

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 January 2025

DOCKET NUMBER: AR20230011008

APPLICANT REQUESTS:

- amendment of his re-entry eligibility (RE) code from RE-3/RE-3C to RE-4
- in effect, amendment of his narrative reason for separation to show "Disability Combat, Enhanced"
- in effect, amend his Separation Program Designator (SPD) code to reflect his new narrative reason for separation
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- A letter of recognition, dated 15 September 1981
- Honorable Discharge Certificate
- Decision document for Docket Number AR20033098113
- Psychological evaluation issued by Atlantic Counseling Center, dated 5 May 2011
- A letter issued by the Department of Veterans Affairs (VA), dated 8 December 2022
- Tax Documents
- Court Documents
- Correspondence by the Applicant, and the Army Review Board Agency (ARBA)

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 he is requesting these changes due to the complexity of his civil case, and by granting him relief, it would assist in his mental health.
3. In a prior ABCMR Docket Number AR2003098113 on 25 August 2004, the applicant requested correction to his DD Form 214 to include his service from the time he entered

the delayed entry program (DEP) until his discharge. Although the applicant provided the decision document for Docket Number AR2003098113, it is not relevant to the applicant's current request. Therefore, since this is not a reconsideration request, this docket number will not be discussed further in these proceedings.

4. The applicant provides:

a. A letter of recognition, dated 13 September 1981, in which he was praised for being chosen colonel's (COL) orderly. This recognition indicated that he has the desire and the aptitude to be an outstanding Soldier.

b. A psychological evaluation issued by Atlantic Counseling Center, dated 5 May 2011, which shows:

(1) He is alleging a liver abscess, heart problems, and emotional problems in the form of frustration and reactive depression. He has been depressed for about one year. He has never received treatment for his mental health and has never been prescribed any psychoactive medication.

(2) The examiner made the following observations:

- Verbal communication was clear and logical in content
- Eye contact was appropriate
- Manner was friendly and cooperative
- Oriented as to time, place, and person
- Mood was not generally anxious, but gets depressed when he thinks about his current and vocational situation
- Never had any spontaneous panic attacks or manic episodes
- He sometimes cries and has low self-esteem
- Has had suicidal thoughts in the past which do not continue at the present time
- Has had specific suicide plans, but he has never actually attempted to take his own life
- Has never experienced any hallucinations or delusions. and he showed no other signs of psychotic thought disorder
- He mildly paranoid feelings that "the system" is out to get him
- Does not have any specific fears or phobias
- Occasionally has difficulty with his memory when he has not slept well
- Never suffered any seizures or significant head trauma
- He was able to recall what he had eaten for dinner the previous day

- He appeared to be an adequate historian of the details of his life
- He was currently able to remember only one out of five items presented orally after a mediated delay of five minutes
- He was able to recall seven digits forward and four backward
- Overall memory and concentration are estimated from current data to be mildly impaired, with short-term auditory recall at least moderately impaired
- Ability to calculate simple arithmetic problems was intact
- Judgment was fair
- Ability to abstract meanings of proverbs was fairly good

(3) Based on behavioral observations and reported history, the applicant's diagnosis is determined to be Adjustment Disorder With Depressed Mood; liver and heart conditions on Axis III.

c. A letter issued by the VA, dated 8 December 2022, which shows a summary of his benefits. His combined service connected evaluation is 100 percent (%). He is considered to be totally and permanently disabled due to his service-connected disabilities.

5. The applicant's service record is not available for the Board's review. However, his service record documents from his previous ABCMR requests were used to process his current request and are sufficient for the Board to make a fair and equitable decision.

6. The applicant's service record reflects the following:

a. He enlisted in the Regular Army on 8 July 1981, as shown in his DD Form 214 (Certificate of Release or Discharge from Active Duty).

b. DA Form 4126-R (Bar to Reenlistment Certificate), dated 22 February 1985, shows the applicant was barred from reenlistment for violations of the Uniform Code of Military Justice (UCMJ).

c. His DD Form 214 shows he was honorably released from active duty on 18 July 1985, due to completion of required service. He received a separation program designator (SPD) code of LBK, reentry codes of "RE-3" and "RE-3C", and narrative reason for separation as completion of required service. He completed 3 years, 11 months, and 28 days of active service.

6. The applicant's record is void of any documentation to show he served in combat or in a combat related period during his military service.

7. Army Regulation 15-185 (ABCMR), currently in effect, states an applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

8. Due to the applicant's request for amendment of his narrative reason for separation to show "Disability Combat, Enhanced", the case is being forwarded to the Behavioral Health staff at ARBA.

MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of amendment of his re-entry eligibility (RE) code from RE-3/RE-3C to RE-4 and an amendment to his narrative reason for separation to show "Disability Combat, Enhanced."

