

IN THE CASE OF: ██████████

BOARD DATE: 29 February 2024

DOCKET NUMBER: AR20230007999

APPLICANT REQUESTS: Upgrade of his under honorable conditions (general) discharge.

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

- DD Form 149 (Application for Correction of Military Record)
- Legal brief on behalf of the applicant
- Self-authored letter
- Veterans Affairs (VA) documents
- In-service personnel records
- Digital articles on various medical illnesses and injuries

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. Counsel states, in pertinent part:

a. The applicant undeservingly received a less than honorable discharge after serving as a medic in the Army. At the time of discharge, he was suffering from undiagnosed symptoms of schizophrenia, which developed during service. He petitions for a discharge upgrade because his current discharge characterization does not reflect his honorable service to this country.

b. The applicant was an Army medic who served with a combat unit in Germany and successfully completed several physically and mentally challenging training courses, including Army Airborne School, the Special Forces Orientation and Training Course, and Phase I of the Special Forces Medical Sergeant Course. He had an excellent service record including receipt of medals and awards until experiencing marital troubles in the summer of 1989. After discovering that his wife wanted a divorce in June 1989, he received two disciplinary measures while being seen repeatedly for

mental health symptoms related to his divorce. While his mental health was pristine beforehand, he began feeling dysphoria and anxiety along with difficulty concentrating, headaches, and nausea. Despite having no history of psychiatric symptoms in the Army, between August and October 1989, his mental health quickly deteriorated. During this time period, the applicant was hospitalized or treated on at least twelve different occasions with notes indicating various levels of depression.

c. After leaving the service, in the applicant's words, he "crashed hard." After his departure from the Army, he continued to struggle with prodrome symptoms, like depression. Despite his struggles, he did not seek out mental health care until 2004. By then, his paranoia had escalated, and he believed that he was being monitored and experimented on. The applicant was diagnosed with schizophrenia in 2019.

d. Mitigating circumstances that surrounded the applicant's schizophrenia diagnosis explain his misconduct and discharge. He suffers from schizophrenia, which began its prodrome of symptoms during his service and shortly before his discharge. He has a mental health condition, that condition existed during service, it mitigates his going absent without leave (AWOL), and the totality of his service generally outweighs the mitigating behavior that led to discharge. Further, the applicant served for three years in an honorable manner without behavioral issues and with many awards and two promotions. It is in the interest of justice and equity to grant him a discharge upgrade. He went through a challenging time in his family life, and it resulted in the development of schizophrenia, which he still manages today. This should not outweigh the many years of faithful service that he gave to the Army.

3. The applicant provides a self-authored letter detailing his early life, his time in service, his goals and accomplishments, his mental health issues, and the events that led to his discharge. He continues to make every effort to turn his life around after many years of struggle.

4. On his DD Form 149, the applicant notes other mental health issues are related to his request.

5. Having previous honorable service in the U.S. Army Reserve, the applicant enlisted in the Regular Army, on 3 January 1986. He voluntarily extended his enlistment on 8 September 1997 and 29 November 1988.

6. The applicant received medical treatment on several occasions between 10 August and 24 August 1989 for severe depression. Additionally, he was hospitalized for in-patient treatment on two occasions during this period.

7. On 30 August 1989, the applicant underwent a mental status evaluation. The attending social worker notes he talked to the applicant's commander who indicated that

he did not feel he was emotionally unstable and was fit for retention. He was recommended to return to duty and follow-up with the Community Mental Health Services (CMHS), if deemed necessary.

8. The applicant received formal counseling on the following dates/for:

- 21 September 1989; not returning to his place of duty at the appointed time
- 25 September 1989; being late for formation

9. On 4 October 1989, the applicant underwent a psychological evaluation. His diagnostic impression was mixed personality disorder with a recommendation for continued treatment.

10. On 16 October 1989, the applicant accepted non-judicial punishment under Article 15 of the Uniform Code of Military Justice, for going AWOL from on or about 5 October 1989 until on or about 6 October 1989. His punishment included forfeiture of \$551.00 pay per month for one month, and 21 days extra duty and restriction.

