

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 September 2023

DOCKET NUMBER: AR20230002007

APPLICANT REQUESTS: reconsideration of his previous request for correction to his record to show he received an honorable discharge vice an uncharacterized discharge.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Medical Documents
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 19 March 1987

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 AR20130001378, boarded on 13 August 2013.

2. The applicant states:

a. "I am requesting an upgrade of character on my DD Form 214 from Uncharacterized to Honorable. A few years back I requested an upgrade, without the facts, I will present to you and I was denied. At the age of 10 years, I fell off the back of a moving pickup. I was unconscious for 72 hours and I spent two weeks in the hospital. A new life started for me. After a good bit of time passed and the doctor visits were over, things went back to a kind of normalcy. Then at the age of 13, depression started. Suicide became a close companion. A few years later, I started drinking, as self-medication. Within a few short years, I became a drunk. Then, as a senior in high school, I decided to join the Army and get away from home.

b. When I went to Charlotte, NC to enlist, a question on the paperwork was, have you ever had any injuries and I answered yes; in 1978, I fell off the back of a truck. To this day, I have never been questioned about this answer.

c. [On] September 9, 1986, I was sworn into the US Army. I spent my time at Ft

Benning, GA for basic and advance individual training (AIT). I had some problems with depression during basic training. I graduated in December 1986. My first duty station was at Ft Campbell Ky. Soon after arriving there, the depression and heavy drinking set in. One night after drinking a lot, I was contemplating suicide. I called a Chaplain and was talking to him and then a military police (MP) showed up and took me to the hospital. I was as I ashamed of my suicidal intentions, but I did not know what to do about them. I told the doctor that I had everything under control, and after a brief stay, they allowed an 18 year old out of the mental ward. I was made to attend alcohol classes for a week or so. My medical records state that I am an alcoholic with depression. No one, not even myself, realized that I was suffering from post-traumatic stress disorder (PTSD) from the traumatic brain injury (TBI). TBI was never mentioned in my records until I filed a claim for TBI and was denied that it was service related, even though it was never acknowledged by the Army, even in 1986.

d. I had feet problems from road marching, the doctors were going to get me a medical discharge, but instead I told them I could not adapt to military life. That is when the commanding officer decided to processed with a Chapter 11. That is, Under Honorable Conditions, but unsatisfactory performance and or conduct. I qualified [as a] marksman with my rifle and expert with hand grenades. I did not have any Article 15's. I was a Soldier who had had a TBI at age 10 and eight years later joined the US Army. I called it a simple head injury, I had no clue it was a TBI. I made it through basic, AIT and to my first duty station. Lots of soldiers join the service and get a TBI and they leave the service with, say a 100% disability. I had a TBI and joined the Army and even told them on the paperwork, but they let me join anyway.

e. 35 years later, I sit here writing to you and I am 100% service connected disabled. My last claim awarded me with 70% unspecified depression. I have the 1978 head injury records in my Army medical records. I have shown that I made a suitable effort, under those certain circumstances, that I am entitled an Honorable discharge. As you have read my story, I believe you will see it clearly and will grant an honorable discharge. Correcting this is very important to me and I appreciate your time and prompt response”.

3. The applicant provides medical documents, which will be discussed by the Medical Staff at ABCMR.

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

a. He enlisted in the Regular Army on 9 September 1986.

b. He received general counseling statements in early February and March, which noted his inability to adjust to military life, circumstances and surroundings, and was counseled by the Battalion Chaplain and was hospitalized.

c. On 3 March 1987, he received Elimination Proceedings Processing for an Entry

Level discharge due to performance and conduct. This document states:

- He has been diagnosed by the Division Psychiatrist as an alcoholic and for adjustment failure. He seemed to have had no desire to stay in the Army
- He had the right to consult with counsel
- He had the right to submit a statement in his own behalf
- The applicant signed and acknowledged this document on 3 March 1987

d. A Disposition Form reflects that the applicant's commander requested a waiver of rehabilitation, since he had less than six months of service, his condition existed prior to service, and since the Soldier desires to leave the service. His request was approved.

e. On 4 March 1987, the applicant acknowledged that he had been advised by consulting counsel of the basis of the contemplated action to accomplish his separation for an Entry Level - Performance and Conduct, under the provisions of Chapter 11, Army Regulation 635-200, and of all the rights available to him and the effects of any action taken by him in waiving his rights. In addition, he understood he would be ineligible to apply for reenlistment in the U.S Army for a period of two years after discharge. He did not request a separation medical examination.

f. In a commander's report, dated 5 March 1987, the commander noted that the applicant was diagnosed by the Division Psychiatrist as an alcoholic and adjustment failure, and had been counseled for possible suicide.

g. His DD Form 214 for the period ending on 19 March 1987, shows he was discharged with an uncharacterized discharge, due to an Entry Level - Performance and Conduct. He completed 6 months and 10 days of net active service.

