

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 March 2024

DOCKET NUMBER: AR20230008195

APPLICANT REQUESTS: in effect, a physical disability retirement in lieu of discharge for non-retention on active duty.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States) in lieu of DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 1 April 2021
- Department of Veterans Affairs (VA) summary of benefits letter, 17 May 2023
- excerpts from:
 - Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder, 3 September 2014 (Hagel memo)
 - Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment, 25 August 2017 (Kurta memo)

FACTS:

1. The applicant states he should have been processed under the Disability Evaluation System (DES) due to undiagnosed post-traumatic stress disorder (PTSD) and residuals of traumatic brain injury (TBI). He was administratively discharged. He served 17 years honorably and he was prevented from receiving his retirement, including medical benefits for himself and family, which may be viewed as a form of discrimination as shown in the Hagel and [Kurta] memorandums.

2. The applicant underwent a medical examination on 16 January 2004 for enlistment. His DD Form 2808 (Report of Medical Examination) shows he was found qualified for service without significant defect and assigned a physical profile of 111111.

A physical profile, as reflected on a DA Form 3349 (Physical Profile) or DD Form 2808, is derived using six body systems: "P" = physical capacity or stamina; "U" = upper extremities; "L" = lower extremities; "H" = hearing; "E" = eyes; and "S" = psychiatric (abbreviated as PULHES). Each body system has a numerical designation: 1 meaning a high level of fitness; 2 indicates some activity limitations are warranted, 3 reflects significant limitations, and 4 reflects one or more medical conditions of such a severity that performance of military duties must be drastically limited. Physical profile ratings can be either permanent or temporary.

3. The applicant enlisted in the Regular Army on 16 March 2004 and entered active duty. He remained on active duty through a series of reenlistments.
4. The applicant was deployed in support of:
 - Operation Enduring Freedom (Afghanistan), 3 March 2006 to 13 October 2006
 - Operation Iraqi Freedom (Iraq), 27 November 2007 to 10 January 2009
 - Operation Enduring Freedom (Afghanistan), 3 July 2012 to 15 February 2013
5. A DA Form 2166-9-2 (NCO Evaluation Report (SSF-1SG/MSG) covering the period 10 May 2018 to 2 October 2018 shows the applicant passed his Army Physical Fitness Test (APFT) on 3 November 2017 and was within height and weight standards. He was rated met standard and qualified.
6. A DA Form 268 (Report to Suspend Favorable Personnel Actions (FLAG)) was initiated effective 23 May 2019 for alcohol abuse adverse action.
7. A memorandum, subject: General Officer Memorandum of Reprimand (GOMAR) Under Provisions of Army Regulation (AR) 600-37 Personnel - General Unfavorable Information), dated 16 July 2019, provides notification to the applicant his was reprimanded for driving while under the influence of alcohol on 22 May 2019 and refusing to provide a breath sample for an Intoxilyzer text. He acknowledged the receipt of the GOMAR on 22 July 2019.
8. An NCO Evaluation Report covering 3 October 2018 to 1 June 2019 shows the applicant passed his APFT on 2 October 2018 and was within height and weight standards. He was rated did not meet standard and not qualified. His ratings were related to his GOMAR.
9. On 16 August 2019, the applicant accepted non-judicial punishment (NJP) for the following offenses on 22 May 2019:
 - driving his motorcycle in a reckless manner by driving while under the influence of alcohol

- wrongfully driving more than 15 miles per hour more than the established speed limit

10. The GOMAR was approved for inclusion in the applicant's Army Military Human Resource Record (AMHRR) on 18 September 2019.

11. An NCO Evaluation Report covering 2 June 2019 to 4 November 2019 shows the applicant passed his APFT on 7 June 2019 and was within height and weight standards. He was rated met standard and highly qualified.

12. An NCO Evaluation Report covering 5 November 2019 to 15 May 2020 shows the applicant passed his APFT on 21 January 2020 and was within height and weight standards. He was rated far exceeded standard and highly qualified.

13. A memorandum to the applicant, subjected: Department of the Army Notification for Potential Denial of Continued Active Duty Service under the Qualitative Management Program (QMP), dated 13 May 2020, notified the applicant a QMP Board would convene on 11 August 2020. The process was initiated based on his GOMAR and NJP.

14. The applicant acknowledged notification of the QMP Board on 27 May 2020.

15. The applicant was provided a memorandum, subject: Notification of Denial of Continued Active Duty Service under the Qualitative Management Program (QMP), dated 17 September 2020, advising he was denied continued service and would be involuntarily discharged from the Army no later than 1 April 2021.

