but that there was nothing we (the unit) could help him with. He explained that he was 'a proud' person and would work out (his) own problems."

f. On 7 September, and again, on 15 September 1978, the applicant's platoon leader counseled the applicant after writing a number of dishonored checks. In September 1978, the applicant's commander requested the Grafenwoehr CDAAC evaluate the applicant for alcohol abuse.

(1) The commander indicated the applicant had destroyed private property; he had smashed several beer bottles at a local establishment and the MPs had to detain him. The commander assessed the applicant duty performance as "Good," and affirmed the applicant liked the Army, his unit, and his job, but the applicant had been a disciplinary problem and was experiencing personal problems.

(2) The commander recommended the applicant's placement on a "30-day Social Evaluation Program. [Applicant] has been a good Soldier, however, personal problems have been aggravated by alcohol. This SM has the potential of being an outstanding Soldier, if he has the maturity to handle his personal problems."

g. On 1 October 1978, the owner of a local bar called the MPs because, after being initially removed for causing a disturbance, the applicant and another Soldier had returned and damaged part of the bar. On 7 October 1978, the MPs responded to a call from a local disco manager after the manager asked for help with disbursing a crowd;

as the MPs started clearing the establishment, the applicant became disorderly, used profanity toward the MPs, and refused to leave the area. The MPs detained the applicant.

h. On 2 November 1978, the CDAAC officer-in-charge (OIC) asked the supporting medical dispensary to clinically evaluate the applicant for alcohol abuse; on 21 November 1978, the dispensary's physician medically confirmed the applicant was abusing alcohol. On 22 November 1978, the CDAAC OIC notified the applicant's commander that the applicant was required to enter the ADAPCP rehabilitation program due to a diagnosis of "Alcoholism, episodic excessive drinking"; the applicant would be seen once a week for the next 60 days by a counselor.

i. On 30 November 1978, a local cafe owner filed a complaint against the applicant, claiming, on 30 November 1978, the applicant had entered the cafe, sat at the bar, and had then left for a time; at that point a German Soldier arrived and sat on what had been the applicant's stool. On his return, the applicant saw the German Soldier sitting on his stool; the applicant slapped the German Soldier twice, and then poured a glass of beer over the German Soldier's uniform.

j. On 8 December 1978, the applicant accepted nonjudicial punishment, under the provisions of Article 15, UCMJ, for two specifications of drunk and disorderly, with the incidents taking place respectively, on 1 and 7 October 1978. On 7 December 1978, the same cafe owner from the 30 November 1978 incident filed another complaint, alleging the applicant had struck him in the chest after the owner told the applicant he was not allowed in the cafe.

k. On 9 January 1979, the applicant's commander prepared a DA Form 2496, in which he declared the applicant a rehabilitation failure.

l. On 11 January 1979, the CDAAC OIC signed an ADAPCP Progress Report; he noted the applicant had been referred for alcohol abuse, on 6 September 1978, and received counseling, from 2 October 1978 to 9 January 1979; the applicant then entered the active rehabilitation program, from 21 November 1978 to 20 January 1979. As of the date of the report, there had been no change in the applicant's alcohol habits. The OIC wrote:

(1) "SM originally placed on social evaluation for 30 days. After 15 of the 30 days, he was placed in the active CDAAC program for episodic excessive alcoholism. SM has had a number of drunk and disorderly episodes."

(2) "SM seems to have a lot of potential but drinking behavior and his ideations of what his problems are seem unchangeable at this time. It would take, in my opinion, too much time for this SM to be rehabilitated enough to meet standards set in

AR 600-85 (ADAPCP) in order to become a more productive, efficient Soldier. Counselor is recommending to the commander that [applicant] be processed for a Chapter 9 discharge, acting in the best interest of the SM and the United States Army."

m. On 11 January 1979, the applicant's commander advised him, via memorandum, that he was initiating separation action against the applicant, under the provisions of chapter 9, AR 635-200; the basis for this action was the applicant's failure to successfully complete the Alcohol Rehabilitation Program. If the commander's recommendation was approved, the applicant would receive an honorable character of service.

n. On 11 January 1979, after consulting with counsel, the applicant acknowledged receiving the commander's notification, requested legal counsel, and stated his intent to submit a statement in his own behalf; (that statement is unavailable for review).

o. On 11 January 1979, the commander forwarded his separation recommendation to the separation authority; he stated the applicant was a rehabilitation failure and had received counseling from leadership for alcohol abuse, drunk and disorderly behavior, and writing dishonored checks. The commander wrote:

(1) "SM's character of service has been unsatisfactory. His drinking has resulted in missed formations and affrays in the billets, as well as off post violations of the UCMJ."

