

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 December 2024

DOCKET NUMBER: AR20230009317

APPLICANT REQUESTS:

- reconsideration of his previous request for:
 - award of the Military Outstanding Volunteer Service Medal with two service stars
 - promotion to sergeant (SGT)/E-5 for medical retirement
- an amendment to the type of separation to Retirement
- an amendment to the narrative reason for separation to disability, permanent, line of duty injury
- an amendment to the primary specialty to "11B10 Infantryman - 1 year 2 months; 11B20 Specialist (SPC) - 2 years 2 months; 11B30 Team Leader - 3 years 0 months"
- award of the Meritorious Service Medal
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record), 15 June 2023
- DD Form 149, 17 June 2023
- Self-Authored Letter
- Armed Services Vocational Aptitude Battery (ASVAB) Scores
- DA Form 638 (Recommendation for Award) Army Achievement Medal
20 November 1995
- DA Form 2173 (Statement of Medical Examination and Duty Status)
6 October 1997
- DA Form 3340-R (Request for Reenlistment or Extension in the Regular Army),
12 August 1998
- DA Form 1695 (Oath of Extension of Enlistment), 12 August 1998
- DA Form 638, Army Achievement Medal, 2 Oak Leaf Cluster, 26 November 1998
- DA Form 638, Meritorious Service Medal, 7 April 1999
- DA Form 638, Army Commendation Medal, 15 March 2000

- DD Form 214 (Certificate of Release or Discharge from Active Duty), 19 May 2000
- *U.S. v. Fischer*, 17 June 2003
- [REDACTED] University Bachelor of Arts Diploma, 21 May 2004
- [REDACTED] University Transcript, 23 June 2004
- Letter from [REDACTED] Bill Young Marrow Donor Center, 28 July 2004
- Letter from [REDACTED] Hospital, 12 August 2004
- Email from Department of Defense (DoD) Marrow Program, 23 September 2004
- Letter from [REDACTED] Bill Young Marrow Donor Center, 5 December 2011, and 5 March 2012
- Letter from General (GEN) [REDACTED] 4 September 2012
- Letter from GEN [REDACTED] 12 October 2012
- University [REDACTED] Transcript, 17 September 2013
- [REDACTED] Extension Certificate, 17 September 2013
- Letter from [REDACTED] Extension, 22 October 2013
- [REDACTED] Transcript, 15 December 2020
- [REDACTED] Bachelor of Science Diploma, 19 December 2020
- Medical Documents
- Leave and Earnings Statements
- [REDACTED] Evaluation, 13 December 2022
- Department of Veterans Affairs (VA) Rating Decision, 24 January 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. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20110017870 on 19 April 2012, wherein he requested award of the Military Outstanding Volunteer Service Medal and promotion to SGT along with other requests not pertinent to this Record of Proceedings (ROP).
3. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20120020307 on 15 August 2013, wherein he requested award of the Military Outstanding Volunteer Service Medal along with other requests not pertinent to this ROP.
4. The applicant states:

a. During his enlistment, he was constantly under duress to remain silent about his physical and mental health. He was recently diagnosed with autism, at the age of 48, through psychologists and previously the VA also diagnosed him with generalized anxiety disorder with a 70 percent disability rating.

b. Autism spectrum disorder was not recognized or formalized to the world until 1994 through the publication of the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition. He was already enlisted in the Army, when this book edition came out.

c. He joined the Army in the delayed entry program on 12 March 1993 and officially enlisted for active duty on 31 August 1993. He was immediately sent to Fort Benning, Georgia for basic and advanced individual training for the infantry career management field. He reenlisted on 12 September 1995 for an additional four years and afterward, his enlistment was extended on 12 August 1998 for an expiration term of service of 19 May 2000. He was an infantry Soldier for six years, eight months, and nineteen days.

d. Previous to his active duty, he graduated from high school with honors. Since the end of his enlistment, he enrolled into college and attained a bachelor of arts degree in history of art with a 3.98 grade point average, during the spring of 2004, with great hopes of working in a museum, a library, or a gallery.

