

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 March 2024

DOCKET NUMBER: AR20230006352

APPLICANT REQUESTS: in effect, changes to his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show in:

- block 26 (Separation Code): a more favorable designation
- block 28 (Narrative Reason for Separation): "failure to adapt" instead of "personality disorder"

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

- DD Form 149 (Application for Correction of Military Record), 24 May 2023
- DD Form 214, 27 February 1998
- Privacy Waiver Authorization, 19 May 2023
- Congressional correspondence, 24 May 2023

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, the narrative reason for separation does not accurately describe the circumstances surrounding his discharge. He was having marital issues and he was separated from his family. His wife refused to join him at his duty station and this affected his daily duties. He needs to change the narrative reason for separation as well as the separation program designator in order to reenlist in the Army National Guard.
3. A review of the applicant's service records shows:
 - a. On 3 June 1997, the applicant enlisted in the Regular Army for a period of 3 years at age 18. He completed Basic Combat Training, he completed Advanced Individual Training, and he was awarded military occupational specialty 11B (Light Weapons Infantryman).

b. On 1 October 1997, he was assigned to Company B, 2nd Battalion, 35th Infantry, Schofield Barracks.

c. He was counseled (DA Forms 4187) on the following dates:

- 20 October 1997 for failure to pass the Army Physical Fitness Test (APFT)
- 27 October 1997 for general performance and ineligibility for promotion to private 2/E-2
- 6 November 1997 for ineligibility for promotion to private 2/E-2
- 13 November 1997 for failure to prepare, for failure to make first formation, and for failure to secure equipment
- 15 November 1997 for failure to pass inspection and for failure to clean equipment

d. On 3 December 1997, he was promoted to private 2/E-2.

e. On 10 December 1997, he underwent a mental status evaluation (DA Form 3822-R) by the Chief, Inpatient Psychiatric Services, Tripler Army Medical Center, who evaluated him for discharge, as requested by his command because of a personality disorder. The report further shows:

(1) His behavior was normal, he was fully alert, he was fully oriented, he had depressed mood or effect, and he had clear thinking process with good memory.

(2) The Chief Psychiatrist opined he had the mental capacity to understand and participate in the proceedings and he was mentally responsible.

(4) He further remarked that the service member was evaluated on referral from Tripler Army Medical Center emergency room for emergency evaluation.

(5) He was mentally responsible for his behavior, could distinguish right from wrong, possessed sufficient mental capacity to participate in administrative or judicial proceedings.

(6) Based on the evaluation, the basic impression was that of adjustment disorder with depressed mood and personality disorder, not otherwise specified, with dependent traits.

(7) Problems presented by this service member were not amenable to hospitalization, brief treatment, a rehabilitative transfer, disciplinary action, retraining, or a military occupational specialty (MOS) reclassification. It was unlikely that any rehabilitative measures would produce an effective service member out of him. He was unmotivated to become a productive service member.

(8) The diagnosis was personality disorder, not otherwise specified, a type of personality disorder within the meaning of Army Regulation 635-200, paragraph 5-13. This condition was deeply ingrained maladaptive pattern of behavior that interfered with the service member's ability to perform duty. The disorder was so severe that the service members ability to function effectively in the military environment was significantly impaired. The service member was likely to be at risk for further suicide attempts in a stressful environment. It was recommended that he be administratively separated.

f. On 10 December 1997, in conjunction with his mental status evaluation, he underwent a medical examination for the purpose of discharge. An SF 88 (Report of Medical Examination) shows the examining physician noted he was diagnosed with adjustment disorder with depressed mood and personality disorder not otherwise specified, with dependent traits. The examining physician recommended an administrative separation.

g. On 12 December 1997, he gave a report of medical history and noted that he was in good health and currently not on any medications.

h. On an unspecified date, his company commander formally notified him of his intent to separate him from the Army under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-13, because of personality disorder as evident by Report of Mental Status Evaluation, and recommended he receive an honorable service characterization. He notified him of his rights:

- he may consult with consulting counsel and/or civilian counsel at his own expense.
- he may submit written statements in his own behalf
- he may obtain copies of documents that would be sent to the separation authority supporting the proposed separation
- he may waive his rights
- he was required to undergo a complete medical examination in accordance with Army Regulation 40-501

i. On an unspecified date, he acknowledged receipt of his company commander's notification. He consulted with counsel and was advised of the basis for the contemplated action to separate him for a personality disorder under the provisions of Army Regulation 635-200, paragraph 5-13. He elected not to submit statements in his own behalf, and he requested consulting council.

j. On 28 January 1998, his battalion commander recommended his separation with an honorable characterization of service, that he not be transferred to the Inactive Ready Reserve, and that rehabilitation requirements be waived.

k. On 30 January 1998, the separation authority (Brigade Commander, 3rd Brigade, 25th Infantry Division, Schofield Barracks) approved his separation from the service under provisions of Army Regulation 635-200, paragraph 5-13, with an honorable characterization of service. The separation authority further directed he not be transferred to the Inactive Ready Reserve.

l. On 27 February 1998, he was discharged. His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-200, paragraph 5-13, by reason of personality disorder with an honorable characterization of service, a separation code of JFX, and a reenlistment code of 3. He completed 8 months and 25 days of net active service. He was awarded or authorized the Army Service Ribbon, Expert Marksmanship Qualification Badge with Rifle Bar (M-16) and Marksman Marksmanship Qualification Badge with Grenade Bar.

