

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 December 2023

DOCKET NUMBER: AR20230008137

APPLICANT REQUESTS: in effect, to correct his DD Form 214 (Certificate of Release or Discharge from Active Duty) to change the narrative reason for his separation from active duty due to reaching the Retention Control Point (RCP) vice misconduct.

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

- DD Form 149 (Application for Correction of Military Record)
- Army Discharge Review Boards (ADRB) Docket Number AR20170014202 proceedings
- DD Form 214 with original character of service
- DD Form 214 after upgrade from ADRB

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 separated from active duty due to reaching his RCP. Instead, his chain of command involuntarily separated him 1-day prior to this RCP date. They did not take into consideration he was diagnosed with moderate Post-Traumatic Stress Disorder (PTSD) upon returning from Afghanistan in 2013. He requests the correction of his DD Form 214 to reflect he was discharged due to reaching his RCP.

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

a. The applicant enlisted in the U.S. Army Reserve (USAR) on 7 March 2005.

b. The applicant's Enlisted Record Brief shows he:

- served in Afghanistan during the period of 12 December 2012 to 31 August 2013

- expiration of term of service 18 August 2014
- Military Physical Profile Serial System does not show any limitations in psychiatric
- advanced to the rank of specialist (SPC)/E-4, effective 22 March 2011
- reduced to the rank of private (PVT)/E-1, effective 18 February 2014
- favorable personnel action flag for adverse action effective 24 January 2014

c. On 17 March 2005, Orders Number C-03-504838, issued by the U.S. Army Human Resources Command, the applicant was assigned to the 81st Regional Readiness Command (RRC), effective 16 March 2005.

d. On 16 November 2006, Orders Number 06-320-00434, issued by Headquarters (HQs), 81st RRC, the applicant was assigned to the 849th Quartermaster Company, effective 16 November 2006.

e. On 8 January 2007, the applicant enlisted in the Regular Army and had continuous service through reenlistments.

f. On 18 February 2014, the applicant accepted non-judicial punishment for wrongful use of marijuana. His punishment included reduction to the rank of PVT/E-1; extra duty and restriction for 45-days suspended if not vacated before 17 August 2014.

g. On 20 June 2014, the applicant was notified by his commander of the initiation of separation under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c (2) (misconduct – abuse of illegal drugs). His commander recommended separation with a general under honorable conditions character of service.

h. On 20 June 2014, the applicant acknowledged receipt of the notification of separation under the provisions of AR 635-200, paragraph 14-12c (2). On 24 June 2014, after consultation with counsel the applicant:

- requested consideration by an administrative separation board
- requested appearance before the board
- intended to submit a statement in his own behalf
- requested representation by counsel
- understood he may encounter substantial prejudice in civilian life
- may be ineligible for many or all benefits as a veteran under both Federal and State law
- may apply to the Army Discharge Review Board or the Army Board for Corrections of Military Records to request upgrade of his discharge
- consideration by either board did not imply the upgrade would be approved

- he believed he suffered from PTSD or traumatic brain injury as a result of deployment
- may be ineligible to apply for enlistment in the U.S. Army for a period up to 2-years

i. On 24 June 2014, the applicant's chain of command recommended separation prior to his expiration of term of enlistment with a general under honorable conditions character of service under the provisions of AR 635-200, paragraph 14-12c (2).

j. On 25 July 2014, the notification of separation was amended to reflect the applicant wrongfully used marijuana, a Schedule I controlled substance on or about:

- 9 December 2013
- 9 January 2014
- 28 April 2014
- 28 May 2014

k. On 8 August 2014, the administrative separation board recommended the applicant be separated from the Army and be issued a general under honorable conditions character of service under AR 635-200, paragraph 14-12c (2).

l. On 13 August 2014, the applicant was provided a copy of the administrative elimination board proceedings and he acknowledged receipt of those proceedings.

m. On 14 August 2014, the separation authority directed the applicant be separated from active duty prior to his expiration of term of service and be issued a general under honorable conditions character of service.

n. On 15 August 2014, Orders Number 227-0012, issued by HQs, 3rd Infantry Division, Fort Stewart, assigned the applicant to the U.S. Army transition point for discharge from active duty, effective 18 August 2014.

o. The applicant was discharged from active duty on 18 August 2014 under the provisions of AR 635-200, paragraph 14-12c (2) due to misconduct with a general under honorable conditions character of service. DD Form 214 shows the applicant completed 8-years and 27-days of active service. It also shows in items:

- 4a (Grade, Rate or Rank): PVT and 4b (Pay Grade): E-1
- 12i (Effective Date of Pay Grade): 18 February 2014
- 13 (Decorations, Medal, Badges, Citations and Campaign Ribbons Awarded or Authorized):
  - Afghanistan Campaign Medal with two bronze campaign stars
  - Army Commendation Medal