e. In April of 1999, he joined the National Marrow Donor Program, while stationed at Fort Campbell, Kentucky. He was called to donate some of his bone marrow to save an eleven year old boy suffering from aplastic anemia in August of 2004.

f. He went over ten years and hundreds of job applications for museum, art gallery, and library positions without success. During those ten-plus years, he went from unemployed, underemployed, or marginally employed. By 2015, he decided to reboot himself by taking a "real-world" college degree in chemistry and business. He received a bachelor of science degree, and almost another ten years later, he is still unemployed. He is almost 50 years old and a lot of the things he dreamed about from childhood never came to fruition.

g. Today, he is making about the same monthly paycheck that he made when he was an E-4 in the Army over twenty something years ago, when he was employed. He graduated from high school with honors, scored very good numbers on the ASVAB, graduated from two different colleges with two different bachelors degrees and never had a good job.

h. Having generalized anxiety disorder and autism makes him understand that he is not a bad person, he is just severely misunderstood by the world because of his interest

in very specific things limits his interactions with others. He is not at war with the world but battling his own demons.

i. Based on the memorandums from Kurta (2017) and Wilke (2018) both former Under Secretaries of Defense, he seeks justice, equity, and compassion for his time as a Soldier in the Army from 31 August 1993 to 19 May 2000 with corrections to his DD Form 214 (Certificate of Release or Discharge from Active Duty).

j. He asks the Board to see the attachments from the VA and the psychological evaluation from [REDACTED]. On 10 September 1997, he injured his ankle during a live fire exercise at Fort Polk, Louisiana (now known as Fort Johnson) and he was never allowed to properly heal because several members of his chain of command made allegations that he was faking injuries. From the medical paperwork, it is evident that any physical therapy was inconsistent or non-existent for long stretches of time. Any type of mental health was taboo.

k. The DA Form 2173 (Statement of Medical Examination and Duty Status) block 11d was marked as "injury was incurred in the line of duty". Moreover, block 11b was marked WAS/WAS NOT for "Individual ___ mentally sound." Block 30, as filled in by the unit adviser, Captain (CPT) [REDACTED] wrote "fell in hole during live fire training" which is the same thing as writing simulating war conditions. Block 32 was marked as "injury is considered to have been incurred in line of duty yes."

l. During his last enlistment at Fort Campbell, he was never provided any medical therapy for any of his prior injuries, exit physical, mental evaluation, nor a dental check. He was at [REDACTED], right across the road from the barracks, where Private First Class [REDACTED] was bludgeoned to death. They were not allowed to talk about any aspect of this brutal incident to anyone. Since he is a person of color, he also feared for his life at [REDACTED].

m. The retention noncommissioned officer (NCO), Staff Sergeant [REDACTED] upon the applicant's consultation for an administrative position within the Army, non-combat arms, refused to let him change Army career fields at the end of his then enlistment without looking at anything. From memory, the NCO never consulted his chain of command, he just made a snap decision that the applicant's skills were of no use anywhere else in the Army even though his ASVAB scores probably placed him in the top ten percent of any Army recruits nationwide.

n. He participated in at least three promotion boards, during the span of his enlistment; however, the S-1 personnel kept informing him that his promotion packet "was lost" and he would have to redo everything again. Also, he was never counseled on what he did right, what he did wrong, and/or what he could have done to improve. Likewise, he was never barred from promotion if he was doing anything wrong. He was

just never promoted even though he kept receiving praise and accolades for doing a good job as a Soldier. A few of his DA Forms 638 from his enlistment read:

(1) Dated 20 November 1995, (Block 16) "[The applicant] served as a team leader during many field training exercises and live fire exercises, with truly outstanding results. He displayed leadership abilities well beyond the level of his experience and training..." (Block 17) "[The applicant] displayed a high level of dedication and professionalism during the train-up for 'Operation Provide Refuge' [sic], in Haiti." The correct mission name was Operation Uphold Democracy. (Block 20i) "Good Soldier! He will do great things in Alaska." As written by CPT [REDACTED] II, Company Commander.