16. On 6 October 2020, the applicant acknowledged notification of denial of continued service and elected not to appeal the decision and understood he would be involuntarily discharged without entitlement to a hearing by a local separation board on 1 April 2021.

17. The applicant was honorably discharged on 1 April 2021 under the provisions of AR 635-200 (Personnel Separations - Active Duty Enlisted Administrative Separations), chapter 4 for non-retention on active duty, with a separation code of "JGH" and a reentry code of 3. His DD Form 214 shows he was credited 17 years 16 days net active service this period.

18. The applicant provided a VA summary of benefits letter, dated 17 May 2023, showing he has a combined service-connected evaluation of 100 percent effective 1 December 2022. He did not provide a list of his conditions and ratings.

19. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not

have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

20. MEDICAL REVIEW:

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

b. The applicant is applying to the ABCMR in essence requesting a referral to the Disability Evaluation System. He states:

- “UNDIAGNOSED PTSD AND TBI RESIDUALS RESULTED IN A DISCHARGE UNDER SEPERATION AUTHORITY AR 635-200, CH 4.
- SEPERATED UNDER ADMINISTRATIVE DISCHARGE (Cited in para 2-6a(10).
- UNDER SAME ARMY REGULATION, SHOULD HAVE BEEN PROCESSED UNDER THE DES (DISABILITY EVALUATION SYSTEM)
- SERVED 17 YEARS HONORABLY, As examples pointed out in the Hagel and Carson Memo's, This type of Discharge prevented me from receiving my Retirement, Medical Benefits (self and family), etc. and MAY be viewed as a form of Discrimination; However, disabilities were Undiagnosed and as shown in the Memo's this was beyond the Army's Control with the information available.”

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His signed DD 214 for the period of Service under consideration shows he entered the regular Army on 16 March 2004 and was honorably discharged on 1 April 2021 under provisions in chapter 4 of AR 635-200, Active Duty Enlisted Administrative Separations (19 December 2016): Non-retention on active duty. It shows he received \$49,930.02 in separation pay.

d. The separation code JGH does not signify a medical discharge or medical conditions but denotes Non-Retention On Active Duty. He received an RE 3 code not for any medical condition but because with his involuntary separation of non-retention on active duty he was no longer fully qualified for reentry into the Army. Soldiers separated from the Army due to physical disability are given and RE code of 4 – Ineligible for reentry.

e. The applicant references Liberal Consideration Policies. However, the Liberal Consideration Policies outlined in the Secretary Hagel and Undersecretary Kurta memorandums address a former Service Member's request to modify the discharge characterization of their service based on a pre-discharge service incurred mental health condition and do not apply honorable discharges or discharges for preexisting medical conditions or disability processing.

f. The applicant's 2018 and 2019 NCO Evaluation Reports (NCOER) show he was a marginal Soldier apparently due to some mental health issues he was being treated for during this period and a DUI incident in May 2019 (discussed below).

g. On the applicant's change of rater reporter covering 10 May 2018 thru 2 October 2018, his rater marked all attributes and competencies as well as his overall performance as "Met Standard" and opined: "Ranked #10 of 10 Sergeant First Class I rate: moderate performer in a difficult market; Accomplished tasks assigned with modest levels of supervision; continue to groom in current position"

h. Relief for Cause was the reason for submitting his next NCOER which covered 3 October 2018 thru 1 June 2019. His rater marked is overall performance as "Did Not Meet Standard and his senior rater marked him as "Not Qualified" going on to opine: "SFC [applicant] is rated 3 of 3 Sergeant First Classes I currently rate. His tactical and technical abilities far exceed his peers ability; however, his poor decisions and lack of discipline diminish his future potential. I relieved SFC [Applicant] from his Platoon Sergeant position. Do not promote. Do not send to MLC [Master Leader Course]."

i. On 16 July 2019, he received a General Officer Memorandum of Reprimand for his arrest for speeding and driving under the influence of alcohol on Fort Bragg the night on 22 May 2019. He also received an Article 15 for these UCMJ violations.

j. His next NCOER was for a change of rater and covered 2 June 2019 thru 4 November 2019 and showed some improvements from his earlier NCOERs. Though his rater marked all attributes and competencies as well as his overall performance as "Met Standard," he opined:

"SFC [Applicant] is three out of five Noncommissioned Officers that I currently rate, demonstrating satisfactory performance during the rated period

SFC [Applicant] is among the top twenty five of Noncommissioned Officers I have worked with over twenty years in the Army."