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 8 July 1981.
- DA Form 4126-R (Bar to Reenlistment Certificate) dated 22 February 1985 shows the applicant was barred from reenlistment for violations of the UCMJ.
- The applicant's record is void of any documentation to show he served in combat or in a combat related period during his military service.
- His DD Form 214 shows he was honorably released from active duty on 18 July 1985, due to completion of required service. He received a separation program designator code of LBK, and the reentry codes of "RE-3" and "RE-3C". He completed 3 years, 11 months, and 28 days of 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 requests a change to his discharge code to "E.A- Disability Combat, Enhanced" and indicated "other mental health" as a condition related to his request. A Psychological Evaluation by Atlantic Counseling Center dated 1 November 2005 showed the applicant reported depression over the previous year but no indication of mental health treatment. The documentation noted his enlistment in 1981 and discharge in 1985 and stated, "he was never personally involved in combat." He was diagnosed with Adjustment Disorder with depressed mood. A VA Summary of Benefits letter showed the applicant is 100% service connected and considered totally and permanently disabled. There was insufficient evidence that the applicant was diagnosed with a psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed the applicant is 100% service

connected for "Psychosis, Disorganized Schizophrenia." He initiated mental health treatment on 23 October 2006 and reported distress associated with financial problems and foreclosure on his home. Documentation indicated he appeared to have "distortions in reality or cognitive dysfunction," and his diagnosis was Mood Disorder versus Psychosis (rule out). After initiating medication management and having seen other BH providers, the applicant's diagnosis was changed to Schizophrenia, Paranoid. The applicant has routinely engaged in mental health care and has utilized VA programs designed for the severely mentally ill, such as the Psychosocial Rehabilitation and Recovery Center, which has the goal of improving daily functioning and ensuring medication access and use. His most recent encounter was on 28 October 2024, and it was noted that he was stable on medications, domiciled, and less paranoid. Psychotherapy was discontinued at that time, but he was still receiving medication management.

e. Compensation and Pension (C&P) evaluations were obtained and showed a Mental Disorders (other than PTSD and Eating Disorders) Disability Benefits Questionnaire (DBQ) and an Initial PTSD DBQ both from 6 April 2016. The applicant described a traumatic event involving an overseas Delta Airlines flight in December 1983 where he witnessed flames coming from an engine compartment and there was an emergency landing. He reported significant distress associated with this event, but the evaluator did not determine a diagnosis of PTSD. However, as a result of this stressor, the evaluator coupled this event with his delusional and paranoid thought process and determined the event was a possible precipitating stressor for the onset of Schizophrenia. The content of the applicant's delusions and bizarre thinking included disorganized thoughts and beliefs related to the law, elaborate and distorted ideas of his stolen identity, and grandiose statements about a device he invented and patented. He was diagnosed with Schizophrenia, and the evaluator concluded that it was at least as likely as not that his military service exacerbated his condition. Notably, the in-service documents reviewed by the evaluator included evidence of an Article 15 for a positive cannabis test and resultant reduction in rank.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a condition or experience that would justify a change in the narrative reason for separation to "Disability Combat, Enhanced." Although the applicant has been diagnosed with Schizophrenia and is 100% service connected by the VA for this condition, there is no in-service evidence of any mental health condition nor is there evidence of combat exposure.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? N/A; request is for change in RE code and narrative reason for separation

(2) Did the condition exist or experience occur during military service? N/A; request is for change in RE code and narrative reason for separation

(3) Does the condition or experience actually excuse or mitigate the discharge? N/A; request is for change in RE code and narrative reason for separation

**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 applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Amendment of his narrative reason for separation to show "Disability Combat, Enhanced." Deny. Upon review of the applicant's petition, available military record, and the medical review, the Board concurred with the advising official finding insufficient evidence to support that the applicant had a condition or experience that would justify a change in the narrative reason for separation to "Disability Combat, Enhanced." The applicant has been diagnosed with Schizophrenia and is 100% service connected by the Department of Veterans Affairs for this condition, however, there is no in-service evidence of any mental health condition nor is there evidence of combat exposure.

b. Amendment of his RE code and SPD code. Deny. Based on the Board's conclusion above, there is no error or injustice to support amending the applicant's RE code and/or SPD code.

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.

