

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 December 2024

DOCKET NUMBER: AR20230010282

APPLICANT REQUESTS: the narrative reason for separation be changed on his DD Form 214 (Certificate of Release or Discharge from Active Duty) from misconduct-abuse of illegal drugs to something else.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record)

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. The applicant states the correction should be made because he was denied resources that will assist him in obtaining benefits such as an identification card and disability compensation. He is seeking the help of a therapist to diagnosis his mental health conditions. The applicant lists post-traumatic stress disorder (PTSD), other mental health and sexual assault/harassment.
3. A review of the applicant's service records show:
  - a. DD Form 4 (Enlistment/Reenlistment Document-Armed Forces of the United States) reflects he enlisted in the Regular Army on 20 August 1986.
  - b. DA Forms 4856 (General Counseling Form) show the applicant was counseled between 29 June 1987 and 15 October 1987 for:
    - failure to repair
    - late for work/no show for physical training
    - missing clean up
    - TA-50 not prepared or inspection

c. DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)) shows the applicant received nonjudicial punishment under Article 15 of the UCMJ on 29 September 1987 for willfully and unlawfully altering a public record to wit: DD Form 689, Individual Sick Slip on or about 3 September 1987. His punishment consisted of reduction to private/E-1, forfeiture of \$153.00, extra duty for 14 days and restriction for 14 days. He did not appeal.

d. DA Forms 4856 show the applicant was counseled between 4 November 1987 and 9 December 1987 for "wall locker TA-50 not prepared for inspection 0600 hrs", disrespect to a noncommissioned officer and failure to obey a lawful order.

e. The applicant's immediate commander notified him on 16 December 1987 he was initiating action to separate him from the Army under the provisions of Army Regulation (AR) 635-200 (Personnel Separations-Enlisted Personnel), Chapter 14-12c, for misconduct. The reason for the action because the applicant committed a serious offense either under the UCMJ or civilian law which renders him unqualified for further military service. The commander recommended a under honorable conditions (general) discharge. The applicant was advised of the rights available to him. The applicant acknowledged receipt on the same day.

f. The applicant consulted with legal counsel on 30 December 1987 and was advised of the basis for the contemplated action to accomplish his separation under the provisions of AR 635-200, Chapter 14, for misconduct, the rights available to him, and the effect of action taken by him in waiving his rights. He understood that he may expect to encounter substantial prejudice in civilian life if a general discharge was being recommended. He elected to not submit statements in his own behalf.

g. On 4 January 1988, the applicant's immediate commander formally recommended his separation under the provisions of AR 635-200, Chapter 14. The commander noted the applicant had demonstrated an inability or unwillingness to meet acceptable standards required of enlisted personnel in the Army. This failure is evidenced by the existence of ta commission of a serious military or civilian offense; conduct prejudicial to the good order and discipline of the Army and he had failed to respond to formal counseling's. He recommended the applicant receive a under honorable conditions (general) discharge.

h. On 5 January 1988, the command recommended approval for the applicant to be separated under other than honorable conditions. The command states, "due to the Soldier's performance and record of service, [his] service cannot be considered as honorable and therefore recommend [applicant] receive an other than honorable discharge and be boarded immediately or that he be transferred to another unit so that rehabilitation may begin. [Applicant] has the potential to be a good soldier but has clearly decided to quit. Rehabilitation would in all likelihood fail".

i. The separation authority approved the recommended separation under the provisions of AR 635-200, Chapter 14 and that the applicant would be issued a general discharge under honorable conditions.

j. He was discharged on 18 February 1988. His DD form 214 shows he was discharged under the provisions of AR 635-200, Chapter 14, for misconduct-abuse of illegal drugs. He received a separation code of "JKK" and reenlistment code "3". His service was characterized as under honorable conditions (general). He completed 1 year, 5 months, and 29 days of net active service. He was awarded or authorized the Army Service Ribbon and Expert Marksmanship Qualification Badge with Rifle Bar (M-16).

4. Soldiers are subject to separation under the provisions AR 635-200, Chapter 14, for misconduct. A discharge under other than honorable conditions (UOTHC) is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the overall record.

5. On 11 October 2023, in the processing of this case the U.S. Army Criminal Investigation Division, searched their criminal file indexes, which revealed no Sexual Assault/Harassment records pertaining to the applicant.