11. On 17 October 1989, the applicant underwent a mental status evaluation. The attending psychiatrist noted future suicidal gestures were possible. However, he was psychiatrically cleared to participate in any administrative action deemed appropriate by the command.

12. The applicant's commander notified him on 30 October 1989, that he was initiating actions to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12a, for misconduct – minor disciplinary infractions. As the specific reasons, his commander cited the applicant desired to be discharged from the military and the CMHS recommended his separation.

13. On 31 October 1989, the applicant acknowledged that he had been advised by counsel of the contemplated separation action, the possible effects of the discharge, and the rights available to him. He indicated he understood he could expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions were issued to him. He declined to submit a statement in his own behalf.

14. On 2 November 1989, the applicant's commander formally recommended his separation under the provisions of Army Regulation 635-200, paragraph 14-12a, for misconduct – minor disciplinary infractions.

15. Consistent with the chain of command's recommendation, the separation authority approved the recommended discharge on 13 November 1989, and directed the issuance of an under honorable conditions (general) discharge.

16. The applicant was discharged on 17 November 1989. His DD Form 214 (Certificate of Release or Discharge from Active Duty) confirms he was discharged under the provisions of Army Regulation 635-200, paragraph 14-12a, for misconduct – minor disciplinary infractions. His service was characterized as under honorable conditions (general). He was assigned Separation Code JKN and Reentry Code 3. He completed 3 years, 10 months, and 14 days of net active service this period with one day of lost time.

17. Additionally, his DD Form 214 shows he was awarded or authorized the Army Service Ribbon, Driver Mechanic's Badge with Driver-W Component Bar, Expert Field Medical Badge, Army Achievement Medal (1st Oak Leaf Cluster), Army Good Conduct Medal, Noncommissioned Officer Professional Development Ribbon, Parachutist Badge, and the Expert Qualification Badge (Rifle M-16).

18. The applicant provides VA administrative and medical documents that show his combined rating evaluation is 100% for various service-connected medical illnesses, to include schizophrenia. These documents are provided in their entirety for the Board's review within the supporting documents.

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

20. MEDICAL REVIEW:

a. The applicant requests an upgrade of his under honorable conditions, general discharge to honorable. He contends his misconduct was related to Other Mental Health Issues.

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) Having previous honorable service in the U.S. Army Reserve, the applicant enlisted in the Regular Army, on 3 January 1986; 2). The applicant received medical treatment on several occasions between 10 August and 24 August 1989 for severe depression. Additionally, he was hospitalized for in-patient treatment on two occasions during this period; 3) On 16 October 1989, the applicant accepted non-judicial punishment under Article 15 of the Uniform Code of Military Justice, for going AWOL from on or about 5 October 1989 until on or about 6 October 1989; 4) The applicant's commander notified him on 30 October 1989, that he was initiating actions to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12a, for misconduct – minor disciplinary infractions; 5) On 2 November 1989, the applicant's commander formally recommended his separation under the provisions of Army Regulation 635-200, paragraph 14-12a, for misconduct – minor

disciplinary infractions; 6) Consistent with the chain of command's recommendation, the separation authority approved the recommended discharge on 13 November 1989, and directed the issuance of an under honorable conditions (general) discharge; 7) Accordingly, the applicant was discharged on 17 November 1989

