

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 26 June 2024

DOCKET NUMBER: AR20230010917

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show in item 28 (Narrative Reason for Separation) as post-traumatic stress disorder (PTSD) vice condition, not a disability.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Medical 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 provides a 938-page copy of his VA medical record, that is available for the Board's review. The record shows, in part, his appointment history, medication history, and laboratory results.
4. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 9 August 2006.
 - b. On 26 May 2009, his immediate commander notified him of his intent to initiate separation proceedings in accordance with Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 5-17. The reason for his proposed action was due to the applicant's diagnosis of Social Anxiety Disorder.
 - c. The applicant acknowledged receipt of the commander's notification and he subsequently consulted with legal counsel. He was advised of the basis for the contemplated separation action for other designated physical or mental conditions, the type of discharge he could receive, and its effect on further enlistment or reenlistment,

the possible effects of this discharge, and of the procedures/rights that were available to him. He elected not to submit a statement on his own behalf.

d. After his acknowledgement, his immediate commander initiated separation action against him in accordance with Army Regulation 635-200, Chapter 5-17 for other designated physical or mental conditions. On 27 May 2009, the intermediate commander recommended approval of the discharge action with the issuance of an honorable discharge.

e. On 10 June 2009, the separation authority approved the applicant's discharge under the provisions of Chapter 5-17 of Army Regulation 635-200, with the issuance of an honorable discharge.

f. On 30 June 2009, he was honorably discharged under the provisions of Chapter 5-17 of Army Regulation 635-200. He completed 2 years, 10 months, and 22 days of active service. His DD Form 214 shows in:

- Block 25 (Separation Authority): AR 635-200, Paragraph 5-17
- Block 26 (Separation Code): JFV
- Block 28 (Narrative Reason for Separation): Condition, not a disability

5. By regulation (AR 635-5):

a. 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 release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

b. For block 28 (Narrative Reason for Separation) of the DD Form 214 will show the narrative reason for separation as shown in AR 635-5-1 (Separation Program Designators) based on the regulatory or other authority.

6. Also by regulation, the appropriate narrative reason for separation for Soldiers separated under the provisions of Army Regulation 635-200, paragraph 5-17 is "condition, not a disability," with SPD code JFV.

7. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting correction of his DD Form 214 to show in item 28 (Narrative Reason for Separation) from Condition, Not a Disability to Post-traumatic Stress Disorder (PTSD).

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:

- The applicant enlisted into the Regular Army on 9 August 2006.
- The applicant deployed to Kuwait/Iraq from 6 September 2007 to 29 June 2008.
- On 26 May 2009, his immediate commander notified him of his intent to initiate separation proceedings in accordance with Army Regulation 635-200, Chapter 5-17. The reason for his proposed action was due to the applicant's diagnosis of Social Anxiety Disorder.
- The applicant was honorably discharged on 30 June 2009, and he completed 2 years, 10 months, and 22 days of active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts he was separated for a "condition, not a disability," and he believes that condition was and is PTSD. A Report of Medical History dated 2 March 2009 indicated the applicant had a history of diagnosis of Anxiety Disorder and depression and listed four medications used to treat anxiety and depression (Zoloft, Ativan, trazadone, and propranolol). On this form the applicant lists symptoms of panic attacks when in crowds, stuttering since Iraq, memory problems, sleep difficulty, feelings of hopelessness, and a history of mental health treatment, including hospitalization, while in service. A memorandum for commander dated 29 January 2009 with subject, Mental Health Evaluation, was also included. This document shows a diagnosis of Social Anxiety Disorder and indicates that the applicant does not have a psychiatric condition that would warrant disposition through medical channels. The application also includes 938 pages of medical records from the VA, which will be summarized below. There was sufficient evidence that the applicant was diagnosed with a psychiatric condition while on active service.

d. The VA's Joint Legacy Viewer (JLV) was also reviewed and showed the applicant is 100% service connected through VA for PTSD and 30% for General Anxiety Disorder. He was initially seen by behavioral health on 1 December 2008 with complaints of depression, anxiety, and occupational problems. He reported he had been prescribed an antidepressant and anxiolytic by his primary care provider, and he was diagnosed with Adjustment Disorder with Anxiety and Depressed Mood. He discussed the onset of symptoms while deployed and worsening mood since returning from deployment, and documentation noted excessive alcohol consumption with recently trying to cut back. He was seen six weeks later for follow up where his antidepressant was changed. A week later, on 22 January 2009, he presented to the Emergency Department stating that he was feeling suicidal and had taken extra doses of his medications as an attempt "to feel better." He was admitted to inpatient psychiatry. He was seen for post-discharge follow up on 30 January 2009 where he discussed continued feelings of anxiousness, depression, anhedonia, and occupational stressors due to his belief that his chain of command "is making things difficult for me." The next documentation was dated 11

February 2009, and it was noted as his first psychotherapy appointment. The applicant discussed a recent DUI, which occurred on post "making matters worse." He discussed his command contemplating administrative separation for "failure to adapt" and feeling stressed about this. He was seen the following day by a psychiatrist, and his medication list included an antidepressant, anxiolytic, propranolol (for anxiety), and a sleep medication. Documentation discussed increased panic attacks, and his diagnosis continued to be Adjustment Disorder with Anxiety and Depressed Mood. Documentation from 3 March 2009 noted a more thorough diagnostic history, which included report of nightmares, avoidance of crowds, severe anxiety with vomiting, sleep difficulty, and feelings of hopelessness, noting "the unit is kicking me to the curb" as a result of the DUI charge. It was noted that the applicant was perceived to have refused a breathalyzer but given a ticket anyway, and there was indication that he may not have been intoxicated. His diagnosis continued as Adjustment Disorder but noted "some PTSD traits." He was seen for two more visits with a psychiatrist before discharge, and it was noted that there were medication changes.

