

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2024

DOCKET NUMBER: AR20230006407

APPLICANT REQUESTS:

- an upgrade of his under other than honorable conditions discharge
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Legal Brief, 15 February 2023
- Certificate of Live Birth, [REDACTED]
- Department of Veterans Affairs (VA) Identification Card
- [REDACTED] Driver's License
- Exhibit A: DD Form 214 (Certificate of Release of Discharge from Active Duty), for the period ending 24 September 1992 and 30 September 1993
- Exhibit B: Chronological Record of Medical Care and Medical Records (18 pages)
- DD Form 1966 (Record of Military Processing), Page 1
- Letter, [REDACTED] Military School and College, 19 September 1984
- Military Training Certificate, 6 June 1987
- Letter, Military Science Department, 21 June 1989
- Exhibit C: Memorandum, subject: Soldier Injury on Blue Beaver Range and DA Form 5181-R (Screening Note of Acute Medical Care), 19 November 1990
- Exhibit D: Hematology Report, Hepatitis A, 17 August 1994
- Environmental Contamination at U.S. Military Bases in South Korea and the Responsibility to Clean Up, 2010
- VA Application for Disability Compensation and Related Compensation Benefits, 5 February 2020
- VA Form 21-4138 (Statement in Support of Claim), 1 June 2021
- Exhibit F: Initial Post-Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire and Medical Opinion, 4 December 2021
- Exhibit G: Character Reference, The Augusta Military Academy Alumni Foundation, 30 June 2022

- Exhibit E: Disability Benefits Questionnaire and Medical Opinion, 5 October 2022
- Exhibit H: Character Reference, 14 November 2022
- Exhibit I: Character Reference, undated
- Character Reference, undated
- VA Form 20-0995 (VA Decision Review Request: Supplemental Claim), 6 February 2023
- Appointment Summary, Veterans Benefits Administration (VBA) Medical Disability Examinations (MDE), 4 April 2023
- VA Rating Decision, 20 July 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, through counsel, states:

a. The applicant is requesting that the Board upgrade his discharge so he can receive military benefits for necessary service-related medical care due to the injustice of his characterization, as well as his accomplishments in the significant time that has elapsed since his discharge. The applicant entered basic training with the Army in 1982 and completed Ranger School in 1984. He received two honorable discharges while serving as an enlisted member prior to his commission in 1992 through Officer Candidate School (OCS). He served in combat in Desert Storm and Somalia. He last served with 1st Battalion, 19th Field Artillery where he was sent temporary duty (TDY) in March 1993 to the Unified Task Force (UNI-TAF), Operation Restore Hope, and UNSOM2 Task Forces Ranger. He was wounded in action on 3 October 1993, and medically evacuated from Pakistani Stadium on 4 October 1993. He was stabbed and subsequently diagnosed with post-traumatic stress disorder (PTSD).

b. On 15 November 1990, he received a significant traumatic brain injury (TBI) when an 850-950 pounds hatch from an M270 fell, pinning his head to the vehicle, and nearly crushing his skull. The hatch fell due to a faulty retention system. He remained unconscious for approximately four to five hours. Computed Tomography (CT) scans revealed bleeding from his occipital lobe with a significant subdural hematoma. He was held in the hospital for five days, experienced drainage from his left ear for some time to follow and continued to experience headaches. He never received a full medical evaluation for his fitness after the brain injury. He continued to press on through OCS and into the 1993 deployment to Somalia. The constant and continued activity such as riding in armored vehicles never allowed his skull to properly heal. Had the applicant

been properly evaluated and treated it is highly unlikely he would have been cleared for future service, much less deployed.

c. Since 1993 he has continued to serve his community. He is employed fulltime with CW Armor, which he cofounded in 2006. Their mission is to provide, innovate and supply body armor to first responders. They continue to develop advanced armor technology employed by law enforcement agencies, state and federal judges, and private citizens. They also conduct monthly classes to provide training on the proper wear of armor and protective products. In a partnership with [REDACTED] he developed a K9 vest donation program to provide four legged first responders with protection. He focused his professional career on providing better protective armor and equipment, but also served on multiple boards and associations, and developed programs for youth.