c. The VA electronic medical record (JLV), ROP, and casefiles were reviewed. The military electronic medical record, AHLTA, was not reviewed as it was not in use during the applicant's period of service. Included in the applicant's casefile were medical documentation outlining some of his reported treatment history. Encounter note dated 10 August 1989 shows the applicant presented to the VA [REDACTED] with complaints of depression and suicidal ideation after learning his wife of two years informed him that she wanted a divorce. He reported that his spouse had been hospitalized for an apparent overdose and when he returned from training to check on her, she informed him of her desire for a divorce. Being unsure of how to handle what he was feeling, the applicant reportedly requested voluntary psychiatric hospitalization. He was hospitalized from 10 to 15 August 1989 and was diagnosed with MDD single episode w/o psychosis and Passive Aggressive Personality Disorder. Records suggest the applicant was transferred to Walter Reed AMC on 15 August 1989 with diagnoses of Depression, SI, and Strep throat. On 17 August 1989 applicant was admitted to with symptoms of sleep problems, concentration problems, depressed mood, and needing to "get his head straight" before returning to school. Mental Status Evaluation, dated 1 September 1989, shows the applicant with a history of inpatient and outpatient treatment for situational depression secondary to marital problems. He was noted to appear depressed, had decreased coping skills, ventilated about his pending divorce, and interacted with few people. The provider further described him as having ineffective coping skills, angry, and isolative - characterized by staying in his room and not interfacing with others. Inpatient treatment was conducted at Sheppard AFB from 17 to 22 August 1989. His diagnosis rendered at Sheppard reflected Adjustment Disorder with Mixed Emotional Features. Prior to discharge from his inpatient stay, the examiner determined the applicant fit for retention and returned him to duty. Report of Mental Status Evaluation dated 17 October 1989 shows the applicant was noted to have been treated for conduct disturbance secondary to marital problems, emotional instability, suicidal threats, culminating in AWOL offense. It was further noted he has impulsive and had passive-aggressive traits. It was determined, however, that his service-career was not indicative of someone with a personality disorder. The applicant was found to not have a mental defect, emotional illness, or psychiatric condition of such severity to warrant separations through military medical channels, but was did display symptoms that were currently not amenable to hospitalization, treatment, disciplinary action, or retraining, and therefore it was recommended that applicant be administratively separated. He was cleared for any administrative action deemed appropriate by command.

d. A review of JLV shows the applicant 100 percent SC for Schizophrenia. VA C&P, dated 10 January 2020, shows the applicant reported a history of significant depression

and anxiety, with onset during military service, secondary to marital difficulty. The applicant details going AWOL, for one day, during a depressive episode in an attempt to address with his spouse and save his marriage, and that upon return from AWOL he was incarcerated. He reportedly began having SI with depression and was subsequently psychiatrically hospitalized, and eventually administratively separated. The examiner noted a previous provider had opined the applicant's depressive symptoms may have been prodromal symptoms of schizophrenia, however, after a review of the records and extent literature, the C&P examiner opined that it appears the applicant's depression in the military was not prodromal. The examiner further opined that the applicant's depression during service had a clear precipitating event (i.e., marital problems), and did not have a clinical picture consistent with prodromal schizophrenia as described in the psychiatric literature. It was also noted the applicant did not begin reporting symptoms of delusions and paranoia until 2004. The examiner, found the applicant's diagnosis of MDD, during service, was less likely than not prodromal symptoms of his subsequent diagnosis of schizophrenia. Despite the examiner opinion, the applicant is currently 100 percent SC for the Schizophrenia.

e. Records show the applicant with a significant BH history with the VA that began in September 2004 whereby he was diagnosed Unspecified Psychotic Disorder. The applicant presented with complaints of paranoia characterized by a belief that he was being followed and that his life was being censored. He reported onset of the beliefs in 2000 secondary to being falsely accused of spanking his daughter (felony child abuse), followed by a "series of circumstances" that resulted in him being labeled a fugitive from justice. He reported believing his life was still under surveillance and that others are attempting to agitate him as part of a psychological experiment. He was diagnosed with Psychosis NOS with r/o of Psychosis due to GMC, r/o Delusional Disorder, r/o Substance Induced Psychosis, r/o Schizophrenia, trialed on psychotropic medication and scheduled for outpatient treatment. Records show the applicant was treated for Unspecified Psychotic Disorder and Unspecified Paranoid State, through September 2013. Records show the applicant declined admission into the VA Domiciliary Program in February 2015 stating that even though he was homeless he was not in need of any programming, denied any mental health concerns, denied substance abuse concerns, and stated being in the process of applying for SSVF. The applicant likewise declined entry into the VA Domiciliary Program in July 2016. Records show he accepted entry into the program in July 2018 with a diagnosis of Undifferentiated Schizophrenia and homelessness. Records show the applicant has engaged in residential and outpatient treatment for Schizophrenia through February 2024 with good results.