(2) "It is my opinion that no matter where assigned, as long as alcoholic beverages are available, he will continue to abuse them. I attribute a portion of his problem to immaturity. He has not been able to cope with being on his own and cannot meet the responsibilities of being a productive Soldier."

p. On 5 March 1979, the separation authority approved the commander's separation recommendation and directed the applicant's honorable discharge; in addition, he directed the applicant receive a reenlistment code of "RE-3" (waiver required for reenlistment). On 5 April 1979, orders separated the applicant accordingly.

q. The applicant's DD Form 214 (Report of Separation from Active Duty) shows he completed 2 years, 1 month, and 28 days of his 3-year enlistment contract. The form additionally reflects the following:

- Item 9c (Authority and Reason) – "CHAP 9, AR 635-200 SPD (Separation Program Designator) JPB (Alcohol or Other Drug Abuse (Exemption Policy))
- Item 10 (Reenlistment Code) – "RE-3"

- Item 26 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) – two marksmanship qualification badges

r. On 27 October 1993, the applicant petitioned the ABCMR, requesting the Board change his RE-3 code to the code RE-1 (fully eligible for reenlistment). On 4 May 1994, the Board voted to deny relief.

s. On 13 November 2006, the applicant filed an application with the ABCMR requesting the award of the Army Good Conduct Medal; he contended that, because he was racially attacked and his leadership covered it up, he felt he deserved the award. On 7 June 2007, the Board denied the applicant's request.

t. On 14 March 2011, the applicant submitted a DD Form 293 (Application for the Army Discharge Review Board) asking for a change in his narrative reason for separation. On 2 May 2011, the Army Review Boards Agency (ARBA) administratively closed the applicant's application because he had filed his request more than 1 year after the Board's previous decision.

u. On 2 December 2011, the applicant requested the Board correct his DD Form 214 to show he successfully completed 3 weeks of advanced radio-teletype training in Germany. On 23 May 2012, the Board denied the request, noting the applicant's service record was void of any proof of training completion.

v. On 4 May 2019, the applicant submitted a DD Form 293, asking that his DD Form 214 be corrected to show all of his awards. On 6 November 2019, ARBA administratively closed the applicant's request because he had not exhausted all administrative remedies; ARBA recommended the applicant contact the awards branch of the U.S. Army Human Resources Command for assistance.

w. On 5 June 2020, the applicant petitioned the ABCMR, requesting the Board change the regulatory authority for his separation from chapter 9 to chapter 13 (Separation for Unsuitability).

(1) The applicant argued he had been through extensive alcohol treatment and wanted his DD Form 214 to reflect this. In support of his request, he provided a letter from his VA psychiatrist, who acknowledged the applicant was a 70 percent service-connected Veteran, and that the applicant was receiving treatment on an outpatient basis.

(2) On 9 March 2021, the Board voted to deny relief, stating, "The Board carefully considered the applicant's request for a change to the separation authority and reason shown on his DD Form 214 and reviewed the supporting documentation.

Although, the applicant provides evidence that he has completed and adhered to an alcohol treatment program since discharge, his DD Form 214 accurately reflects the separation authority and reason at the time of his honorable discharge."

5. AR 15-185, currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning there is a greater than a 50 percent chance that what an applicant's claims is true.

b. An applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

6. AR 600-37 (Unfavorable Information), in effect at the time, stated once an official document containing adverse information had been accepted by Headquarters, Department of the Army (HQDA) for inclusion in an individual's OMPF, the individual had the burden of proving the negative information was unjust or untrue. The individual could appeal the inclusion of the adverse information in the OMPF but had to submit substantive evidence that supported his/her claims of injustice; it was not sufficient to merely allege the information was untrue or unjust.

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting reconsideration of his previous requests to correct the provision cited for his separation and his reenlistment code. He also requests the removal of derogatory information pertaining to allegations of fighting and indications he was referred into the Army's Alcohol and Drug Abuse Prevention and Control Program (ADAPCP). He contends he had mental health conditions and experiences that mitigated his separation: PTSD, other mental health condition, and sexual assault/harassment.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) The applicant enlisted in the Regular Army on 28 February 1978; 2) There were multiple documented incidents the applicant was involved in physical altercations, excessive drinking, and destruction of government and civilian property while drinking during his active service; 3) On 11 January 1979, the CDAAC (Community Drug and Alcohol Assistance Center) OIC signed an ADAPCP (Alcohol and Drug Abuse Prevention and Control Program) Progress Report. It was noted the applicant had been referred for

alcohol abuse, on 6 September 1978. The applicant entered the active rehabilitation program, from 21 November 1978 -20 January 1979. As of the date of the report, there had been no change in the applicant's alcohol habits; 4) The applicant was honorably discharged on 5 April 1979, Chapter 9, AR 635-200 SPD (Separation Program Designator) JPB (Alcohol or Other Drug Abuse); 5) The applicant applied to the ABCMR on six occasions previously since 1992.

c. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's military service and medical records. The VA's Joint Legacy Viewer (JLV) was also reviewed.