His senior rater marked him as "Highly Qualified" stating:

"SFC [Applicant] is #2 out of 3 Operations Sergeants in the Battalion that I senior rate, and among the top 35% of Sergeants First Class I have rated. SFC

[Applicant] possesses the potential to excel in positions of increased responsibility. Promote to Master Sergeant with peers and send to the Master Leader Course.”

k. His next NCOER was again for a change of rater and showed he was an excellent Soldier. His rater marked his attributes and competencies as either “Far Exceeded Standard” (3 of 5) or “Exceeded Standard (2 of 5) and his overall performance as “Far Exceeded Standard” stating:

“He is the best NCO I have worked with in my career; his experience and personal drive have greatly influenced the platoon's performance and have had an immeasurable effect on his subordinates

Incredibly knowledgeable tactical leader and detail-oriented mentor; dedicated to fostering an inclusive, high caliber team; supremely gifted at developing junior soldiers and NCOs”

His rater marked him as “Highly Qualified” and opined:

“SFC [applicant] is the #2 of 4 Platoon Sergeants that I currently senior rate. His innate ability to motivate and inspire his Paratroopers while maintaining the highest standards and discipline make him stand out among the top 15% of NCOs that I have ever worked with. He will continue to excel in positions of greater responsibility.

Promote ahead of peers to Master Sergeant and send to MLC.”

l. On 13 May 2020, the applicant was notified his potential for retention would be subject to an Army Qualitative Management Program (QMP) Board on 11 August 2020. On 17 September 2020, the applicant was informed: “As a result, the Director of Military Personnel Management approved the board's recommendation and you will be involuntarily discharged from the Army not later than 4/1/2021.” The applicant was presented with five options, and on 6 October 2020 selected “I will not submit an appeal. I understand that I will be involuntarily discharged on 4/1/2021 without entitlement to a hearing by a local separation board.”

m. The state of his behavioral health tracks with his performance as seen on the NCOERs above. Review of the applicant’s EMR shows he entered active behavioral health treated for depression and PTSD in December 2016.

“Pt experiencing depression, sleep problems, and anxious related to combat-likely triggered by stress and recent deaths in family. Patient needs to be seen by Mental Health for further evaluation of PTSD. BHOP [behavioral health outpatient] will monitor patient until initial appointment at MH [mental health] is

completed.

Pt experiencing depression, sadness, sleep problems-nightmares and stress. Scored high on PTSD scale-to schedule appointment with MH for further evaluation. Patient would benefit from medication to address, mood and anxiety-related symptoms.”

n. As part of his evaluation, he underwent a traumatic brain injury (TBI) evaluation on 31 March 2017 based on the history of a TBI in 2012 noted on his Periodic Health Assessment (PHA). “The patient was reportedly in an IED [improvised explosive device] blast in October of 2012. He states that he sustained traumatic brain injury at that time and has had difficulty with his memory ever since then. I will refer the patient to our TBI clinic for further evaluation and care current.” His evaluation at the TBI clinic was on 11 April 2017 after which the provider stated his TBI screening was negative and that his symptoms were not due to a concussion. This meant they were likely due to his mental health issues.

o. He was admitted to a civilian “Partial care program” in May 2018 but left it because it was mostly if not all civilian patients. He then began an intensive care program with the Army, being seen several times a week through August 2018 as which time the case was closed. He had been determined fit for duty on 25 July 2018 and had not been responding to phone calls or making appointments.

He was next seen on 8 March 2019 for his PTSD after which the provider wrote: “Based upon review, neither MEB processing or administrative separation recommendation are warranted ... Pt can follow up at any time with the MHC at LA AFB or Fort Irwin. Pt will be scheduled with an intake due to time since his last appointment if he decides to follow up ... Released w/o Limitations.”

p. Though his DUI arrest appears to have been an isolated incident, he was command referred to and then entered the Army’s Substance Use Disorder Clinical Care program in June 2019. From the evaluation on 12 June 2019: “Patient appeared amendable to education only recommendations. 1SG B. reported the current and referring incident appears to be an isolated one and a case of “wrong place, wrong time” for patient. He emphasized that the command has no immediate concerns regarding patient’s alcohol use. Patient’s non-endorsement of criteria for a mild, moderate, or severe substance use disorder was discussed as well as education-only recommendations. Command expressed willingness to support patient attending psychoeducation classes.”

