

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 June 2024

DOCKET NUMBER: AR20230011787

APPLICANT REQUESTS:

a. Reconsideration of a previous request in ABCMR Docket Number AR20200006934, dated 9 April 2021 to amend his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 30 June 1987 to show in:

- Item 24 (Character of Service): Under Other than Honorable Conditions (UOTHC) to Honorable
- Item 27 (Reentry Code): RE-3 to RE-1

b. As a new request, he is requesting a correction to his DD Form 214 to show in:

- item 23 (Type of Separation) Discharge to Medical Retirement
- item 28 (Narrative Reason for Separation) for the Good of the Service – in Lieu of Court-Martial to Secretarial Authority

c. A personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Legal brief in support of discharge upgrade
- DD Form 214 for the period ending 30 June 1987
- On the spot award, dated 21 March 2013
- Law firm application/authorization in support of discharge upgrade

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20200006934 on 9 April 2021.

2. The applicant requests reconsideration of his previous request to upgrade his discharge and his RE code. In addition, he requests to change his narrative reason for separation and to be medically retired. He further states that his discharge was unfair at the time and remains so now, as he believes it is both in error procedurally and in equity. He requests liberal consideration due to service connected injuries and should have received a medical discharge.

3. The applicant provides:

a. A legal brief in which his counsel addresses the requested relief, procedural posture, and legal standards. He then provides a background of the applicant's military service, offenses, and reasons for discharge, and summarizes his argument as follows:

(1) The applicant recalls developing sharp pains in his feet from a combination of difficult training and lack of proper military gear. He sought out help during basic combat training (BCT) but was advised to address this matter when he arrives at his duty station. Upon his arrival he encountered resistance and lack of empathy from his command. He believed that issue should have been address by the doctors during BCT but they neglected him instead. He felt let down and frustrated due to the lack of support, he had hoped or a more understanding group of leaders as they all were well seasoned. During this time, he recalls wearing poorly made combat boots that further contributed to his issues. He discussed the possibility of reclassifying with his leadership, only to be dismissed and told he was to endure his job for the next three years. He decided to visit the doctor for the recurring foot pain, only to be dismissed again, and accused of malingering. He was deeply disheartened. By this point he believed if he was gone for more than 30 days, he would be simply separated from the Army with no questions asked, so that is exactly what he did. Once he surrendered, he was chaptered, and he believed this was one of the best services provided.

(2) The applicant is seeking an upgrade based on the "liberal consideration" standard found in Section 1553a. The standard mandates that the Board reviews such cases with "liberal consideration" if the application is partly or wholly based on matters relating to post traumatic stress disorder (PTSD) or traumatic brain injury (TBI). His case meets the aforementioned criteria as his behavioral health (BH) issues and PTSD are a direct consequence of his service. These conditions have notably impacted his behavior and actions, resulting in the circumstances surrounding his discharge.

(3) He further requests all derogatory information is removed from his record and that this appeal is given the utmost scrutiny. The success of this appeal will have a significant impact on his ability to receive proper benefits and recognition.

b. On 21 March the applicant was presented an on the spot award for going above and beyond his normal job responsibility.

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

a. DD Form 4 (Enlistment/Reenlistment Document-Armed Forces of The United States) shows he enlisted in the Regular Army on 28 January 1986.

b. DA Forms 4187 (Personnel Action Form) show the following duty status changes:

- On 23 September 1986, at 0915 from present for duty (PDY) to absent without leave (AWOL)
- On 23 October 1986, at 0100 from AWOL to dropped from rolls (DFR)
- On 30 October 1986, at 0900 from DFR to returned to military control
- On 30 October 1986, at 1705 from returned to military control to PDY

c. DA Form 3975 (Military Police Report) dated 30 October 1986, reflects the applicant turned himself in for being AWOL/Desertion.

d. DD Form 458 (Charge Sheet) dated 17 November 1986 shows charges were preferred against him for a violation of the Uniform Code of Military Justice (UCMJ), for being AWOL from on or about 23 September 1986, without authority, and did remain so absent until on or about 30 October 1986.