d. Since his first enlistment, he endeavored to serve his country and community, and uphold the oath he swore in 1982. He accepted the decision of the Army discharge and continued to abide by that oath, not allowing himself to be deterred by the characterization of the discharge. The life that he has lived, the person he is now, combined with his previous honorable discharges, and overall service are deserving of consideration of an upgrade.

e. He did not previously petition the Board for an upgrade of his discharge because he accepted the decision of the Army regardless of if he disagreed with it. He was determined to achieve his goals in the civilian world, regardless of his characterization. However, as time passed his physical and mental wounds from his period of service have had increasingly negative effects on his day-to-day life. Due to his current health treatment needs and for the future benefits that are possible for his family, he must now seek correction of his record and upgrade of his discharge.

3. The applicant, through counsel, provides:

a. A copy of the applicant's birth certificate, VA identification card, and his [REDACTED] driver's license.

b. 18 pages of medical records.

c. Page one of DD Form 1966 (Record of Military Processing), which shows, his Date of Initial Entry Reserve Forces (DIERF) as 18 May 1982.

d. A letter from [REDACTED] Military School and College, dated 19 September 1984, discussing the applicant taking a CLEP Biology examination and him possibly taking a course at the University [REDACTED].

e. A military training certificate dated 6 June 1987, which shows the applicant successfully completed three years of instruction in the Senior Reserve Officers' Training Corps (SROTC).

f. A letter from the Military Science Department, U.S. Army ROTC Battalion, dated 21 June 1989, which states:

(1) The applicant was a college student [REDACTED] Military School and College from fall 1984 through spring of 1986, for the purpose of completing the U.S. Army two-year commission program green to gold. Their records showed he had a basic active service date of 18 May 1982, earned the Ranger Qualification Tab, Parachutist Badge, Combat Parachutist Badge, and was accepted into the U.S. Army Green to Gold program [REDACTED] Military College on 20 April 1984.

(2) The applicant was unable to receive his commission because he had prior college credits that prohibited him from completing the required 60 credit hours at [REDACTED]. A waiver was applied for to allow him to simultaneously attend the University [REDACTED] however, the waiver was denied, and the applicant was subsequently honorably discharged on 2 June 1986.

g. A memorandum dated 19 November 1990 and a screening note of acute medical care, which shows:

(1) On 15 November 1990 the applicant was injured. He was struck in the back of the head when the hatch retention system failed and experienced a structural failure allowing the hatch to swing freely from the left hinge, striking the applicant in the back of the head and pinning his head between the hatch and the roof of the vehicle. He was transported to the emergency room at Reynolds Army Hospital. He was in an unconscious state for 4 to 5 hours with dilation of the left eye, reported seizure enroute via ambulance, drainage from the left ear, and severe bruising to the front of his head and a large lump on the back of his head with bruising to his neck and back. Range personnel estimated that the weight of the hatch was between 850 and 900 pounds.

(2) Doctors ordered CT scans of his head and neck, with a finding of bleeding from the occipital lobe. The applicant began to regain consciousness at 2030 hours and was admitted for neurological observation. He was released from the hospital on 19 November 1990 with a 10-day profile and follow up appointments with instructions to report back if drainage from the left ear continued.

h. A hematology report dated 17 August 1994, which shows he tested positive for hepatitis A.

i. An article written by the Environmental Law Institute in 2010, titled “Environmental Contamination at U.S. Military Bases in South Korea and the Responsibility to Clean Up), which states 23 former U.S. military sites returned to South Korea in 2007 and 22 were found contaminated above threshold levels under the Soil Environment Preservation Act and the Groundwater Act of South Korea. However, the U.S. government denied its environmental responsibility to clean up any of the sites. At many of the site’s groundwater was contaminated with various carcinogens.

