

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 May 2024

DOCKET NUMBER: AR20230013017

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show award of the Army Service Ribbon and National Defense Service Medal. He further requests item 28 (Narrative Reason for Separation) show he was separated due to disability.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214

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 condition in which he was separated is a diagnosed disability. He requests correction of his records for reinstatement of GI Bill benefits and to show the decorations he received during his honorable service. Additionally, his application notes his request is related to "Other Mental Health."
3. The Board will not consider the applicant's request for the National Defense Service Medal; this award will be addressed through an administrative correction.
4. The applicant enlisted in the Regular Army (RA) on 14 October 2008.
5. On 19 April 2010, he received a psychiatric evaluation. The Medical Director, Inpatient Psychiatry diagnosed him with an adjustment disorder with mixed anxiety and depressed mood; Impulse Control Disorder NOS; Nicotine Dependence. He further opined the applicant was mentally responsible/able to distinguish right from wrong and possessed the mental capacity to participate in the proceedings. The applicant did not have a psychiatric condition which would warrant disposition through medical channels,

and he was cleared for whatever administrative action deemed appropriate by the command.

6. The applicant received nonjudicial punishment (NJP) under the provisions of Article 15 of the Uniform Code of Military Justice (UCMJ) on 7 May 2010, for, without authority, absencing himself from his unit from 10 March to 29 March 2010.

7. On 12 May 2010, the applicant's immediate commander notified the applicant of her intent to initiate separation action against him under Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 5-17, by reason of "Other Designated Physical or Mental Conditions." The reason for the proposed action was that the applicant was diagnosed by a licensed psychiatrist, as having an adjustment disorder with mixed anxiety and depressed mood.

8. On 14 May 2010, the applicant acknowledged receipt of the separation notification memorandum. He indicated he understood the basis for the contemplated separation action and its effects, the rights available to him, and the effect of a waiver of his rights. He elected not to submit a statement on his own behalf.

9. Subsequent to this acknowledgement and requesting legal consultation, the applicant's immediate commander initiated separation action against him under the provisions of Army Regulation 635-200, chapter 5-17, by reason of other designated physical or mental conditions.

10. On 19 May 2010, the applicant was discharged in accordance with chapter 5-17, Army Regulation 635-200. The DD Form 214 issued to him at the time shows the following pertinent information in the items indicated:

- 11 (Primary Specialty), 09B1O Trainee;
- 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized), None;
- 18 (Remarks), he has not completed his first full term of service;
- 24 (Character of Service), Honorable;
- 25 (Separation Authority), Army Regulation 635-200, paragraph 5-17;
- 26 (Separation Code), he was assigned a Separation Program Designator (SPD) code of JFV;
- 27 (Reentry Code), he was assigned an RE code of 3;
- 28, Condition, Not a Disability; and
- 29 (Dates of Time Lost During this Period), 10 March to 28 March 2010.

11. The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active duty service at the time of

release from active duty, retirement, or discharge, and is not intended to have any legal effect on termination of a Soldier's service.

12. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show award of the Army Service Ribbon and National Defense Service Medal. He further requests item 28 (Narrative Reason for Separation) show he was separated due to disability.

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 14 October 2008.
- The applicant completed basic training and was in AIT when he received NJP for AWOL from 10-29 March 2010.
- On 19 May 2010, the applicant was honorably discharged in accordance with chapter 5-17, Army Regulation 635-200.

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 that he had a diagnosed mental health disability when he was separated, and he wants this corrected on his records in order to reinstate his GI Bill benefits. Included in the documents was a Report of Behavioral Health Evaluation, which indicated that the applicant had the following diagnoses: Adjustment Disorder with mixed anxiety and depressed mood and Impulse Control Disorder along with traits of a Personality Disorder. Additionally, the Report of Medical History document noted three psychiatric medications and mental health diagnoses including Depression, Anxiety, Substance Abuse, and Adjustment Disorder. The document concluded that the applicant met retention standard requirements and was mentally capable of understanding the proceedings. There was sufficient evidence that the applicant was diagnosed with a mental health condition while on active service.