e. On 17 November 1986, the applicant consulted with counsel and requested a voluntary discharge in lieu of trial by courts-martial under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10. He understood that he may request discharge for the good of the service following charge(s) which had been preferred against him under UCMJ, which authorizes the imposition of a bad conduct or dishonorable discharge. He indicated in his request he understood he might be discharged and given an UOTHC discharge, he might be ineligible for many, or all benefits administered by the Department of Veterans Affairs, he might be deprived of many or all Army benefits, and he might be ineligible for many or all benefits as a veteran under both Federal and State laws. He acknowledged he might expect to encounter substantial prejudice in civilian life because of a discharge under other than honorable conditions. He elected not to make a statement in his own behalf. He further understood that there was no automatic up grading nor review by a Government agency of a less than honorable discharge and that he must apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if he wished for a review of his discharge. He realized that the act of consideration by either board does not imply that his discharge would be upgraded.

f. DA Form 2496 (Army Disposition Form) dated 6 March 1987, shows the applicant's commander recommended approval of his request for discharge on

4 March 1987, under the provisions of Army Regulation 635-200, Chapter 10, for the good of the service – in lieu of trial by court-martial, with an UOTHC discharge.

g. On 16 March 1987, the separation authority approved the request for the applicant's discharge with an UOTHC. He also directed he be reduced to the lowest possible grade.

h. DD Form 214 for the period ending 30 June 1987, shows he was discharged with an UOTHC discharge, for the good of the service-in lieu of trial by court-martial, pursuant to AR 635-200, Chapter 10. He received a separation code of "KFS" and a reentry code of "3", "3B" and "3C". He completed 1 year, 3 months, and 19 days of net active service this period. Lost time during this period was from 15 September 1986 to 21 September 1986 and from 23 September 1986 to 29 October 1986.

5. In prior ABCMR Docket Number AR20200006934, dated 9 April 2021, after reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The Board considered the applicant's statement, his record of service, the frequency and nature of the misconduct, court martial charges, his request for discharge and the reason for his separation. The Board did not find evidence of in-service mitigating factors for the misconduct. The Board found insufficient evidence of post-service achievements or letters of reference in support of a clemency determination. Based on a preponderance of evidence, to include the applicant's request for voluntary discharge, the Board found no error or injustice and therefore found no basis upon which to grant relief.

6. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is again applying to the ABCMR requesting an upgrade of his 30 June 1987 discharge characterized as under other than honorable conditions, changes in both his separation authority and reentry code, and, in essence, a referral to the Disability Evaluation System. On his DD form 149, he has indicated that other mental health conditions are related to his requests. He states:

“The applicant’s discharge was unfair at the time and remains so now. The applicant believes his discharge is both in error procedurally and in equity. The applicant requests liberal consideration. The applicant had service-connected injuries and should have received a medical discharge. This is a request for reconsideration.”

c. The Record of Proceedings details the applicant’s military service and the circumstances of the case. The applicant’s DD 214 for the period of service under consideration shows he entered the regular Army on 28 January 1985 and was discharged under other than honorable conditions on 30 June 1987 under the separation authority provided by chapter 10 of AR 635-200, Personnel Management – Enlisted Personnel (15 September 1986): Discharge for the Good of the Service. It does not contain a period of service in a hazardous duty pay area.

d. His request for a discharge upgrade and change in his reentry code was denied by the ABCMR on 9 April 2021 (AR20200006934). Rather than repeat their findings here, the board is referred to the record of proceedings. Because this denial was a medical advisory opinion or consideration polices, this review will concentrate on evidence of a potentially mitigating mental health condition, a condition which warranted referral to the DES prior to his separation, and new evidence submitted with this application.

e. The legal brief submitted with this application was the only new evidence submitted. Counsel states the applicant had foot pain and blisters, became frustrated with poor care, and that he went absent without leave:

“He understood that if one said they were gone for more than 30 days, there would be no questions asked, they would simply be kicked out. And that’s exactly what he did. He turned himself in, [REDACTED]. From there, he was discharged, given a standard Chapter 10, and a quick way out. It had been a few years, so he couldn’t recall the exact details, except that it was done quickly. Nonetheless, he expressed gratitude as he believed it was the best of the services provided. The procedure was no longer in practice, it was an old way of dealing with individuals like him who were not cut out for military life.”

f. There was no medical document submitted with this application and his service predates AHLTA.

g. A Charge Sheet (DA Form 458) shows he was charged with absence without leave from on or about 23 September 1986 thru on or about 30 October 1986.

h. On 17 November 1986, the applicant voluntarily requested discharge for the good of the service under chapter 10 of AR 635-200. His request was approved by the Brigade commander on 17 March 1987 with the directives he receive an Under Other

Than Honorable Conditions discharge certificate and be immediately reduced to the lowest enlisted grade.

i. There is no evidence the applicant had a mental health condition or other medical condition which would have contributed to or would now mitigate the UCMJ violation which resulted in his discharge. Furthermore, there is no evidence the applicant had any medical condition prior to his discharge which would have failed the medical retention standards of chapter 3, AR 40-501, and would therefore have been a cause for referral to the Disability Evaluation System.

j. JLV shows he is not registered with the VA.

k. It is the opinion of the ARBA medical advisor that a neither a discharge upgrade based on a medical condition nor a referral to the DES is warranted.

I. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Applicant asserts other mental health conditions and counsel asserts the applicant meets the criteria for PTSD.

(2) Did the condition exist or experience occur during military service? Applicant asserts other mental health conditions and counsel asserts the applicant meets the criteria for PTSD, and that both were present during service.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant has submitted no medical documentation indicating a diagnosis of PTSD and/or other mental health conditions. Review of the VA medical records indicates that the applicant has not been diagnosed with either a service connected or nonservice connected BH condition.

BOARD DISCUSSION:

1. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and counsel's statement, the applicant's record of service, the frequency and nature of the applicant's misconduct and the reason for his separation. The Board considered the applicant's PTSD and physical health claim and the review and conclusions of the ARBA Medical Advisor. The applicant provided no evidence of

post-service achievements or letters of reference in support of a clemency determination. The Board found insufficient evidence of in-service mitigating factors and concurred with the conclusion of the medical advising official regarding his misconduct not being mitigated by PTSD and there being no evidence indicating the applicant should have been referred to the Disability Evaluation System. Based on a preponderance of the evidence, the Board determined the character of service the applicant received upon separation, the reason for his separation, and the associated codes are 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 that the overall merits of this case are insufficient as a basis to amend the decision of the ABCMR set forth in Docket Number AR20200006934 on 9 April 2021.

12/19/2024

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. Army Regulation 15-185 (Army Board for Correction of Military Records) 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.

2. Army Regulation AR 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, provided the authority for separation of enlisted personnel upon expiration term of service, prior to ETS, and the criteria governing the issuance of honorable, general, and undesirable discharge certificates.

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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, MSO, or period for which called or ordered to active duty.

c. Chapter 10 of that regulation provided, in pertinent part, that a member who had committed an offense or offenses for which the authorized punishment included a punitive discharge, could submit a request for discharge for the good of the service in lieu of trial by court-martial. The request could be submitted at any time after charges had been preferred and must have included the individual's admission of guilt. Although an honorable or general discharge was authorized, an under other than honorable conditions discharge was normally considered appropriate.

d. Paragraph 5-3 states, in pertinent part, that the separation of enlisted personnel is the prerogative of the Secretary of the Army and will be effected only by his authority. Except as delegated by these regulations or by special Department of the Army directives, the discharge or release of any enlisted member of the Army for the convenience of the Government will be at the Secretary's discretion and with the type of discharge as determined by him. Such authority may be given either in an individual case or by an order applicable to all cases specified in such order.

3. Army Regulation 635-8 (Separation Processing and Documents). 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 REFRAD, retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier's service.

4. 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.

a. Table 3-1 provides a list of RE codes:

- RE code "1" applies to personnel 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" Applies to persons not eligible for immediate reenlistment
- RE code "3" applies to personnel 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 "4" applies to personnel separated from last period of active-duty service with a nonwaivable disqualification.

b. Table 3-6 provides additional information:

- RE code "3B" applies to personnel who have lost time during their last period of service. They are ineligible for enlistment unless a waiver is granted.
- RE code "3C" applies to personnel who have completed over 4 months of service who do not meet the basic eligibility pay grade requirements of AR 601-280. They are ineligible for enlistment unless a waiver is granted.

5. Army Regulation 635-5-1 (Separation Program Designator Codes) states that the Separation Program Designator (SPD) codes are three-character alphabetic combinations which identify reasons for, and types of, separation from active duty. SPD code "KFS" is the appropriate code to assign to enlisted Soldiers who are administratively discharged under the provisions of Army Regulation 635-200, Chapter 10, for the good of the service. RE code of "4" is the appropriate corresponding RE code for SPD code "KFS".