- Army Achievement Medal (3rd Award)
  - Meritorious Unit Commendation
  - Army Good Conduct Medal (2nd Award)
  - National Defense Service Medal
  - Global War on Terrorism Expeditionary Medal
  - Global War on Terrorism Service Medal
  - Army Service Ribbon
  - Overseas Service Ribbon (2nd Award)
  - North Atlantic Treaty Organization Medal
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- 18 (Remarks): served in Afghanistan during the period of 12 December 2012 through 31 August 2013
  - 24 (Character of Service): general under honorable conditions
  - 25 (Separation Authority): AR 635-200, paragraph 14-12c (2)
  - 26 (Separation Code): JKK
  - 27 (Reentry Code): 4
  - 28 (Narrative Reason for Separation): misconduct (drug abuse)

q. On 27 September 2019, the ADRB determined the applicants discharge was inequitable based on his length and quality of service, to include combat service. The circumstances surrounding the discharge (post service diagnosis of PTSD) and a prior period of honorable service. Therefore, the ADRB granted him relief by upgrading the character of service to honorable and changed the separation authority to AR 635-200, paragraph 14-12a (misconduct, minor infractions), the separation code to JKN and the reentry code to 3. The applicant's original DD Form 214 was voided, and a new DD Form 214 was issued to reflect the upgrade.

4. Per the Board's Medical Officer, a voting member, based on the information available for review at the time in the service record, the Armed Forces Health Longitudinal Technology Application (AHLTA), and Joint Legacy Viewer (JLV), notes indicate diagnoses of Adjustment Disorder with anxiety and depressed mood, Cannabis Abuse, Cannabis Dependence, and PTSD. The applicant is 70 percent service-connected for PTSD from the VA. In summary, the applicant's behavioral health diagnosis is mitigating for the misconduct which led to separation from the Army.

5. In the processing of this case, the U.S. Army Human Resources Command (HRC) stated they had nothing else to provide that the ADRB did not already uncover and articulate in their case report and directive. The regulatory guidance was clearly and best explained in the case report by Department level subject matter experts.

6. On 6 October 2023, the Army Review Boards Agency, Case Management Division provided the statement from HRC to the applicant for review and comment. He did not respond.

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. The applicant was discharged from active duty on 18 August 2014 under the provisions of chapter 14 of AR 635-200 due to misconduct (drug abuse). The ADRB considered his case and upgraded his character of service to honorable and changed the separation authority to AR 635-200, paragraph 14-12a (misconduct, minor infractions). Absent the applicant's misconduct, there was no fundamental reason to process him for separation under chapter 14 of AR 635-200. The under lying reason for his separation was his misconduct. The only valid narrative reason is misconduct which is correctly shown on his DD Form 214. The Board found no error or injustice.

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.

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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 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) 635-200 (Active Duty Enlisted Administrative Separations) in effect at the time, sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

a. Paragraph 4-3e (2), Soldiers who are precluded from retention for any reason will not be retained beyond the last day of the month in which their Expiration Term of Service (ETS) falls, or, if on Indefinite status, they will not be retained beyond the last day of the month in which their RCP falls.

b. Paragraph 14-12a (Minor disciplinary infractions), a pattern of misconduct consisting solely of minor military disciplinary infractions.

c. Paragraph 14-12c (Commission of a serious offense), commission of a serious military or civil offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual of Courts Martial. (2), abuse of illegal drugs is serious misconduct. However, relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under a or b, above, as appropriate.

3. Army Directive 2013-28 (Retention Control Point (RCP)) implement RCPs that are consistent for enlisted Soldiers serving on active duty across the Army components. Effective 1 February 2014 for Regular Army (RA) and Active Guard/Reserve enlisted Soldiers may perform service on active duty up to their RCP or age 62 for the RA and U.S. Army Reserve or age 60 for the Army National Guard of the United States, whichever occurs first.

Army Retention Control Points

Private through Private First Class	5-years, time in service
Corporal/Specialist	8-years, time in service
Corpora/Specialist (Promotable)	8-years, time in service
Sergeant	14-years, time in service

Soldier who exceeds the RCP for their current rank because of a reduction in grade or removal from the promotion list must retire or separate from the Army no earlier than 90-days or no later than 180-days after the effective date of the reduction in grade.

4. AR 601-280 (Army Retention Program) in effect at the time, prescribes criteria for the Army Retention Program and sets forth policies, command responsibilities for: a. Immediate reenlistment or extension of enlistment of Soldiers currently serving in the Active Army. b. Enlistment/Transfer and assignment of Soldiers processing from the Active Army to the Reserve Components of the U.S. Army. Paragraph 3-8 (Qualification of a Soldier for reenlistment), g. Rank (Non-waiverable). (1) A Soldier may not exceed the RCP as shown below, by more than 29-days before expiration of contracted service (reenlistment or extension). (2) Except for Soldiers serving indefinite reenlistments, Soldiers who reach their RCP during their current enlistment agreement, either through length of service, reduction in rank, or by removal from a promotion list, whether voluntary or involuntary, may serve until contracted ETS, unless they are separated earlier under applicable administrative, physical disability, or UCMJ separation provisions.

**Table 3-1**  
**Retention control points**

<b>Rank</b>	<b>Total active service in years</b>
PVT-PFC	3
CPL/SPC	10
CPL/SPC (Promotable)	15
SGT	15
SGT (Promotable)	20

5. AR 635-5-1 (Separation Program Designator (SPD) Codes), in effect at the time, prescribes the specific authorities (statutory or other directives), reasons for separating Soldiers from active duty, and the SPD codes to be entered on DD Form 214 (Certificate of Release or Discharge from Active Duty). SPD KGH (Non-retention on Active Duty) under the provisions of AR 635-200, paragraph 16-4a.

//NOTHING FOLLOWS//