j. A VA application for disability compensation and related compensation benefits, dated 5 February 2020, wherein the applicant filed a claim for:

- Bilateral hearing loss
- Bilateral tinnitus
- Sleep disturbance due to tinnitus
- Sleep apnea
- PTSD
- Liver injury
- Diabetic related issues due to liver injuries
- Damage to liver due to possible chemical ingestion in Korea
- Left knee condition
- Left ankle condition.
- Head injury

k. A statement in support of claim, dated 1 June 2021, wherein the applicant states:

(1) He had boots on the ground in Somalia for UNSOM2 Task Forces Ranger. He was discharged for the good of the service and he explained that he made a decision under fire while on active duty during Task Force Ranger in October 1993. He stated that the Army said he “disobeyed a lawful order” and “hazarded a military aircraft,” which was a violation of Article 92 of the uniform code of military justice (UCMJ). He had an Article 32 hearing where the convening authority ruled that he did not violate a lawful order. The Army subsequently filed a field grade Article 15, under Army Regulation (AR) 600-20 (Army Command Policy), by direction from the National Command Authority, in which he was found guilty, and an agreement was reached with the Army that he would resign for the good of the service.

(2) His left knee and left ankle were injured in an active-duty parachute jump at an annual training exercise called Gallant Eagle. He received some type of orthoscopic and was in a cast for 6-8 weeks. He had meniscus surgery on his left knee in March 2015 to attempt to correct pain and other limitations that he experienced with his left knee since being injured during Gallant Eagle.

l. An initial PTSD disability benefits questionnaire and medical opinion dated

4 December 2021, which shows the applicant was diagnosed with PTSD. The psychologist noted that the applicant's claim of sleep disturbance is part of the PTSD and not related to the noted tinnitus, and the claimed condition was less likely than not (less than 50 percent probability) proximately due to or the result of Veteran's service-connected condition.

m. A character reference from Mr. [REDACTED], a past President of the Augusta Military Academy Alumni Foundation and board member, dated 30 June 2022, which states the applicant has been dedicated to the Alumni Association Foundation and the community since 2002. He funded interstate signage and camp scholarships for at risk youths.

n. A disability benefits questionnaire with medical opinion, dated 5 October 2022, wherein the physician states the applicant suffered severe TBI with apparent "SDH" in the occipital lobe as a result of a hatch striking his head requiring hospitalization for 5 days with lingering symptoms of severe headaches. Therefore, it is at least as likely as not that the applicant suffered a TBI while in the military.

o. A character reference from Mr. [REDACTED] dated 14 November 2022, which states the applicant is a strong supporter of his community. He funded scholarships and camps for youth, and rehabilitation opportunities for veterans suffering from PTSD. After a near fatal head injury at Fort Sill, OK in 1990, the applicant was able to rehabilitate himself and complete OCS.

p. A character reference from Sergeant Retired [REDACTED] undated, which states he has known the applicant for approximately 10 years, and he finds him to be of exemplary character and conduct. He works hard daily to provide body armor to first responders and military personnel.

q. A character reference from Mr. [REDACTED] undated, which states he served with the applicant in Korea from 1991 to 1992 and ran into him again while they were serving in Mogadishu. He cannot remember the exact dates that the applicant was in Mogadishu, but he believes it was some time from March 1993 to October 1993.

r. A VA Form 20-0995 dated 6 February 2023, which shows the applicant submitted a supplemental claim for head injury/TBI, left knee meniscal tear, nonalcoholic steatohepatitis (NASH), diabetes mellitus type II as secondary to NASH.

s. An appointment summary which shows he had a virtual telehealth appointment on 4 April 2023 for TBI.

t. VA rating decision dated 20 July 2023, which shows he was service connected for:

- TBI, head injury, evaluation of 10 percent
- Migraine headaches, evaluation of 30 percent

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

a. Having had prior enlisted service in the Regular Army, a memorandum, dated 25 September 1992, shows he was appointed as a Reserve Commissioned Officer of the Army, effective 25 September 1992.