6. Title 10, USC, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system and executes Secretary of the Army decision-making authority as directed by Congress in

chapter 61 and in accordance with DOD Directive 1332.18 and AR 635-40 (Physical Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a Medical Evaluation Board (MEB); when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an MOS Medical Retention Board; and/or they are command-referred for a fitness-for-duty medical examination.

b. The disability evaluation assessment process involves two distinct stages: the MEB and PEB. The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise his/her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether or not a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. Service members who are determined to be unfit for duty due to disability either are separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a one-time severance payment, while veterans who retire based upon disability receive monthly military retired pay and have access to all other benefits afforded to military retirees.

c. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

7. Title 38 USC, section 1110 (General - Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

8. AR 635-40 (Physical Evaluation for Retention, Retirement, or Separation) prescribes the Army Disability Evaluation System and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. It implements the requirements of Title 10, U.S. Code, chapter 61; Department of Defense Instructions (DoDI) 1332.18 (Disability Evaluation System (DES)); DoD Manual 1332.18 (DES Volumes 1 through 3) and Army Directive 2012-22 (Changes to Integrated Disability Evaluation System Procedures) as modified by DoDI 1332.18.

a. The objectives are to maintain an effective and fit military organization with maximum use of available manpower; provide benefits to eligible Soldiers whose military service is terminated because of a service-connected disability; provide prompt disability evaluation processing ensuring the rights and interests of the Government and Soldier are protected; and, establish the Military Occupational Specialty Administrative Retention Review (MAR2) as an Army pre-DES evaluation process for Soldiers who require a P3 or P4 (permanent profile) for a medical condition that meets the medical retention standards of Army Regulation 40-501. Soldiers, and mechanisms for the final disposition of disability evaluations by appropriate personnel.

b. The DES begins for a Soldier when either of the events below occurs:

(1) The Soldier is issued a permanent profile approved in accordance with the provisions of Army Regulation 40–501 and the profile contains a numerical designator of P3/P4 in any of the serial profile factors for a condition that appears not to meet medical retention standards in accordance with AR 40–501. Within (but not later than) 1 year of diagnosis, the Soldier must be assigned a P3/P4 profile to refer the Soldier to the DES.

(2) The Soldier is referred to the DES as the outcome of MAR2 evaluation.

c. A medical evaluation board is convened to determine whether a Soldier's medical condition(s) meets medical retention standards per Army Regulation 40-501. This board may determine a Soldier's condition(s) meet medical retention standards and recommend the Soldier be returned to duty. This board must not provide conclusions or recommendations regarding fitness determinations.

d. The physical evaluation board determines fitness for purposes of Soldiers' retention, separation, or retirement for disability under Title 10, U.S. Code, chapter 61, or separation for disability without entitlement to disability benefits under other than Title 10, U.S. Code, chapter 61. The physical evaluation board also makes certain administrative determinations that may benefit implications under other provisions of law.

e. Unless reserved for higher authority, the U.S. Army Physical Disability Agency approves disability cases for the Secretary of the Army and issues disposition instructions for Soldiers separated or retired for physical disability.

f. Chapter 4 provides that Public Law 110–181 defines the term, physical DES, in part, as a system or process of the DOD for evaluating the nature and extent of disabilities affecting members of the Armed Forces that is operated by the Secretaries of the military departments and is comprised of MEBs, PEBs, counseling of Soldiers, and mechanisms for the final disposition of disability evaluations by appropriate personnel. Soldiers may not be discharged or released from active duty because of a disability until they have made a claim for compensation, pension, or hospitalization with the VA or have signed a statement that their right to make such a claim has been explained or have refused to sign such a statement.

9. AR 40-501 (Standards of Medical Fitness), medical evaluation of certain enlisted military occupational specialties and officer duty assignments in terms of medical conditions and physical defects are causes for rejection or medical unfitness for these specialized duties. If the profile is permanent the profiling officer must assess if the Soldier meets retention standards. Those Soldiers on active duty who do not meet retention standards must be referred to a medical evaluation board.

10. Title 38, CFR, Part IV is the VA's schedule for rating disabilities. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

11. 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.

12. The acting Under Secretary of Defense for Personnel and Readiness provided clarifying guidance on 25 August 2017, which expanded the 2014 Secretary of Defense memorandum, that directed the BCM/NRs and DRBs to give liberal consideration to veterans looking to upgrade their less-than-honorable discharges by expanding review of discharges involving diagnosed, undiagnosed, or misdiagnosed mental health

conditions, including PTSD; traumatic brain injury; or who reported sexual assault or sexual harassment.

13. 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.

14. Title 10, U.S. Code, section 1556 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.

15. Army Regulation 15-185 (ABCMR) states ABCMR members will review all applications that are properly before them to determine the existence of an error. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. 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.

//NOTHING FOLLOWS//