

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 April 2024

DOCKET NUMBER: AR20230009602

APPLICANT REQUESTS:

- an upgrade of his under honorable conditions (General) characterization of service
- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show award of the Bosnia Service Ribbon

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA), Rating Decision, dated 2 May 2018

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 he was discharged because of self-medicating due to undiagnosed post-traumatic stress disorder (PTSD).
3. The applicant enlisted in the Regular Army on 19 March 1996 for a period of 3 years and 20 weeks. Upon completion of initial entry training, he was awarded military occupational specialty 19D (Cavalry Scout).
4. The applicant's record is void of the specific facts and circumstances surrounding his discharge. However, he was discharged on 22 December 1998, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 9, by reason of alcohol rehabilitation failure. His DD Form 214 confirms his character of service was under honorable conditions (General), with separation code JPD and reentry code RE-4. He was credited with 2 years, 9 months, and 4 days of net active service. He was awarded or authorized the Army Achievement Medal, Army Service Ribbon, and the Parachutist Badge.

5. The applicant provides a Rating Decision from the VA, dated 2 May 2018, which shows he has a 70 percent service-connected disability rating for PTSD.
6. The applicant's record does not contain, nor does he provide documentation to show he was deployed to or served in Bosnia.
7. Regulatory guidance states enlisted Soldiers discharged under the provisions of AR 635-200, Chapter 9, by reason of alcohol or other drug abuse, will receive a service characterization of honorable or under honorable conditions (general) unless the Soldier was in entry-level status.
8. The Board should consider the applicant's overall record in accordance with the published equity, injustice, or clemency determination guidance.

9. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his under honorable conditions (general) character of service and correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show award of the Bosnia Service Ribbon. He contends PTSD mitigates his discharge.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Below is a summary of information pertinent to this advisory:

- Applicant enlisted in the RA on 19 March 1996.
- The applicant's record is void of the specific facts and circumstances surrounding his discharge.
- Applicant was discharged on 22 December 1998, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 9, by reason of alcohol rehabilitation failure. His DD Form 214 confirms his character of service was under honorable conditions (general), with separation code JPD and reentry code RE-4.

c. The Army Review Boards Agency (ARBA) Behavioral Health (BH) Advisor reviewed this case. Documentation reviewed included the applicant's completed DD Form 149, DD Form 214, VA rating decision, ABCMR Record of Proceedings (ROP), medical documentation, and documents from his service record and separation packet. The VA electronic medical record and DoD health record were reviewed through Joint Longitudinal View (JLV). Lack of citation or discussion in this section should not be interpreted as lack of consideration.

d. The applicant states he was discharged because of self-medicating due to undiagnosed post-traumatic stress disorder (PTSD).

e. Due to the period of service, no active-duty electronic medical records were available for review. However, the VA electronic record available for review indicates the applicant is 100% service connected for PTSD. The record further indicates he initiated behavioral health care with the VA in July 2015. An intake assessment dated 21 July 2015, indicates the applicant sought to participate in care due to a long history of Bipolar Disorder symptoms. Prior to this encounter, the applicant was previously treated by a civilian provider and was seeking to transfer his care to the VA. The applicant has received ongoing care via the VA and is diagnosed with PTSD.

f. Based on the information available, this Agency Behavioral Health Advisor is unable to opine regarding mitigation based on a BH condition without the specific facts and circumstances that led to the applicant's discharge. However, the applicant is 100% service connected for PTSD.