f. The applicant requests an upgrade of his under honorable conditions, general discharge to honorable. He contends his misconduct was related to Other Mental Health Issues. A review of the records shows the applicant was diagnosed with MDD, Suicidal Ideation, and Adjustment Disorder with Mixed Emotional Features during service. Post service records shows the applicant 100 percent SC for Schizophrenia with prodromal symptom onset of depression and anxiety during service. Given the available

information, it is difficult for this advisor to support that the applicant symptoms during service were prodromal to Schizophrenia, given the clear precipitating event for the depressive and anxiety symptoms (i.e., marital difficulties), and lack of other behaviors consistent with prodromal symptoms. Additionally, the applicant reportedly did not present with symptoms of psychosis until over a decade later. It should be noted that this opinion was also shared by the VA C&P Examiner. It is clear however that during service the applicant met criteria for MDD and Adjustment Disorder with Mixed Emotional Features, and as such this advisor will use those conditions to address mitigation, while also conceding the remote possibility of the symptoms being prodromal to schizophrenia. Records show the applicant experienced an acute emotional reaction secondary to learning of his wife decision for divorce, and during a brief period of emotional instability, went AWOL for a single day in an attempt to reconcile the marriage. The applicant's misconduct appears have been related to a desire to address hopelessness associated with potentially losing his marriage and in an attempt to avoid continued sadness associated with the potential loss. Given the above, the applicant misconduct characterized by one day of AWOL is mitigated by his in-service diagnosis of MDD and Adjustment Disorder. It should be noted that although the applicant is 100 percent SC for Schizophrenia, there is not evidence in the record that he had a condition, during service that required referral through military medical channels.

g. Based on the available information, it is the opinion of the Agency BH Advisor that there is sufficient evidence that the applicant had an experience or condition during his time in service that mitigated his misconduct.

Kurta Questions:

(1) Does any evidence state that the applicant had a condition or experience that may excuse or mitigate a discharge? Yes. The applicant is 100 percent SC for Schizophrenia with reported prodromal symptoms of Depression and Anxiety with onset during service.

(2) Did the condition exist or experience occur during military service? Yes.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of the records shows the applicant was diagnosed with MDD, Suicidal Ideation, and Adjustment Disorder with Mixed Emotional Features during service. Post service records shows the applicant 100 percent SC for Schizophrenia with prodromal symptom onset of depression and anxiety during service. Given the available information, it is difficult for this advisor to support that the applicant symptoms during service were prodromal to Schizophrenia, given the clear precipitating event for the depressive and anxiety symptoms (i.e., marital difficulties), and lack of other behaviors consistent with prodromal symptoms. Additionally, the applicant reportedly did not present with symptoms of psychosis until over a decade later. It should be noted that this opinion was also shared by the VA C&P Examiner. It is clear however that during

service the applicant met criteria for MDD and Adjustment Disorder with Mixed Emotional Features, and as such this advisor will use those conditions to address mitigation, while also conceding the remote possibility of the symptoms being prodromal to schizophrenia. Records show the applicant experienced an acute emotional reaction secondary to learning of his wife decision for divorce, and during a brief period of emotional instability, went AWOL for a single day in an attempt to reconcile the marriage. The applicant’s misconduct appears have been related to a desire to address hopelessness associated with potentially losing his marriage and in an attempt to avoid continued sadness associated with the potential loss. Given the above, the applicant misconduct characterized by one day of AWOL is mitigated by his in-service diagnosis of MDD and Adjustment Disorder. It should be noted that although the applicant is 100 percent SC for Schizophrenia, there is no evidence in the record that he had a condition during service that required referral through military medical channels.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered. Based upon the misconduct leading to the applicant’s separation and the mitigation found by the medical advisor in the medical opinion, the Board concluded there was sufficient evidence to upgrade the applicant’s characterization of service to Honorable.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Honorable
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change

5/20/2024

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. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.

3. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

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.

c. Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. It states that action will be initiated to separate a Soldier for misconduct when it was clearly established that rehabilitation was impracticable or unlikely to succeed.

4. The Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR), on 3 September 2014, to carefully consider the revised post-traumatic stress disorder (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.

5. The Under Secretary of Defense for Personnel and Readiness provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017. The memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, traumatic brain injury, sexual assault, or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the mental health condition was not diagnosed until years later. 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.

6. 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, 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.

//NOTHING FOLLOWS//