

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 June 2024

DOCKET NUMBER: AR20230011626

APPLICANT REQUESTS: correction of his uncharacterized/entry level separation (ELS) discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of release or Discharge from Active Duty)

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 had external pressure that added to his stress during basic training and advanced individual training (AIT). He joined up for all the wrong reasons. He had nowhere to go, his parents and family disowned him because he got his girlfriend pregnant. His son was born in 1989. After he was born his mom called everyday with some new problem. His recruiter had also said he was going in with the rank of private first class/E-3 then he found out that was a lie. He was a messed-up teen; with the right help at the time, he would have made a good Solider. Instead, he was berated, kept to the side, and then kicked out. He lists post-traumatic stress disorder (PTSD) and other mental as related to his request.
3. The applicant's military records are not available for review; therefore, this case is being considered based on his DD Form 214.
4. The applicant enlisted in the Regular Army on 9 May 1989. He did not complete training and was not awarded a military occupational specialty.
5. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing.

6. The applicant was discharged on 15 September 1989. His DD Form 214 shows he was discharged under the provisions of Army Regulation (AR) 635-200, Paragraph 11-3a, by reason of entry level status performance and conduct, with Separation Code JGA and Reenlistment Code RE-3. He completed 4 months and 7 days of net active service. His service was uncharacterized.

7. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active-duty service. The evidence of record shows the applicant was in an entry-level status at the time of his separation. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

8. The applicant provides a copy of his DD Form 214 as discussed above.

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

10. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his uncharacterized/entry level separation (ELS) discharge to honorable. He contends PTSD and OMH mitigates his discharge.

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 in the Regular Army on 9 May 1989. He did not complete training and was not awarded a military occupational specialty.
- Applicant's available record is void of a separation packet, containing the specific facts and circumstances surrounding his discharge processing.
- The applicant was discharged on 15 September 1989. His DD Form 214 shows he was discharged under the provisions of Army Regulation (AR) 635-200, Paragraph 11-3a, by reason of entry level status performance and conduct, with Separation Code JGA and Reenlistment Code RE-3. He completed 4 months and 7 days of net active service. His service was uncharacterized.

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 he had external pressure that added to his stress during basic training and advanced individual training (AIT). He joined up for all the wrong reasons. He had nowhere to go, his parents and family disowned him because he got his girlfriend pregnant. His son was born in 1989. After he was born his mom called everyday with

some new problem. His recruiter had also said he was going in with the rank of private first class/E-3 then he found out that was a lie. He was a messed-up teen; with the right help at the time, he would have made a good Soldier. Instead, he was berated, kept to the side, and then kicked out. He lists post-traumatic stress disorder (PTSD) and other mental health condition as related to his request. Due to the period of service, no active-duty electronic medical records were available for review and the applicant did not provide any hardcopy medical documentation.

d. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected and no VA electronic behavioral health medical records were available for review. The applicant did not provide any mental health treatment records or documentation that diagnoses him with PTSD or any other behavioral health condition.

e. Based on the information available, this Agency Behavioral Health Advisor is unable to opine regarding mitigation without the specific facts and circumstances that led to his discharge. However, there is insufficient evidence to support the applicant had any behavioral health condition during military service.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts a mitigating condition, PTSD and OMH.

(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? Unable to opine regarding mitigation without the specific facts and circumstances that led to his separation. However, 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 PTSD or any other mental health condition. And while the applicant self-asserted PTSD and OMH, he did not provide any medical documentation substantiating any BH diagnosis including PTSD or any other mental health condition.

g. Per Liberal Consideration guidelines, his contention of PTSD and OMH 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.

a. The applicant separation packet is not available for review. However, other evidence shows he was separated for entry level performance and conduct, after completing 4 months and 7 days of net active service. He did not complete initial entry training and was not awarded an MOS. His service was uncharacterized. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. The Board found no error or injustice in his separation processing.

b. The Board 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 determination that the applicant did not provide any mental health treatment records or documentation that diagnoses him with PTSD or any other behavioral health condition. Also, there is insufficient evidence to support the applicant had any behavioral health condition during military service. Based on a preponderance of available evidence, the Board determined that medical separation is not warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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, 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, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or

Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. AR 635-200, in effect at the time, sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

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 11 provides for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. When separation of a Soldier in an entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, he or she will normally be separated per this chapter. Service will be uncharacterized for entry-level separation under the provisions of this chapter.

4. 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 Service 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. 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. 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.

5. 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.

//NOTHING FOLLOWS//