s. He was not diagnosed with an alcohol use disorder but with “Problems Related to Other Legal Circumstances.” He was referred to the Army Substance Abuse Program’s 2-day psychoeducation classes with “Patient and command expressed understanding of SUDCC self-referral and voluntary track care if determined in the future. There are no further in-service behavioral health encounters. Neither the applicant’s separation packet nor documents addressing the reason(s) for his non-retention on active duty and involuntary administrative separation were submitted with the application nor uploaded into iPERMS. The Army structure for promotion and retention is a highly competitive pyramid, the higher up you are the less room there is for retention and promotion: Thus, the old phrase “Up or out.” In such a competitive environment, past errors are often difficult to overcome.

q. There is insufficient probative evidence the applicant had any duty incurred medical condition which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to his discharge. Thus, there was no cause for referral to the Disability Evaluation System. Furthermore, there is no evidence that any medical condition prevented the applicant from being able to reasonably perform the duties of his office, grade, rank, or rating prior to his discharge.

r. JLV shows he has been awarded multiple VA service-connected disability ratings, including a 70% rating for PTSD. His medical problems list contains a VA diagnosis of “History of traumatic brain injury” but this is not associated with a TBI service-connected disability rating. The DES compensates an individual only for service incurred medical condition(s) which have been determined to disqualify him or her from further military service. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service; or which did not cause or contribute to the termination of their military career. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

s. It is the opinion of the ARBA Medical Advisor that a referral of his case to the DES is not warranted.

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 received a GOMOR for driving under the influence followed by NJP for driving his motorcycle in a reckless manner by driving while under the influence of alcohol and

wrongfully exceeding the established speed limit. This triggered consideration by the QMP and his non-retention on active duty. The Board considered the medical records, any VA documents provided by the applicant and the review and conclusions of the advising official. The Board concurred with the medical reviewer's finding insufficient probative evidence the applicant had any duty incurred medical condition which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to his discharge. Thus, there was no cause for referral to the Disability Evaluation System. Furthermore, there is no evidence that any medical condition prevented the applicant from being able to reasonably perform the duties of his office, grade, rank, or rating prior to his discharge.

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.2.

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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. AR 635-200 (Personnel Separations - Active Duty Enlisted Administrative Separations) 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. Chapter 4 (Separation for Expiration of Service Obligation), provided, a Soldier would be separated upon expiration of enlistment or fulfillment of service obligation.

2. AR 635-5-1 (Separation Program Designator Codes), in effect at the time, provided the separation code "JGH" applied to Soldiers who received a Service initiated discharge or release from Active Duty (REFRAD), under the provision of Army Regulation 635-200, with a narrative reason for separation of "Non-retention on active duty." This type of separation was directed when a member is not recommended for continued active duty because of failure to meet minimum retention standards other than those at their retention control point. Soldiers separated at ETS and denied retention for further service or involuntarily discharged under the Qualitative Management Program (QMP). Soldiers separated as a result of QMP will receive an RE-4.

2. Title 10, USC, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 and Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in an MEB; when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an MOS Medical Retention Board; and/or they are command-referred for a fitness-for-duty medical examination.

b. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a finding of fitness for continued duty. A Soldier is physically unfit when a medical

impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

3. Title 38 USC, section 1110 (General - Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

4. Title 38 USC, section 1131 (Peacetime Disability Compensation - Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

5. AR 635-40 (Personnel Separations-Disability Evaluation for Retention, Retirement, or Separation) establishes the Army Disability Evaluation System and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

a. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in military service.

b. Soldiers who sustain or aggravate physically unfitting disabilities must meet the line-of-duty criteria to be eligible to receive retirement and severance pay benefits.

6. AR 40-501 (Standards of Medical Fitness) governs medical fitness standards for enlistment, induction, appointment (including officer procurement programs), retention, and separation (including retirement). The Department of Veterans Affairs Schedule for Rating Disabilities (VASRD). VASRD is used by the Army and the VA as part of the

process of adjudicating disability claims. It is a guide for evaluating the severity of disabilities resulting from all types of diseases and injuries encountered as a result of or incident to military service. This degree of severity is expressed as a percentage rating which determines the amount of monthly compensation.

7. Section 1556 of Title 10, USC, 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.

8. 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 UOTHC 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. (Hagel Memo)

9. 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, traumatic brain injury, sexual assault, or sexual harassment. 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. (Carson Memo)

10. 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 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 grounds. This guidance does not mandate relief, but rather provides standards and principles to guide BCM/NRs in

application of their equitable relief authority. In determining whether to grant relief on the basis of 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. (Kurta Memo)

//NOTHING FOLLOWS//