e. The applicant initially engaged with VA through primary care on 29 July 2010, and he reported sleep difficulty, depression, anhedonia, hopelessness, and PTSD symptoms, including hypervigilance and emotional numbing. His first encounter with mental health was on 5 April 2012 where he presented with anxiety, depression, and distress in social relationships. Documentation indicated these symptoms began while he was deployed, and he was hospitalized while in service. He was diagnosed with Adjustment Disorder with rule outs of Social Anxiety Disorder and PTSD. A compensation and pension exam dated 13 September 2012 noted traumatic events while deployed including 1) witnessing a superior officer burned to death 2) picking up the body parts of a suicide bomber, and that his symptoms of depression and anxiety began while deployed. The applicant indicated he began self-medicating with alcohol upon return, was hospitalized, and was treated with medications prior to discharge. The applicant was diagnosed with PTSD and noted the diagnosis is "at least as likely as not due to his military service." The applicant underwent a neuropsychological evaluation on 20 April 2015, which concluded "no independent cognitive diagnosis" and noted contributing conditions to his attention, memory, and processing speed difficulties as Anxiety Disorder, PTSD, and Major Depressive Disorder. Documentation indicates the applicant has intermittently engaged with the VA for treatment with most recent note in January 2024. Documentation discusses a hospitalization in November 2023 due to suicidal ideation, anxiety, flashbacks, and fear/avoidance behavior, and a referral to trauma-focused treatment that was denied because of the applicant's mood instability. Diagnosis at most recent visit was PTSD, Bipolar Disorder, and Anxiety Disorder.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support that the applicant had symptoms of PTSD and was likely misdiagnosed with Social Anxiety while on active service. The applicant deployed to Iraq from September 2007 to June 2008, and at his

initial visit with behavioral health in December 2008, he reported the onset of his mental health symptoms beginning while deployed and worsening since his return. There was no documentation of a full assessment for PTSD, and treatment primarily focused on medication management. He was hospitalized in January 2009, and a memorandum recommending separation was generated at the end of that hospitalization. Sometime prior to 11 February, he was charged with DUI, and he engaged with mental health treatment until his discharge in June 2009. In service documentation indicated diagnoses of Anxiety and Depression, which were primarily treated with medications. Anxiety in social situations, such as large groups or crowds, is a symptom of PTSD, and there is no documentation that a thorough diagnostic evaluation was conducted to rule out PTSD.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts PTSD associated with his discharge, and in service documentation shows that symptoms of anxiety, panic, and depression began while the applicant was deployed and worsened upon redeployment, resulting in the necessity of hospitalization. Additionally, the applicant is 100% service connected for PTSD, and VA documentation discusses trauma experiences while deployed.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts and documentation supports that he was experiencing a mental health condition requiring hospitalization while on active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. There is sufficient evidence, beyond self-report, that the applicant was experiencing a disabling mental health condition, possibly PTSD, while on active service. He endorsed symptoms attributable to PTSD and was ultimately discharged with a diagnosis of Social Anxiety, which is a symptom of PTSD. He has a well-established diagnosis of PTSD with associated service connection, and there is sufficient documentation to show that the applicant was experiencing symptoms of PTSD while in service. The applicant's history of deployment, evidence of trauma exposure, excessive self-medicating alcohol use, suicidal behavior, and psychiatric hospitalization are suggestive of a level of impairment that would not meet psychiatric retention standards. He should have been put on a profile, and he was not provided the opportunity to receive adequate treatment. It is the opinion of this Medical Advisor that his case should be referred to IDES for further disposition and evaluation of his claim of PTSD.)

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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the medical review, the Board concurred with the advising official finding sufficient evidence to support that the applicant had symptoms of PTSD and was likely misdiagnosed with Social Anxiety while on active service. The opine noted the applicant's case should be referred to IDES for further disposition and evaluation of his claim of PTSD.

2. The Board determined there is sufficient evidence beyond self-report, that the applicant was experiencing a disabling mental health condition, possibly PTSD, while on active service. The Board agreed the applicant's history of deployment, evidence of trauma exposure, excessive self-medicating alcohol use, suicidal behavior, and psychiatric hospitalization are suggestive of a level of impairment that would not meet psychiatric retention standards. Based on the advising opine, the Board granted partial relief to refer the applicant case to IDES.

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 partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by directing the applicant be entered into the Disability Evaluation System (DES) and a Medical Evaluation Board concerned to determine whether the applicant's conditions(s), met medical retention standard at the time-of-service separation.

a. In the event that a formal physical evaluation board (PEB) becomes necessary, the individual concerned may be issued invitational travel orders to prepare for and participate in consideration of his case by a formal PEB if requested by or agreed to by the PEB president. All required reviews and approvals will be made subsequent to completion of the formal PEB.

b. Should a determination be made that the applicant should have been separated under the DES, these proceedings will serve as the authority to void his administrative separation and to issue him the appropriate separation retroactive to his original separation date, with entitlement to all back pay and allowances and/or retired pay, less any entitlements already received.

2. The Board further determined 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 correction of the applicant's DD Form 214 to show in item 28 (Narrative Reason for Separation) as post-traumatic stress disorder (PTSD) vice condition, not a disability.

[REDACTED]

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 635-5 (Separation Documents) states:

a. 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 release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

b. For block 28 (Narrative Reason for Separation) of the DD Form 214 will show the narrative reason for separation as shown in AR 635-5-1 (Separation Program Designators) based on the regulatory or other authority.

3. 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 based on 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.

4. 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//