5. In a prior ABMCR Docket Number AR20130001378, boarded on 13 August 2013, it reflects that the applicant requested an upgrade to his uncharacterized discharge. The Board denied his request based on no existence of a probable error or injustice and determined that the overall merits of his case were insufficient as a basis for correction.

6. There is no documentation to show he applied to the Army Discharge Review Board within 15-years of his discharge.

#### 7. MEDICAL REIVEW:

a. The applicant is applying to the ABCMR requesting reconsideration of his previous request for correction to his record to show he received an honorable discharge instead of an uncharacterized discharge. He contends he had a mental health condition and a traumatic brain injury (TBI) that mitigated his separation.

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 9 September 1986; 2) The applicant received general counseling statements in early February and March 1987, which noted his inability to adjust to military life, circumstances and surroundings, and was counseled by the Battalion Chaplain and was hospitalized; 3) The applicant was discharged on 19 March 1987, with an uncharacterized discharge, due to an Entry Level - Performance and Conduct; 4) On 13 August 2013, the ABMCR reviewed and denied the applicant's request for an upgrade to his uncharacterized discharge.

c. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's military service records. The VA's Joint Legacy Viewer (JLV) and additional hardcopy medical documentation provided by the applicant were also examined.

d. The applicant contends he experienced a TBI in his childhood and depression, suicidality, and alcoholism during his adolescence. He did provide sufficient documentation that he did experience a TBI during childhood, but there was no available evidence that he experienced a mental health condition or a substance abuse disorder prior to his enlistment. There was sufficient evidence the applicant was experiencing difficulty adapting to the military, depression, suicidality, and alcoholism in his military record, which resulted in his administrative separation. A review of JLV provided evidence the applicant has been treated for depression and anxiety since 2018 by the VA, and the applicant receives service-connected disability (70%) for a mood disorder since August 2021.

e. Based on the available information, it is the opinion of the Agency BH Advisor that there is sufficient evidence to support the applicant had a history of TBI and a mental health condition prior to his enlistment that was exasperated by his military service, which resulted in his difficulty to adapt to military life and early separation from the military.

#### Kurta Questions

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends he experienced a TBI and mental health condition prior to his enlistment that contributed to his separation. There is sufficient evidence the applicant did experience depression, alcoholism, and suicidality while on active service. He has also been diagnosed with a service-connected mood disorder in 2021.

(2) Did the condition exist or experience occur during military service? Yes, there is sufficient evidence the applicant experienced a TBI prior to his enlistment. In addition, there is sufficient evidence the applicant did experience depression, alcoholism, and suicidality while on active service. He has also been diagnosed with a service-connected mood disorder in 2021.

(3) Does the condition experience actually excuse or mitigate the discharge? Yes, that there is sufficient evidence to support the applicant had a history of TBI and a mental health condition prior to his enlistment that was exasperated by his military service which resulted in his difficulty to adapt to military life and early separation from the military.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records and published DoD guidance for consideration of discharge upgrade requests. The Board agreed that at no fault of the applicant, there were circumstance outside his span of control that disallowed further military service. The Board noted that the applicant completed his initial active duty training and received an MOS and, as he otherwise would have received an honorable character of service, determined the evidence presented sufficient to warrant a recommendation for relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant amendment of the ABCMR's decision in Docket Number AR20130001378, dated 13 August 13. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by issuing the applicant a new DD Form 214 for the period ending 6 June 1996 showing in:

- item 24 (Characterization of Service): Honorable
- item 25 (Separation Authority): Army Regulation 635-200
- item 26 (Separation Code): JFF
- item 27 (Reentry Code): 1
- item 28 (Narrative Reason for Separation): Secretarial Authority

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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, USC, Section 1552(b), provides that applications for correction of military records must be filed within three 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 three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 635-200 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. 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. A characterization of under honorable conditions may be issued only when the reason for the Soldier's separation specifically allows such characterization.

c. Chapter 11 provides for the separation of personnel in an entry level status for unsatisfactory performance or conduct as evidenced by inability, lack of reasonable effort or a failure to adapt to the military environment. These provisions apply only to individuals whose separation processing is started within 180 days of entry into active duty. An uncharacterized separation is mandatory under this chapter.

3. Pursuant to regulatory guidance, Soldiers are considered to be in an entry-level status when they are within their first 180 days of active duty service. The evidence of record shows the applicant was in an entry-level status at the time of his processing for separation. As a result, his service was appropriately described as uncharacterized for this period of active service, in accordance with governing regulations.

4. 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 (TBI), 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, on 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.

5. Title 10, U.S. Code, section 1556 requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that

directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//