(2) Dated 26 November 1998, (Block 20.2) "Served as a squad automatic machine gunner, machine gunner, qualifying expert on both weapons systems." (Block 20.4) "Selected as Battalion Soldier of the Month June '96. Consistently exercised initiative and accomplished all tasks in the absence of orders. His personal and professional appearance and attitude were the example for all other Soldiers to follow. Demonstrated the strength and stamina necessary to complete the 100 mile Alaska pipeline road march in July '97." (Block 23i) "Great Soldier! Gave the Buffaloes three good years." By CPT [REDACTED]

(3) Dated 15 March 2000 (Block 20.1) "...his exemplary performance set him apart from his peers. He consistently set the highest standards for tactical and technical proficiency..." (Block 20.1) "...[the applicant] served as a M-60 machine gunner and subsequently a rifle team leader. [The applicant's] attention to detail enabled him to win the Battalion Soldier of the month board..." (Block 20.3) "...[the applicant] served as a SAW gunner and a rifle team leader..." (Block 20.4) "[The applicant] served as an RTO in the S-3 section. His tireless efforts helped ensure two successful Gold Cycles."

o. He asks the Board to see the DA Forms 638 (Recommendation for Award) with the signatures and letters of former Army GENs [REDACTED] and [REDACTED]. His actions on 7 April 1999, technically, did save the life of a child at the risk of injury or death to himself.

p. In closing, one would hope that having honorable military service would contribute to a better life post-service; however, that is not the case in his situation, so far. Army Regulation 15-80 (Army Grade Determination Review Board (AGDRB)), 12 July 2002, states on page 4: "For enlisted cases, the AGDRB will make final determinations on behalf of the Secretary of the Army. It will determine the highest grade in which a Soldier has served satisfactorily for purposes of service/physical disability retirement, computation of retired pay, or separation for physical disability. Enlisted grade determinations will result in either a decision to retain the individual's current grade or to advance to a higher grade in which the individual satisfactorily served.

q. Three of his award recommendations identified him as a team leader. In the Army, and the other military branches, this is a SGT/E-5 position. During the last stretch of his enlistment he was placed in the S-3 Operations of the 2nd Battalion, 237th Infantry Regiment "No Slack" perhaps one of the most decorated units in the Army post-WWII. There must be a significant amount of trust to work with field grade officers at such close proximity. No ordinary Soldier can do this without persistence, discipline, and patience.

5. The applicant provides the following documents:

a. DA Form 638, 20 November 1995, shows he, in the rank of SPC, was recommended for award of the Army Achievement Medal. His duty position was team leader.

b. DA Form 2173 (Statement of Medical Examination), 6 October 1997 shows the accident occurred on 10 September 1997. His injury was incurred in the line of duty. He suffered a right ankle sprain when he fell into a nine foot hole, during the early morning hours. It was unknown if he was or was not mentally sound.

c. DA Form 638, 26 November 1998, shows he, in the rank of SPC, was recommended for award of the Army Achievement Medal (3rd Award). His duty position was team leader. It shows it was approved with Permanent Order Number 013-001. His DD Form 214 lists that he was awarded the Army Achievement Medal (4th Award).

d. DA Form 638, 7 April 1999, shows he, in the rank of SPC, was recommended for award of the Meritorious Service Medal for joining the DoD Bone Marrow program. He supported the [REDACTED] Bill Young Marrow Donor Program and the National Bone Marrow Program. He was recommended for the award by GEN (Retired) [REDACTED] the former Division Commander. There was no recommendation from his company commander, battalion commander, or brigade commander. GEN (Retired) [REDACTED] the former Corps Commander approved the award. Part V (Orders Data) on the DA Form 638 is blank. No orders were listed or issued on this document.