4/8/2025

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 (Armed Forces), United States 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 Army Board for Correction of Military Records (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), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative 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.
3. Army Regulation 635-5 (Separation Documents) states that the DD Form 214 will reflect the conditions and circumstances that existed at the time the records were created. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate and reflects the conditions as they existed at the time of separation.
4. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities for separating Soldiers from active duty and the separation codes to be entered on the DD Form 214. The separation code is an administrative code used to designate the narrative reason for separation. The SPD/RE Code Cross Reference Table included in the regulation establishes that RE code "1" is the proper code to assign members separated with separation code "LBK" for Soldiers who are discharged for Completion of Required Active Service, under the provisions of Army Regulation 635-200, Chapter 4.
5. Army Regulation 601-210 (Active and Reserve Components Enlistment Program), covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-6 provides a list of RE codes:



- RE code “1”: Service Members (SM) who have completed their obligated term of active service and are considered qualified to reenter the U.S. Army if all other criteria are met
- RE code “2” : SMs not eligible for immediate reenlistment
- RE code “3” : SMs who are not considered fully qualified for reentry or continuous service at time of separation, but whose disqualification is waivable. They are ineligible unless a waiver is granted
- RE code “3C”: SMs who completed over 4 months of service who do not meet the pay grade requirements or have been denied reenlistment under the Qualitative Retention Process. They are ineligible unless a waiver is granted
- RE code “4”: SMs who separated from last period of active-duty service with a nonwaivable disqualification (Includes persons separated with a Department of the Army Bar to Reenlistment in effect). Ineligible for enlistment

6. Army Regulation 601-280 (Army Reenlistment Program), prescribes eligibility criteria and options currently available in the Army Reenlistment Program. It outlines uniform procedures for immediate reenlistment or extension of expiration of term of service (ETS) of those persons serving in the Active Army.

a. Bar to reenlistment procedures. Procedures to deny reenlistment to Soldiers whose immediate separation under administrative procedures is not warranted, but whose reentry into, or service beyond ETS with, the Active Army is not in the best interest of the military service. Policies and procedures prescribed herein apply to the field commander's bars to reenlistment. Soldiers may not be reenlisted without the recommendation of the unit commander. However, if a commander wishes to disapprove a request for reenlistment or extension, when submitted on DA Form 3340 by a Soldier who is fully qualified for reenlistment without waiver, he must concurrently submit a bar to reenlistment unless the person requires a waiver of reenlistment disqualification. Request for waiver of reenlistment disqualification may be disapproved and personnel, if otherwise qualified, may not be denied reenlistment arbitrarily.

b. Only personnel of high moral character, personal competence, and demonstrated adaptability to the requirements of the professional Soldier's moral code will be reenlisted in the Regular Army. All Soldiers should be evaluated under the "whole person" concept, those who cannot, or do not, measure up to such standards, but whose separation under proper administrative procedures is not warranted at the present time, will be barred from further service.

c. Commanders must be especially alert to the need to evaluate the advisability and desirability of affording continued military service to Soldiers of the following, or similar, calibers:

(1) Untrainable personnel. These persons will be identified as soon as possible with a view toward eliminating them from the service.

(2) Unsuitable personnel. When possible, these persons will be identified early in their military service with a view toward elimination from the service.

(3) Sole parents, Soldiers with a spouse who is incapable of self-care; and who has custody of one or more minor dependents or one or more adult dependents unable to care for themselves, and Soldiers with a military spouse and they have minor dependents or adult dependents unable to care for themselves. Commanders will initiate bar to reenlistment proceedings against members described below who have been counseled according to AR 600-20, chapter 5, and who do not have on file within 6 months after counseling, an approved dependent care plan.

d. Individuals against whom bar to reenlistment proceedings are initiated. Soldiers against whom bars to reenlistment are initiated often have records that disclose the recurrence of one or a combination of the following:

- Late to formations, details, or assigned duties
- AWOL for 1- to 24-hour periods
- Losses of clothing and equipment
- Substandard personal appearance
- Substandard personal hygiene
- Continuous indebtedness, reluctance to repay, or late payments
- Recurrent article 15 punishments
- Frequent traffic violations
- "Rides" sick call without medical justification
- Late returning from pass or leave
- Cannot follow orders; shirks; takes too much time; is recalcitrant
- Cannot train for a job; apathetic' disinterested
- Cannot adapt to military life; uncooperative; involved in frequent difficulties with fellow Soldiers
- Failure to manage personal, marital, or family affairs. This includes failure to respond to duty requirements because of parenthood or custody of dependents (minor or adult)
- Causes trouble in the civilian community
- Involved in immoral acts
- Personal behavior brings discredit upon his unit or the Army
- Failure to achieve individual weapons qualification
- Failure to pass the Army's Physical Readiness Test (APFT)

e. A bar to reenlistment procedure should not be based on generalities, approximate dates, vague places, or times. It should be based on specific incidents substantiated by official remarks made at the time of each occurrence. The individual should be counseled on each occurrence and told that all instances are made matter of official record when acts considered unworthy of the US Army are performed.

7. 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.

8. Title 10, United States Code (USC) (Armed Forces), section 1556 (Ex Parte Communications Prohibited) 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 applicant's (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//