

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 August 2024

DOCKET NUMBER: AR20230006312

APPLICANT REQUESTS: a change to the narrative reason for separation from the Army National Guard to reflect “medical discharge.”

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, in effect, he should have been discharged on a medical discharge, instead of a general discharge. He has five pieces of metal in his right knee. He feels that he was wrongfully discharged with a general discharge, when he was told he was getting a medical discharge.
3. The applicant did not provide documentary evidence to support his claim.
4. A review of the applicant's service record shows:
  - a. He enlisted in the Army National Guard on 10 April 1990.
  - b. The complete facts and circumstances surrounding his separation are not available for review. However, his NGB Form 22 (National Guard Bureau Report of Separation and Record of Service) reflects the applicant was discharged on 16 July 1991, under the provision of Section 260 California Military/Veterans Code (M/VC) and NGR 600-200, paragraph 8, failure to meet medical procurement standards, character of service of uncharacterized, with an RE Code 3. He had 1 year and 5 months of net service this period.
5. There is no evidence that the applicant applied to the Army Discharge Review Board for review of his discharge within the board's 15 year statute of limitations.

## 6. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (EMR – AHLTA and/or MHS Genesis), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR essentially requesting referral to the Disability Evaluation System (DES). He has indicated on his DA 149 that PTSD is an issue related to his request. He states:

“I should have been discharged on a medial discharge instead of a general discharge. I have 5 pieces of metal in my right knee.”

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His Report of Separation and Record of Service (NGB 22) for the period of service under consideration shows he entered the California Army National Guard (CAARNG) on 10 April 1990 and was discharged with an uncharacterized characterization of service on 16 July 1991 under authority provided by paragraph 8-26f of NGR 600-200, Personnel General – Enlisted Personnel (17 April 1989): Failure to meet medical procurement standards, AR 40-501 [Standards of Medical Fitness], chapter 2, prior to entry on IADT [Initial Active Duty for Training].

d. No medical documentation was submitted with the application. The period of service predates the EMR and JLV shows he is not registered with the VA.

e. Neither the applicant's separation packet nor documentation addressing his involuntary administrative separation was submitted with the application or uploaded into iPERMS.

f. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. For the reserve components, it also includes discharges prior to completing initial entry training (IET). There are two phases - Basic Combat Training (BCT) and Advanced Individual Training (AIT). Because the applicant did not complete BCT, he was in an entry level status at the time of his discharge and

so received and uncharacterized discharge. This type of discharge does not attempt to characterize service as good or bad. Through no fault of his own, he simply had a medical condition which was, unfortunately, not within enlistment standards.

g. It is the opinion of the ARBA Medical Advisor that neither a discharge upgrade is nor a referral of his case to the DES is warranted.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Applicant asserts he has duty-incurred PTSD and clinical documentation shows he has been diagnosed with major depressive disorder.

(2) Did the condition exist or experience occur during military service? Applicant asserts the PTSD is due to his Service in Iraq.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant has submitted no medical documentation indicating a diagnosis of PTSD and/or other mental health conditions. Review of the EMR and VA medical records indicates that the applicant has not been diagnosed with either a service connected or nonservice connected BH condition. However, as per Liberal Consideration guidance, the applicant's self-assertion alone merits consideration by the board.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The available evidence shows the applicant entered the California Army National Guard (CAARNG) on 10 April 1990 and was discharged with an uncharacterized characterization of service on 16 July 1991 under authority of paragraph 8-26f of NGR 600-200, for failure to meet medical procurement standards, AR 40-501 [Standards of Medical Fitness], chapter 2, prior to entry on initial entry training. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. For the reserve components, it also includes discharges prior to completing initial entry training (IET). Because the applicant did not complete BCT, he was in an entry level status at the time of his discharge and so received and uncharacterized discharge. The Board found no error or injustice in his character of service.

b. The Board also reviewed and agreed with the medical reviewer’s determination that the applicant has submitted no medical documentation indicating a diagnosis of PTSD and/or other mental health conditions and there is no evidence, even in the VA medical records, to indicate that the applicant has been diagnosed with either a service connected, or nonservice connected behavioral health condition. In view of the foregoing, the Board determined there is insufficient evidence to grant the applicant the requested 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 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.

■

■■■■■■ ■■■■

■■■■■■  
■■■■■■

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. NGR 600-20 (Enlisted Personnel Management), chapter 6 (previous Chapter 8 changed to the new Chapter 6) sets the policies, standards, and procedures for the separation of enlisted Soldiers from the ARNG/ARNGUS. The ARNG/ARNGUS makes a substantial investment in training, time, equipment, and related expenses when persons enter into military service. Reasonable efforts should be made to identify Soldiers who are likely to be separated early, and to improve their chances for retention through counseling, retraining, and rehabilitation prior to initiation of separation proceedings. Soldiers who do not conform to required standards of conduct and performance and Soldiers who do not demonstrate potential for further military service should be separated to avoid the high costs of continued service in terms of pay, administrative efforts, degradation of morale, and substandard mission performance.

3. 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. 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. 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//