e. DA Form 638, 15 March 2000 shows he, in the rank of SPC was recommended for award of the Army Commendation Medal for exceptional meritorious service from 31 August 1993 to 3 April 2000. This award was approved with Permanent Order Number 91-1. This award is already listed on his DD Form 214.

f. Letter from [REDACTED] Bill Young Marrow Donor Center, 28 July 2004, regarding his trip to Washington [REDACTED] for his donation of bone marrow. The letter is available for the Board's review.

g. Letters from [REDACTED] Hospital, 12 August 2004, thanking him for donating his time and precious gift. It was their privilege to provide his medical car as he performed this truly heroic gesture. He has graciously volunteered to take time off work to fly to [REDACTED] to donate his bone marrow, which is a painful procedure, for an individual he has never been acquainted with.

h. Email from the Donor Services Coordinator, 23 September 2004, which gives an update of the recipient of the applicant's bone marrow. The email is available for the Board's review.

i. Letters from GEN [REDACTED] and GEN [REDACTED] in reference to the recommendation of award of the Meritorious Service Medal. The letters are available for the Board's review.

j. Medical documentation, which is available for the Board's review and will be reviewed by the Army Review Board's Agency (ARBA) medical section who will provide an advisory.

k. Morrison Psychological Services Psychological Evaluation, 13 December 2022, states in pertinent part, he was diagnosed with Autism Spectrum Disorder and Unspecified Obsessive-Compulsive Disorder (self-report by history). The entire document is available for the Board's review and will be reviewed by the ARBA medical section.

l. VA rating decision, 24 January 2023, shows his evaluation of generalized anxiety disorder, which is currently 50 percent disabling is increased to 70 percent effective 15 October 2022.

6. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 31 August 1993. He remained in the Regular Army through immediate reenlistments and extension of his enlistment.

b. DA Form 2-1 (Personnel Qualification Record), 2 December 1996, shows in:

- Block 6 (Military Occupational Specialty) blank
- Block 9 (Awards, Decorations, and Campaigns) does not list the Meritorious Service Medal or Military Outstanding Volunteer Service Medal
- Block 17 (Civilian Education and Military Schools) Infantryman, 13 weeks, 1993

c. Orders 354-0033, published by Headquarters, 101st Airborne Division (Air Assault) and Fort Campbell, 20 December 1999, honorably transferred him to U.S. Army Reserve (USAR) Control Group (Reinforcement) effective 19 May 2000. His terminal date of reserve obligations ended on 11 March 2001. On 22 February 2000, these orders were amended changing his reassignment from USAR Control Group (Reinforcement) into an Army National Guard (ARNG) unit.

d. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows the applicant, in the rank of SPC, enlisted in the ARNG on 22 February 2000.

e. DD Form 214 shows he was honorably transferred, in the rank of SPC, to an ARNG unit on 10 May 2000. He had completed 6 years, 8 months, and 19 days of active service. His DD Form 214 shows in:

(1) Item 4a (Grade, Rate, or Rank) Specialist; 4b. (Pay Grade) E04.

(2) Item 11 (Primary Specialty) 11B10 Infantryman 6 years and 4 months.

(3) item 12i (Effective Date of Pay Grade): [E4] 31 January 1995.

(3) item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) is void of the Meritorious Service Medal and the Military Outstanding Volunteer Service Medal.

(4) item 23 (Type of Separation) Release from Active Duty

(5) item 28 (Narrative Reason for Separation) Completion of Required Active Service.

f. Orders C-06-016379, published by USAR Personnel Command, 13 June 2000, show he was released from USAR Control Group (Reinforcement) and assigned to the California ARNG effective 20 May 2001.

g. The applicant's service record is void of MOS orders.

h. The applicant's service record is void of documentation showing he was recommended for promotion to SGT or that he was promotable to the rank of SGT.

i. The applicant's service record is void of documentation showing he was recommended for or awarded the Meritorious Service Medal or the Military Outstanding Volunteer Service Medal.

j. The applicant's service record is void of an NGB Form 22 (National Guard Report of Separation and Record of Service) showing his discharge from the ARNG.