b. The applicant's record is void of a separation packet or resignation packet containing the specific facts and circumstances surrounding his discharge. However, his DD Form 214 shows he was discharged on 30 September 1993, under the provisions of Army Regulation 635-120 (Personnel Separations – Officer Resignations and Discharges), chapter 5, by reason of conduct triable by court-martial, in the rank/grade of 2LT/O1. His service was characterized as under other than honorable conditions. Additionally, his DD Form 214 shows in:

- Item 12c (Net Active Service This Period): 1 year and 6 days
- Item 12d (Total Prior Active Service): 2 years and 5 days
- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):
  - Army Service Ribbon
  - National Defense Service Medal
  - Army Achievement Medal (2nd Award)
  - Army Commendation Medal
  - Overseas Service Ribbon
  - Parachutist Badge
  - Noncommissioned Officer Professional Development Ribbon
  - Ranger Tab
  - Expert Infantryman Badge
  - Driver Badge with tracked vehicle and wheeled vehicle bar
  - Expert Marksmanship Qualification Badge with M-16 rifle bar
  - Army Good Conduct Medal
- Item 26 (Separation Code): DFS
- Item 27 (Reentry Code): N/A

6. There is no indication the applicant applied to the Army Discharge Review Board for review of his discharge processing within that board's 15-year statute of limitations.

7. 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.

8. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under other than honorable conditions (UOTHC). He contends he experienced undiagnosed PTSD that mitigates his misconduct.

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:

- The applicant enlisted into the Regular Army on 20 September 1990. He attended OCS from June to September 1992, and he was honorably discharged from this term of service.
- The applicant was ordered to active duty as an officer on 17 September 1992.
- The applicant's record is void of a separation packet or a resignation packet containing the specific facts and circumstances surrounding his discharge. However, his DD Form 214 shows he was discharged under the provisions of Army Regulation 635-120 (Personnel Separations – Officer Resignations and Discharges), chapter 5, by reason of conduct triable by court-martial, in the rank/grade of 2LT/O1.
- The applicant was discharged on 30 September 1993, and he was credited with 1 year and 6 days of net active service this period with 2 years and 5 days of prior active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts he has PTSD as a result of his service and needs an upgrade to receive military benefits for his service-related medical care. A Chronological Record of Medical Care showed dates from 14 June 1981 to 1 July 1994, and although somewhat illegible, it documents a severe head trauma on 15 November 1990. There are other medical documents included that also substantiate this event. The application included an initial PTSD Disability Benefits Questionnaire (DBQ) dated 4 December 2021 that showed a diagnosis of PTSD and reported three traumatic experiences, including witnessing a horrific event as well as experiencing a trauma (i.e. being stabbed in Somalia). He also endorsed the requisite number of symptoms to warrant a diagnosis of PTSD.

d. There is also a medical DBQ dated 5 October 2022 related to his claim of traumatic brain injury (TBI), which was considered "as likely as not" to be caused by parachute jumps during service. A VA Rating Decision letter dated 20 July 2023



indicated the applicant is 10% service-connected for TBI and has a combined rating of 40% (including 30% for migraine headache).

e. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

f. The VA's Joint Legacy Viewer (JLV) was also reviewed and showed the applicant initially engaged care at the VA in July 1998 and was hospitalized for depressed mood, loss of appetite, and suicidal ideation related to relationship and legal problems. He was discharged the following day, and the next note is in September 1998 where he engaged in outpatient treatment with a psychiatrist. He had several sessions of marital therapy and medication management through 1998, and the documentation discusses stress associated with an investigation by the Alcohol, Tobacco, and Firearms (ATF) agency, a bomb threat by another individual, triggering of military related trauma memories, and hypervigilance. He was started on a mood stabilizer and the diagnoses were Bipolar Disorder and PTSD (related to being a victim of a truck bombing). He was lost to follow up from January 1999 to July 1999 when he was brought back to the VA for inpatient care due to suicidal threats associated with possibly going to prison. Documentation clarified diagnosis as Bipolar Disorder, mixed, with prominent depressive features, and he was restarted on the mood stabilizer. The applicant was next seen in October 2000 where it was noted that he had been in prison over the previous year and medications had been changed. There was notation of possible delusions and mood swings, but it was also documented that the prison had taken him off medications because their mental health provider diagnosed him with narcissistic personality disorder. Documentation between 2000 and 2005 continues with notation of symptoms and treatment of bipolar disorder and references various medications (and side effects) that have been tried, including lithium "as a teen." PTSD is added as a diagnosis in 2004 when the applicant disclosed sexual abuse as a teenager while he was at an inpatient psychiatric facility.