Kurta Questions:

(1) Does any evidence state that the applicant had a condition or experience that may excuse or mitigate a discharge? Yes. The applicant asserts a mitigating condition.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is 100% service-connected for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? This advisor is unable to opine regarding medical mitigation without the specific facts and circumstances that led to his discharge. However, the applicant is 100% service connected for PTSD and given his DD Form 214 indicates the reason for discharge as alcohol rehabilitation failure, this would typically be mitigated by PTSD. There is a nexus between PTSD and the use of substances to cope with the symptoms of the disorder. Overall, PTSD, would potentially mitigate certain misconduct if it did not involve violence, bodily harm, or major crimes.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests. The applicant was discharged for alcohol rehabilitation failure. The Board found no error or injustice in his separation processing. The Board considered the medical records, any VA documents provided by the applicant and the review and conclusions of the advising official. The Board noted the medical reviewer's finding that

his record lacks the pertinent facts and circumstances surrounding his discharge and therefore the medical advising official could not opine on the mitigation of the offense in connection with his 100% disability rating. The Board determined that in view of the nature of his separation and the applicant's contention that he self-medicated for his PTSD, an honorable characterization of service is appropriate under published DoD guidance for liberal consideration of discharge upgrade requests. The Board determined that such upgrade did not change the underlying reason for separation and thus the narrative reason for separation and corresponding codes should not change.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that so much of the request pertaining to awarding the applicant the Bosnia Service Ribbon was not warranted. There is no regulatory provision for the Bosnia Service Ribbon. However, the Board reviewed the applicant's entire military service record and noted no awards were recommended for the applicant for his service in Bosnia, his qualification record does not denote service in Bosnia, and there is no other evidence to support the applicant served in Bosnia and therefore denied relief for any service related awards for service in Bosnia.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

■ ■ ■ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 22 December 1998, to show in:

- item 24 (Character of Service): Honorable
- item 25 (Separation Authority): No Change
- item 26 (Separation Code): No Change
- item 27 (Reentry Code): No Change
- item 28 (Narrative Reason for Separation): No Change

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to award of the Bosnia Service Ribbon.



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. Title 10, USC, Section 1556, requires the Secretary of the Army to ensure that an applicant seeking corrective action by ARBA be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.
3. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The ABCMR is not an investigative body and decides cases based on the evidence presented in the military records provided and the independent evidence submitted with the application.
4. AR 600-8-4 (Military Awards) prescribes Department of the Army policy, criteria, and procedures for individual and unit military awards, foreign decorations, and badges.
 - a. Paragraph 2-12 provides, the Armed Forces Expeditionary Medal may be awarded to Servicemembers of the Armed Forces of the United States who participated in or provided direct support to Operation Joint Endeavor (20 November 1995 to 19 December 1996), Operation Joint Guard (20 December 1996 to 20 June 1998), or Operation Joint Forge (21 June 1998 to 2 December 2004) who were deployed to Bosnia-Herzegovina or Croatia and meet the additional criteria.
 - b. Paragraph 2-15 provides, the Kosovo Campaign Medal was established on 3 May 2000. It is awarded to Servicemembers of the Armed Forces of the United States who, between 24 March 1999 to 31 December 2013, who participated in the Kosovo Air Campaign, which includes the total land area and airspace of Serbia (including Kosovo), Montenegro, Albania, Macedonia, Bosnia, Croatia, Hungary, Romania, Greece, Bulgaria, Italy, and Slovenia, and meet the additional criteria.

c. Paragraph 2-22 provides, the Armed Forces Service Medal was established on 11 January 1996. It is awarded to Servicemembers of the Armed Forces of the United States who participated in or provided direct support to Operation Joint Endeavor (20 November 1995 to 19 December 1996) who were deployed to Bosnia-Herzegovina and meet the additional criteria.

5. AR 635-200, in effect at the time, set forth the basic authority for the separation of enlisted personnel. The regulation provides:

a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 9 contains the authority and outlines the procedures for discharging Soldiers because of alcohol or other drug abuse. A member who has been referred to the Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) for alcohol/drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical. Nothing in this chapter prevents separation of a Soldier who has been referred to such a program under any other provisions of this regulation. Initiation of separation proceedings is required for Soldiers designated as alcohol/drug rehabilitation failures. The service of Soldiers discharged under this chapter will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status.

6. 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 Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) 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. 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.

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

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//