7. The applicant's previous ABCMR case, Docket Number AR20110017870, shows on 19 April 2012, the Board denied his request for award of the Military Outstanding Volunteer Service Medal and promotion to SGT. The ROP is available for the Board's review.

8. The applicant's previous ABCMR case, Docket Number AR20120020307, shows on 15 August 2013, the Board denied his request for award of the Military Outstanding Volunteer Service Medal. The ROP is available for the Board's review.

9. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. 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.

10. Based on the applicant's assertion he had an injury while in the service and medical documents showing he was diagnosed with generalized anxiety disorder and autism, the Army Review Boards Agency Medical Section provided a medical and behavioral health review for the Board's consideration.

11. 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 has applied to the ABCMR with multiple requests. Medically, he has in essence requested a referral to the Disability Evaluation System (DES) and a subsequent permanent retirement for physical disability. He states:

“During my enlistment, I was constantly under duress to remain silent about my physical and mental health ... I was recently diagnosed with autism through a psychologist; previously, the US Department of Veterans Affairs also diagnosed me with GAD [generalized anxiety disorder] at 70%.”

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. A DD 214 show the applicant entered the regular Army on 31 August 1993 and was honorably discharged on 19 May 2000 after completing his required active service under provisions in chapter 4 of AR 635-200, Personnel Separations – Enlisted Personnel (1 November 2000).

d. The claimed mental health conditions will be addressed by an ARBA behavioral health advisor in a separate advisory.

e. In his self-authored letter, the only medical/physical condition he mentions as possibly having failed the medical retention standards of AR 40-501, Standards of Medical Fitness, prior to his voluntary separation is residuals of a right ankle injury he sustained September 1997.

f. Because of the period of Service, there are no encounters in the EMR.

g. A Statement of Medical Examination and Duty Status (DA 2173) shows the applicant sustained a right ankle sprain on 10 September 1997 when he "Fell in hole during live fire training." No further documents addressing this injury were identified.

h. Submitted medical documentation shows he was seen for a variety of relatively mild conditions during this period of service: Iliotibial band syndrome in May 1994; a small benign osteochondroma was an incidental finding on a June 1994 plain radiograph; and left knee pain in September 1995 and September 1998.

i. He was seen for a right ankle sprain in November 1997 after which he was referred to physical therapy. In a 9 March 1998 physical therapy follow-up encounter, it is noted the applicant was "much improved and assessed with a "Resolving ankle sprain."

j. There is no probative evidence the applicant's right ankle injury or any other duty incurred medical condition failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to his voluntary discharge; or which prevented the applicant from reenlisting and continuing his military career. 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.

k. Paragraph 3-1 of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (1 September 1990) states:

“The mere presence of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the soldier reasonably may be expected to perform because of his or her office, grade, rank, or rating.”

l. JLV shows he has been awarded two non-mental health related VA service-connected disability ratings: 10% for retinal scars and 10% for limited motion of his right ankle. However, the DES only compensates an individual for service incurred medical condition(s) which have been determined to disqualify him or her from further military service and consequently prematurely ends their career. 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.

m. It is the opinion of the Agency Medical Advisor that a referral of his case to the Disability Evaluation System is unwarranted.

BEHAVIORIAL HEALTH REVIEW:

a. The applicant is applying to the ABCMR requesting to update the following: change the type of separation to Retirement; the narrative reason for separation to disability, permanent, in line of duty injury; his primary specialty, Board promotion to SGT for medical retirement (reconsideration); award of MSM, and award of Military Outstanding Volunteer Service Medal with two service stars (reconsideration). The applicant's requests for updates to his specialty, rank, and awards are outside of the scope of this Advisory and will not be addressed. On his application, the applicant indicated that during his enlistment he was constantly under duress to remain silent about his physical and mental health. He also noted that he was recently diagnosed with Autism through a psychologist and was diagnosed with Generalized Anxiety Disorder (GAD) through the VA. The applicant's previous consideration by the ABCMR is summarized in Docket Number AR20120020307 dated 15 August 2013. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) the applicant enlisted in the Regular Army (RA) on 31 August 1993, 2) DD Form 214 shows he was honorably transferred to an ARNG unit on 10 May 2000 with the type of separation noted as "Release from Active Duty" and Narrative Reason for Separation as "Completion of Required Active Service." 3) his service record is void of an NGB Form 22 showing his discharge from the ARNG, 4) the applicant's previous ABCMR case shows on 19 April 2012 the board denied his request for award of the Military Outstanding Volunteer