g. According to the most recent mental health note, dated 13 June 2024, the applicant was eventually weaned off of mood stabilizing medications and was being treated primarily for migraines with amitriptyline. His diagnoses are TBI, PTSD, and Insomnia due to a medical disorder, and the documentation reflects "waxing and waning" of PTSD symptoms, which include anxiety, irritability, social isolation, hypervigilance, intrusive thoughts, flashbacks, and nightmares. However, the focus of treatment is on TBI, and the applicant is not currently engaged in any psychotherapy treatment. Additionally, the applicant is not service-connected for PTSD.

h. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to fully opine on the change of his characterization of discharge because of the absence of the specific facts and circumstances surrounding his discharge processing.

i. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed PTSD at the time of the misconduct. However, there insufficient evidence to support that he had a mental health condition while on active service. The applicant has been diagnosed with PTSD associated with childhood abuse and Bipolar Disorder. He is also service-connected for TBI associated with an event that occurred while on active service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service. The applicant asserts traumatic experiences that occurred while on deployment to Somalia.

(3) Does the condition or experience actually excuse or mitigate the discharge? NA. Without knowledge of the basis for separation, no opinion regarding mitigation can be offered.

j. The applicant asserts mitigation due to PTSD resulting from his time in Somalia, and VA records show documentation of PTSD related to childhood abuse. However, the primary diagnoses documented and treated by VA providers are Bipolar Disorder and TBI. In the absence of information from a separation packet containing the basis for separation, no decision regarding mitigation under liberal consideration can be made. However, his assertion of PTSD is sufficient to merit consideration by the board.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was charged with an offense, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board found no error or injustice in the separation proceedings and designated characterization of service. The Board noted the applicant's contention of post-traumatic stress disorder; however, reviewed and concurred with the medical advisor's review finding insufficient evidence to determine if the conduct is mitigated by his behavioral health condition without knowing the type of misconduct that led to his discharge. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was not in error or unjust.

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

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.

10/28/2024

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 (AR) 635-120 (Personnel Separations – Officer Resignations and Discharges), in effect at the time, implemented the statutory provisions of Title 10, United States Code governing officer separations and provided policies and procedures for separating officers from active duty.

a. Chapter 5 provided that an officer may submit a resignation for the good of the service when:

(1) Court-martial charges are preferred against the officer with a view toward trial by general court-martial.

(2) He or she is under a suspended sentence of dismissal.

(3) He or she elects to tender a resignation because of reasons outlined in AR 635-100 (Personnel Separations – Officer Personnel), paragraph 5-11a, prior to general court-martial charges being preferred against him or her under the uniform code of military justice (UCMJ) and prior to being recommended for elimination under the provisions of AR 635-100.

b. A resignation for the good of the service, when approved in Headquarters Department of the Army (HQDA), is normally accepted as being under other than honorable conditions.

3. AR 635-5-1 (Separation Program Designator (SPD) Codes), in effect at the time, provided that officers separated under the provisions AR 635-100, chapter 5, for resignation in lieu of trial by court-martial would receive a separation code of DFS.

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; TBI; sexual assault; sexual harassment. Boards were directed 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 that misconduct which led to the discharge.

5. 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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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.

6. 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.

7. Army Regulation 15-185 (ABCMR) 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, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//