6. 31 October 2023, a staff member at ARBA, requested the applicant provide medical documents that support his issue of PTSD and other mental health issues. As of 8 December 2023, no response was provided.

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

9. MEDICAL REVIEW:

a. Background: The applicant is requesting a change in his narrative reason for separation. The applicant selected post-traumatic stress disorder (PTSD), other mental health, and sexual assault/harassment on his application as related to his request.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following:

- Applicant enlisted in the Regular Army on 20 August 1986.
- DA Forms 4856 (General Counseling Form) show the applicant was counseled between 29 June 1987 and 15 October 1987 for:
  - failure to repair
  - late for work/no show for physical training

- missing clean up
- TA-50 not prepared or inspection
- DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ) shows the applicant received nonjudicial punishment under Article 15 of the UCMJ on 29 September 1987 for willfully and unlawfully altering a public record to wit: DD Form 689, Individual Sick Slip on or about 3 September 1987.
- DA Forms 4856 show the applicant was counseled between 4 November 1987 and 9 December 1987 for “wall locker TA-50 not prepared for inspection 0600 hrs”, disrespect to a noncommissioned officer and failure to obey a lawful order.
- The applicant's immediate commander notified him on 16 December 1987 he was initiating action to separate him from the Army under the provisions of Army Regulation (AR) 635-200 (Personnel Separations-Enlisted Personnel), Chapter 14-12c, for misconduct. The reason for the action, the applicant committed a serious offense either under the UCMJ or civilian law which renders him unqualified for further military service.
- Applicant was discharged on 18 February 1988. His DD form 214 shows he was discharged under the provisions of AR 635-200, Chapter 14, for misconduct-abuse of illegal drugs. He received a separation code of “JKK” and reenlistment code “3”. His service was characterized as under honorable conditions (general). He completed 1 year, 5 months, and 29 days of net active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant’s file. The applicant states, the correction should be made because he was denied resources that will assist him in obtaining benefits such as an identification card and disability compensation. He is seeking the help of a therapist to diagnose his mental health conditions.

d. Due to the period of service no active-duty electronic medical records were available for review. Despite selecting sexual assault/harassment on his application as related to his request, the applicant does not mention any harassment or assault in his statement and does not indicate, reference, or provide details regarding the nature of the MST that might have occurred. This clinician questions whether the option was mistakenly selected by the applicant. On 11 October 2023, in the processing of this case the U.S. Army Criminal Investigation Division, searched their criminal file indexes, which revealed no Sexual Assault/Harassment records pertaining to the applicant.

e. The VA’s Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected and there were no medical records available for review. Despite, stating he is “seeking the help of a therapist” no medical documentation was submitted by the applicant. On 31 October 2023, a staff member at ARBA, requested the applicant

provide medical documents that support his assertion of PTSD and OMH. As of 8 December 2023, no response was provided.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a behavioral health condition during military service that mitigates his discharge.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant selected PTSD, OMH, and MST on his application but provides no explanation or rationale for selecting these options.

(2) Did the condition exist or experience occur during military service? No. There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service or after discharge.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant does not provide any rationale or explanation for the behavioral health condition he is asserting. In addition, he does not mention any harassment or assault in his statement and does not indicate, reference, or provide details regarding the nature of the MST that might have occurred. Overall, there is insufficient evidence of any mitigating BH condition. There is no evidence of any in-service BH diagnoses, the VA has not service-connected the applicant for any BH condition, and there is no VA electronic record indicating he has been treated for any other mental health condition. And while the applicant self-asserted PTSD, OMH, and MST he did not provide any medical documentation substantiating any BH diagnosis.

h. Per Liberal Consideration guidelines, the applicant's selection of PTSD, OMH, and MST on his application is sufficient to warrant consideration by the Board.