Service Medal and promotion to SGT. The ABCMR case dated 15 August 2013 shows the Board denied his request for award of the Military Outstanding Volunteer Service Medal.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant provided in-service medical records from 23 May 1994 through 09 September 1998 for review. Review of the applicant's in-service medical records revealed he sought treatment on numerous occasions for physical health concerns to include problems related to knee and back pain, IT Band Syndrome, and ankle sprain. There were no in-service BH records available for review and his available medical records did not document any BH-related concerns or diagnoses. There were no in-service medical records available for review in JLV.

d. The applicant is 80% service-connected through the VA, 70% for neurosis, Generalized Anxiety Disorder. A VA Rating Decision Letter dated 24 January 2023 shows the applicant's service-connection for Generalized Anxiety Disorder (previously rated as Adjustment Disorder with Mixed Anxiety and Depressed Mood (claimed as anxiety)) was increased from 50% to 70%, effective 15 October 2022. A BH Compensation and Pension (C&P) examination dated 02 December 2014 was available for review via JLV. At the time of the evaluation, the applicant was diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood which was noted to be secondary to knee joint prosthesis and ankle pain with resulting limitations. He was also diagnosed with Schizoid Personality Disorder, to which the provider noted it was a "long-standing characterological issue from childhood, as veteran reported a long history of social awkwardness/shyness, engaging in solitary activities, lacking in close interpersonal relationships, and appears detached/affectively flattened." At the time of the evaluation, the provider noted that there was no evidence found upon review of his records that he ever engaged in mental health treatment. The applicant's subsequent BH C&P examination referenced in the VA Decision Rating Letter dated 18 November 2022 was not available for review to this Advisor.

e. The applicant provided a psychological evaluation from a non-VA/civilian psychologist dated 13 December 2022 from [REDACTED]. The applicant was referred for an evaluation by a Vocational Counselor to determine his cognitive strengths and weaknesses, overall level of functioning, and identify barriers to employment. The provider documented that the applicant was previously diagnosed with anxiety, Chronic Adjustment Disorder, and Obsessive-Compulsive Disorder (OCD).

At the time of the evaluation, he reported he was previously prescribed Fluoxetine (antidepressant) for anxiety but discontinued taking the medication due to side effects. The evaluating provider diagnosed the applicant with Autism Spectrum Disorder (ASD) and Unspecified Obsessive-Compulsive Disorder (self-report by history).

f. Review of the applicant's service records shows that he was nominated for several awards throughout the course of his enlistment (AAM 20 November 1995 and 26 November 1998; MSM 07 April 1999; and ARCOM 15 March 2000).

g. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant was diagnosed with a BH condition in-service that fell below medical retention standards IAW AR 40-501 that would have necessitated disposition through medical channels. The applicant's in-service medical records were void of any BH-related concerns, diagnoses, or treatment history. Since being discharged from the military, the applicant has been diagnosed and service-connected through the VA with Generalized Anxiety Disorder (previously service-connected for Adjustment Disorder with Mixed Anxiety and Depressed Mood which is subsumed by his diagnosis of GAD). Review of his post-discharge medical records shows he has also been diagnosed with Schizoid Personality Disorder via a VA C&P examination and Autism Spectrum Disorder through a non-VA/civilian provider. It is of note that diagnoses of personality disorders and ASD do not fall under the purview of AR 40-501 and are dispositioned through administrative channels IAW AR 635-200. Although records also show a post-discharge diagnosis of OCD through a non-VA/civilian BH provider, this diagnosis was not associated with his military service, the onset of the condition was not specified, and he is not service-connected through the VA for this condition. Although the applicant has been diagnosed and service-connected through the VA with GAD, it is of note that VA examinations are based on different standards and parameters, they do not address whether a medical condition met or failed Army retention criteria or if it was a ratable condition during the period of service. Therefore, a VA disability rating does not imply failure to meet Army retention standards at the time of service or that a different diagnosis rendered on active duty is inaccurate. A subsequent diagnosis of GAD through the VA is not indicative of a misdiagnosis or other injustice at the time of service. Furthermore, even an in-service diagnosis of GAD is not automatically unfitting per AR 40-501 and would not automatically result in medical separation processing. Thus, as there is no evidence that the applicant was diagnosed with GAD in-service nor that he had a BH condition that fell below medical retention standards, a referral to IDES is not warranted.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? N/A. The applicant is requesting medical retirement.

(2) Did the condition exist or experience occur during military service? N/A. The applicant is requesting medical retirement.

(3) Does the condition or experience actually excuse or mitigate the discharge? N/A. The applicant is requesting medical retirement.

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 record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation.

a. Military Outstanding Volunteer Service Medal with two service stars. Deny. The Board determined there was insufficient evidence to support the applicant met the criteria for the award.

b. Promotion to SGT/E-5. Deny. The Board determined there was insufficient evidence to support the applicant was promoted to the rank/grade of SGT/E-5. The Board concluded the rank/grade the applicant held at the time of release from active duty was SPC/E-4.

c. Retirement. Deny. The Board determined the applicant completed 6 years, 8 months, and 19 days of active service and was honorably released from active duty due to completion of required active service appropriately. The Board found no error or injustice in the separation processing of the applicant.

d. Disability, Permanent, line of duty injury. Deny. The Board reviewed and concurred with the medical advisor's review finding insufficient evidence that the applicant was diagnosed with a behavioral health condition in service that failed medical retention standards IAW AR 40-501 that would have necessitated disposition through medical channels.

e. 11B2O/11B3O. Deny. The Board determined there was insufficient evidence the applicant served beyond a skill level 1 in the designated military occupational specialty 11B (Infantryman) for any period of time.

f. Meritorious Service Medal. Deny. The Board determined there was insufficient evidence to support the applicant was recommended for or awarded the Meritorious Service Medal.

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.

3/25/2025

X _____

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. 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.

3. Army Regulation 600-200 (Enlisted Personnel Management System) in effect at the time, prescribes policies, responsibilities and procedures pertaining to career management of Army enlisted personnel.

a. Paragraph 2-19d, a new Military Occupational Specialty (MOS) will be awarded upon:

- Qualification in any MOS (including prior military service)
- Successful completion of MOS training offered by a U.S. Army service school or a training activity
- Successful completion of on the job training pro a period of not less than 60-days
- Change MOS structure
- Identification of civilian acquired skills having a direct MOS counterpart
- Attaining a verifying score on an skill qualification test (SQT)
- Withdrawal of primary MOS

b. Paragraph 2-19f, all awards or withdrawals of MOS will be announced in publication of orders.

c. Paragraph 2-26 (Determination of skill level for primary MOS) is a direct relationship between grade and skill level without regard to supervisory and non-supervisor skills. For other than the initial entry/trainee, there is a direct relationship between grade and skill level in the primary MOS. Under no circumstances will Soldiers possess a skill level in a primary MOS other than that specified below:

- E1 through E4 – skill level 1
- E5 – skill level 2

- E6 – skill level 3
- E7 – skill level 4
- E8 through E9 – skill level 5

4. Army Regulation 635-8, Separation Processing and Documents, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of REFRAD, retirement, or discharge. For Block 11 (Primary Specialty): Enter the titles of all MOSs awarded and held for at least 1 year during the current period of service and include for each MOS the number of years and months held. For time determinations, 16 or more days counts as a month. Do not count time in training (basic training, advanced individual training, Basic Officer's Leader Course, or MOS-producing school). Primary specialty MOS is awarded by Service school completion or by publication of orders awarding the MOS or AOC. For an enlisted Soldier, specify the first five characters of the military occupational specialty code (MOSC), which includes three characters of the MOS, the fourth character of skill and grade level in the MOS, and the fifth character of a special qualification identifier, if applicable. Enter "O" when not applicable.