d. The applicant asserts he was experiencing PTSD, other mental health conditions, and sexual assault/harassment while on active service. The applicant reporting experiencing racial discrimination, which resulted in him engaging in physical altercations. He also stated he was not provided substance abuse treatment prior to his discharge. The applicant did not discuss any incident of sexual harassment, but instead focused on racial discrimination in his personal statements. There was sufficient evidence the applicant was involved in multiple incidents of physical altercations and destruction of government and civilian property while on active service. There was also evidence he was referred to a psychiatric evaluation on 1 December 1977. He was not diagnosed with a mental health condition as the result of the evaluation. He had a rehabilitative transferred to another unit in Europe, and he continued to have problems with excessive drinking and violence. In September 1978, the applicant's commander requested the applicant be evaluated for alcohol abuse at Grafenwoehr CDAAC, and he was recommended for a 30-day substance abuse program. There was sufficient evidence the applicant had engaged in the program, but he continued to engage in alcohol abuse and was involved in violent incidents involving alcohol. Therefore, he was recommended for an Alcohol Abuse honorable discharge. A review of JLV provided evidence the applicant has been involved behavioral health treatment at the VA. He has been treated for PTSD, depression, and alcohol abuse. He has been evaluated for service-connect PTSD and depression, but he has only been awarded service-connected disability for depression since 2009.

e. that there is insufficient evidence to support the applicant had a mental health condition or experience that mitigates a change to his discharge.

Kurta Questions

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends he was experiencing PTSD and other mental health symptoms, and racial discrimination that contributed to his separation. The applicant has been diagnosed with service-connected depression.

(2) Did the condition exist or experience occur during military service? Yes, the applicant contends he was experiencing PTSD and other mental health symptoms, and racial discrimination that contributed to his separation. The applicant has been diagnosed with service-connected depression.

(3) Does the condition or experience actually excuse or mitigate the discharge? No, there is sufficient evidence the applicant was evaluated for meeting criteria for psychiatric condition and attended substance abuse treatment while on active service. There was also sufficient evidence the applicant was involved in multiple belligerent events which resulted in physical altercations and destruction of property despite his involvement in a substance treatment program. This sequence of events resulted in his discharge. He has been involved in treatment at the VA, and the applicant has been found to meet criteria for service-connected depression, but he was also evaluated and found to not meet criteria for service-connected PTSD. The applicant reported racial discrimination, but there were multiple belligerent events in multiple environments despite being offered treatment. However, the applicant contends he was experiencing PTSD, other mental health condition, and discrimination that mitigated his discharge, and per Liberal Consideration his contention is sufficient for the board's consideration.

BOARD DISCUSSION:

1. The applicant's request for a personal appearance 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 before the Board is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents and the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The Board carefully considered the applicant's request, supporting documents available for review and evidence in the records. The Board considered the frequency and nature of the misconduct, the reason for separation and whether to apply clemency. Based on the lack of documentation showing in-service mitigating factors to overcome the misconduct or evidence of post-service achievements or letters of reference to weigh in support of a clemency determination, the Board concluded that the character of service the applicant received upon separation was not in error or unjust.

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 to amend the decision of the ABCMR set forth in Docket Number AR20200007999, on 9 March 2021.

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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, United State Code, section 1556 (Ex Parte Communications Prohibited) provides the Secretary of the Army shall ensure that an applicant seeking corrective action by ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

2. AR 635-200, in effect at the time, prescribed policies and procedures for enlisted administrative separations. Chapter 9 prescribed policies and procedures for discharging Soldiers based on alcohol or other drug abuse.

a. Soldiers who had been referred to the ADAPCP for alcohol/drug abuse could be separated when they displayed an inability or refusal to participate in, cooperate in, or successfully complete such a program.

b. The regulation required Soldiers separated under this provision to receive an honorable character of service.

3. AR 635-5-1 (SPD), then in effect, provided the specific authorities (regulatory, statutory, or other directives) and reasons for separations. This regulation stated that SPD "JPB" was the proper SPD for Soldiers being separated as alcohol and drug abuse rehabilitative failures under the provisions of Army Regulation 635-200, Chapter 9.

4. AR 600-85, in effect at the time, stated commanders were to try to restore Soldiers to full functioning when they had become ineffective due to alcohol or drug abuse. Rehabilitation was a proven and cost-effective way of retaining Soldiers with necessary skills and experience; however, alcohol and drug abuse were incompatible with military service, and the regulation required the separation of any Soldiers who lacked the potential for continued military service, or who had failed to participate in, or successfully complete rehabilitation.

a. Entry into ADAPCP could occur by either self or command-referral; following referral, the ADAPCP team evaluated the Soldier to determine the appropriate path for rehabilitation. When a physician clinically determined the Soldier abused alcohol, referral was mandatory.

b. The ADAPCP had two phases:

- Active Phase – ordinarily 60 to 90 days, and consisting of frequent, intensive treatment sessions
- Follow-Up Phase – normally this phase did not exceed 300 days; treatment session typically decreased in frequency and intensity; no client was to exceed 360 days in the ADAPCP

5. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

6. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

7. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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 on the basis of 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.

8. AR 600-37 (Unfavorable Information), in effect at the time, stated once an official document containing adverse information had been accepted by Headquarters, Department of the Army (HQDA) for inclusion in an individual's OMPF, the individual had the burden of proving the negative information was unjust or untrue. The individual could appeal the inclusion of the adverse information in the OMPF but had to submit substantive evidence that supported his/her claims of injustice; it was not sufficient to merely allege the information was untrue or unjust.

9. AR 15-185 states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning there is a greater than a 50 percent chance that what an applicant's claims is true.

b. An applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

//NOTHING FOLLOWS//