4. In reaching its determination, the Board can consider the applicant's petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

5. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting changes to his DD 214 to show a more favorable separation code and a change to his narrative reason for separation. He contends he was not experiencing a personality disorder.

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 3 June 1997; 2) The applicant received multiple counselings from October-November 1997 for failure to pass the APFT, general poor performance, failure to prepare, failure to pass inspection, and ineligibility for promotion; 3) On 27 February 1998, the applicant was discharged, Chapter 5-13, by reason of personality disorder with an honorable characterization of service, a separation code of JFX, and a reenlistment code of 3.

c. The Army Review Boards Agency (ARBA) Behavioral Health (BH) Advisor reviewed the supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined.

d. The applicant asserts he was not experiencing a personality disorder during his active service, but he attributes his poor performance and misconduct to marital difficulties. On 10 December 1997, he underwent a mental status evaluation conducted

by the Chief, Inpatient Psychiatric Services at Tripler Army Medical Center, as requested by his command. The applicant was diagnosed with an Adjustment Disorder with depressed mood and personality disorder not otherwise specified, with dependent traits. The examining physician recommended an administrative separation. The applicant was also scheduled for a follow-up outpatient behavioral health appointment with a military mental behavioral health provider.

e. A review of JLV provided insufficient evidence the applicant has been diagnosed with service-connected mental health condition, and he does not receive service-connected disability.

f. Based on the available information, it is the opinion of the Agency BH Advisor that there is sufficient evidence to support the applicant was experiencing difficulty adjusting the military. Therefore, he was accurately diagnosed with an Adjustment Disorder with Depressed Mood along with a Personality Disorder. Therefore, the applicant was experiencing a mental health condition not amounting to a disability, which interferes with performance of duty. Thus, the applicant being administratively separated for his Adjustment Disorder may be a better narrative reason of separation. However, there is insufficient evidence the applicant will not experience the same difficulty adjusting to the military if he attempts to reenlist again.

Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? N/A. Based on the available information, it is the opinion of the Agency BH Advisor that there is sufficient evidence to support the applicant was experiencing difficulty adjusting the military. Therefore, he was accurately diagnosed with an Adjustment Disorder with Depressed Mood along with a Personality Disorder. The applicant was experiencing a mental health condition not amounting to a disability, which interferes with performance of duty, but it is unclear what information the examining psychiatrists based his clinical diagnosis of a Personality Disorder on in the evaluation at that time. Therefore, the applicant being administratively separated for his Adjustment Disorder may be a better narrative reason of separation. However, there is insufficient evidence the applicant will not experience the same difficulty adjusting to the military if he attempts to reenlist again.

(2) Did the condition exist or experience occur during military service? N/A

(3) Does the condition or experience actually excuse or mitigate the discharge? N/A

BOARD DISCUSSION:

The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of requests for changes to discharges. The Board considered the applicant's statement, his record of service, and the reason for his separation. The Board found insufficient evidence of in-service mitigating factors and concurred with the conclusion of the medical advising official regarding the evidence fully supporting the reason for the applicant's discharge. Based on a preponderance of the evidence, the Board determined the reason for the applicant's discharge and the associated codes are 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 for correction of the records of the individual concerned.

X

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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of enlisted members for a variety of reasons.

a. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier'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. Paragraph 5-13. Separation because of personality disorder. A member maybe separated for personality disorder that interferes with assignment to or performance of duty, when so diagnosed.

(1) This condition is a deeply-ingrained maladaptive pattern of behavior of long duration that interferes with the member's ability to perform duty. The diagnosis of personality disorder must have been established by a physician trained in psychiatry and psychiatric diagnosis.

(2) Separation because of personality disorder is authorized only if the diagnosis concludes that the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired.

(3) Separation processing may not be initiated under this paragraph until the member has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

c. Chapter 11. Entry Level Status Performance and Conduct. When separation of a member in entry level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, the member will be separated per this chapter. However, nothing in this chapter prevents separation under another provision of this regulation when such separation is warranted.

4. Army Regulation 635-5-1 (Personnel Separations – Separation Program Designators), in effect at the time, listed the specific authorities, regulatory, statutory, or other directive, and reasons for separation from active duty, active duty for training, or full time training duty.

a. The separation program designator "JFX" corresponded to "Personality disorder," and the authority, Army Regulation 635-200, paragraph 5-13.

b. The separation program designator "JFF" corresponded to "Secretarial Authority," and the authority, Army Regulation 635-200, paragraph 5-3.

c. The separation program designator "LGA" corresponded to "Entry Level Performance and Conduct," and the authority, Army Regulation 635-200, chapter 11.

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. The acting Under Secretary of Defense for Personnel and Readiness provided clarifying guidance on 25 August 2017, which expanded the 2014 Secretary of Defense memorandum, that directed the BCM/NRs and DRBs to give liberal consideration to veterans looking to upgrade their less-than-honorable discharges by expanding review of discharges involving diagnosed, undiagnosed, or misdiagnosed mental health conditions, including PTSD; traumatic brain injury; or who reported sexual assault or sexual harassment.

7. 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.

8. Section 1556 of Title 10, United States Code, 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//