5. Army Regulation 600-8-19 (Enlisted Promotions and Reductions), prescribed the policies and procedures for the promotion and reduction of enlisted Soldiers. It states, in part promotion to SGT and Staff Sergeant (SSG) are executed in a semicentralized manner. Field-grade commanders in units authorized a commander in the rank/grade of lieutenant colonel/O-5 or higher have promotion authority to the rank/grades of SGT/E-5 and SSG/E-6. Field operations will handle board appearance, promotion point calculation, promotion list maintenance, and the final execution of the promotions which occur in the field in a decentralized manner. Headquarters, Department of the Army operations will handle promotion cutoff scores and the monthly SGT/SSG promotion selection by-name list, which are determined and announced monthly.

6. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. Paragraph 2-25 provides that the Military Outstanding Volunteer Service Medal is awarded to members of the Armed Forces who perform outstanding volunteer community service of a sustained, direct and consequential nature. The Military Outstanding Volunteer Service Medal is categorized as a service medal and, as such, no orders are issued to announce its approval and there is no award certificate. An approval memorandum will be uploaded to the Soldier's Army Military Human Resource Record and the Military Outstanding Volunteer Service Medal will be posted on the Enlisted Record Brief for enlisted Soldiers.

b. Paragraph 3-17 provides that the Meritorious Service Medal is awarded to members of the Armed Forces of the United States or of a friendly foreign nation who distinguish themselves by outstanding meritorious achievement or service in a noncombat area. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

7. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

8. 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 (TBI); 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 sexual assault or sexual harassment was unreported, or 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. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

9. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NRs) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

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, 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.

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.

10. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) states:

a. The mere presence of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier reasonably may be expected to perform because of their office, grade, rank, or rating.

b. An enlisted Soldier may not be referred for, or continue, physical disability processing when action has been started under any regulatory provision which authorizes a characterization of service of under other than honorable conditions.

c. Exceptions to paragraph b above are if the case comes within the limitations above, the commander exercising general court-martial jurisdiction over the Soldier may abate the administrative separation. This authority may not be delegated. A copy of the decision, signed by the General Court Martial Convening Authority (GCMCA), must be forwarded with the disability case file to the PEB. A case file may be referred in this way if the GCMCA finds the following:

(1) The disability is the cause, or a substantial contributing cause, of the misconduct that might result in a discharge under other than honorable conditions.

(2) Other circumstances warrant disability processing instead of alternate administrative separation.

d. Paragraph 4-30 (Grade on Retirement or Separation for Physical Disability) provides that the grade at which a Soldier is retired or receives disability severance pay will be the highest of the options listed below in accordance with the provisions of Title 10, USC, sections 1212 and 1372, respectively, and as implemented by AR 15-80 (Army Grade Determination Review Board and Grade Determinations) for determinations of highest grade satisfactorily held. Grade to which the Soldier would have been promoted had it not been for the physical disability for which the Soldier was determined unfit - In general, this provision pertains to Soldiers on a promotion list. For

Active Army and Reserve Component enlisted disability cases, this option is implemented under the provisions of AR 600–8–19 (Enlisted Promotions and Reductions). Promotion orders are not issued.

11. Title 38, USC, section 1110 (General - Basic Entitlement): 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.

12. Title 38, USC, section 1131 (Peacetime Disability Compensation - Basic Entitlement): 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.

13. Title 10, U.S. Code, section 1556 requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//