#### 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 evidence shows the applicant was separated under the provisions of paragraph 14-12c of AR 635-200 by reason of misconduct – commission of a serious offense (drugs). The narrative reason for separation is governed by specific directives. The narrative reason specified by Army Regulations for a discharge under paragraph 14-12c, AR 635-200 for an enlisted Soldier is "Misconduct" and the separation code is "JKK." AR 635-8, Separation Documents, governs preparation of the DD Form 214 and dictates that entry of the narrative reason for separation and separation code of the DD Form 214 will be

entered exactly as listed in AR 635-5-1, Separation Program Designator (SPD) Codes. The Board found no error or injustice in his separation processing or reason for separation. The Board also considered the medical records, any VA documents provided by the applicant and the review and conclusions of the medical reviewing official. The Board agreed with the medical reviewer's finding insufficient evidence to support the applicant had a condition that mitigates his misconduct. Also, the applicant provided insufficient evidence of a persuasive nature of post-service achievements or letters of reference in support of a clemency determination. Therefore, based on a preponderance of available evidence, the Board determined that the narrative reason for separation the applicant received upon separation was not in error or unjust.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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

REFERENCES:

1. Title 10, 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 635-200 (Personnel Separations-Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

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

b. Chapter 14 established policy and prescribed procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, or absences without leave. Action would be taken to separate a member for misconduct when it was clearly established that rehabilitation was impracticable or was unlikely to succeed. A discharge under other than honorable conditions was normally considered appropriate. However, the separation authority could direct a general discharge if merited by the Soldier's overall record.

3. PTSD can occur after someone goes through a traumatic event like combat, assault, or disaster. The Diagnostic and Statistical Manual of Mental Disorders (DSM) is published by the American Psychiatric Association (APA) and provides standard criteria and common language for the classification of mental disorders. In 1980, the APA added PTSD to the third edition of its DSM nosologic classification scheme. Although controversial when first introduced, the PTSD diagnosis has filled an important gap in psychiatric theory and practice. From a historical perspective, the significant change ushered in by the PTSD concept was the stipulation that the etiological agent was outside the individual (i.e., a traumatic event) rather than an inherent individual weakness (i.e., a traumatic neurosis). The key to understanding the scientific basis and clinical expression of PTSD is the concept of "trauma."

4. PTSD is unique among psychiatric diagnoses because of the great importance placed upon the etiological agent, the traumatic stressor. In fact, one cannot make a PTSD diagnosis unless the patient has actually met the "stressor criterion," which means that he or she has been exposed to an event that is considered traumatic. Clinical experience with the PTSD diagnosis has shown, however, that there are individual differences regarding the capacity to cope with catastrophic stress. Therefore,

while most people exposed to traumatic events do not develop PTSD, others go on to develop the full-blown syndrome. Such observations have prompted the recognition that trauma, like pain, is not an external phenomenon that can be completely objectified. Like pain, the traumatic experience is filtered through cognitive and emotional processes before it can be appraised as an extreme threat. Because of individual differences in this appraisal process, different people appear to have different trauma thresholds, some more protected from and some more vulnerable to developing clinical symptoms after exposure to extremely stressful situations.

5. The fifth edition of the DSM was released in May 2013. This revision includes changes to the diagnostic criteria for PTSD and acute stress disorder. The PTSD diagnostic criteria were revised to take into account things that have been learned from scientific research and clinical experience. The revised diagnostic criteria for PTSD include a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity. The sixth criterion concerns duration of symptoms, the seventh criterion assesses functioning, and the eighth criterion clarifies symptoms as not attributable to a substance or co-occurring medical condition.

6. 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.

7. 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 Post-Traumatic Stress Disorder; traumatic brain injury (TBI); 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 to those conditions or experiences.

8. The Under Secretary of Defense (Personnel and Readiness) issued guidance to Service DRBs and BCM/NRs on 25 July 2018, 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.

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.

9. Army Regulation 635-5 (Personnel Separations-Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for the preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. The general instructions stated all available records would be used as a basis for preparation of the DD Form 214. The information entered thereon reflects the conditions as they existed at the time of separation. It states for Block 28 (Narrative Reason for Separation) is based on regulatory or other authority and can be checked against the cross reference in Army Regulation 635-5-1.

10. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities and reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214 (Certificate of Release or Discharge from Active Duty). The SPD code JKK (is to be used for RA Soldiers discharged for misconduct-abuse of illegal drugs.

11. The SPD/RE Code Cross Reference Table provides instructions for determining the RE Code for Active Army Soldiers and Reserve Component Soldiers. This cross-reference table shows the SPD code and a corresponding RE Code. The table in effect at the time of his discharge shows the SPD code JKK has a corresponding RE Code of "3."

12. Section 1556 of Title 10, United States Code, 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//