d. The VA's Joint Legacy Viewer (JLV) was also reviewed and showed that the applicant initiated mental health treatment on 12 February 2009 while in AIT. Documentation discusses feelings of depression, irritability, and difficulty concentrating, and he attributed this to frustration with his inability to live off base. Notably, he disclosed that in 2004 he was hospitalized and placed on antidepressant and antipsychotic medications. Subsequent documentation goes into greater detail of his pre-military mental health history, including multiple medications, psychiatric hospitalization, history of daily marijuana use, childhood trauma, and difficulty with authority figures. He was started on two psychiatric medications, to which he had a good response. He was diagnosed with Adjustment Disorder with Disturbance of Emotions and Conduct. His next encounter with BH was in September 2009 due to

recent break up with a girlfriend and feeling depressed. At this time the diagnosis of ADHD was added, and he attended two counseling sessions and was restarted on an antidepressant medication. Documentation on 30 November 2009 where he reported a three week inpatient hospitalization due to suicidal ideation and substance abuse. The plan was for him to continue with AA meetings and seek therapy as needed. His next encounter with BH was in March 2010 where he again expressed feelings of depression associated with a recent medical diagnosis, discontinuation of AA attendance, difficulty with his work environment, and friends leaving. His diagnoses were related to substance abuse and ADHD. He had two missed appointments and was next seen on 23 April 2010 where he reported having been on "the inpatient ward on 11W" and was referred to an intensive outpatient treatment program. This hospitalization was the result of a verbal altercation with the NCO in his workplace and the resultant AWOL. Documentation again extensively discusses pre-military mental health diagnoses and treatment, including history of hallucinations and suicidal ideation. He attended weekly group therapy sessions until mid-May 2010 when he dropped out of treatment. Documentation reflects last medication refill of an amphetamine, antidepressant, and antipsychotic medications. Multiple attempts were made to reach the applicant in June, July, and August 2010 prior to his discharge.

e. Since discharge from the military, the applicant engaged mental health care with the VA in 2021. His diagnosis is Schizoaffective Disorder and Cannabis Use Disorder, and he is not taking any medications. JLV shows that the applicant is 100% service connected for Schizoaffective Disorder.

f. A review of iPERMS showed a Report of Medical Examination dated 29 September 2008 (from MEPS) that showed no notation of a psychiatric history reported by the applicant. Additionally, a Report of Medical History dated 27 September 2008 showed no report of a history of psychiatric hospitalization or mental health treatment. Finally, on DD Form 1966/2, on item #26 related to history of drug use and abuse, the applicant checked "no." Of note, he also received a \$20,000 signing bonus per this contract.

g. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that the applicant was appropriately diagnosed with Adjustment Disorder with mixed anxiety and depressed mood as the basis for his separation in accordance with Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 5-17, by reason of "Other Designated Physical or Mental Conditions." Documentation by his mental health providers showed evidence of the manifestation of disturbances of perception, thinking, emotional control, and behavior that was sufficiently severe that the applicant's ability to effectively perform military duties was significantly impaired. Additionally, he was properly assessed by a military behavioral health provider and found to meet retention standards.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had a diagnosed disability, and he has been service connected through the VA for Schizoaffective Disorder. However, throughout the applicant's mental health treatment while on active service, he discusses this diagnosis as a pre-existing condition through his disclosure of his history of hospitalization, treatment, and necessity of antipsychotic medications prior to active service.

(2) Did the condition exist or experience occur during military service? Yes. The applicant's assertion of a disability attributable to Schizoaffective Disorder existed during and prior to his military service, per his report to his DoD mental health providers.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The behaviors exhibited by the applicant and the diagnosis of Adjustment Disorder with mixed anxiety and depressed mood that generated his separation are indicative of a failure to adjust to a military environment. Additionally, the applicant did not disclose his pre-existing mental health condition while being evaluated for entry into military service, which likely would have disqualified him from service.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered

a. National Defense Service Medal: Grant. The applicant served a qualifying period for award of the National Defense Service Medal. The Board determined it should be added to his DD Form 214.

b. Army Service Ribbon: Deny. The applicant did not complete initial entry training and was not awarded an MOS. Therefore, he does not meet the criteria for award of the Army Service Ribbon. The Board determined relief is not warranted regarding this award.

c. Character of Service: Deny. The evidence shows the applicant was diagnosed by a licensed psychiatrist, as having an adjustment disorder with mixed anxiety and depressed mood. As a result, his chain of command separated him for "Other Designated Physical or Mental Conditions." The Board found no error or injustice in his separation processing. 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 concurred with the medical official's finding the diagnosis of Adjustment Disorder with mixed anxiety and depressed mood that generated his separation are indicative of a failure to adjust to a military environment. Additionally, the applicant did not disclose his pre-existing mental health condition while being evaluated for entry into military service, which likely would have disqualified him from service. Based on a preponderance of evidence, the Board determined that the character of service 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:

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 adding the National Defense Service Medal to his DD Form 214. :

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 adding the Army Service Ribbon or changing his character of service.

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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 sets forth the basic authority for the separation of enlisted personnel. Chapter 5-17, states commanders who are special court-martial convening authorities may approve separation under this paragraph on the basis of other physical or mental conditions not amounting to disability that potentially interfere with assignment to or performance of duty. A recommendation for separation must be supported by documentation confirming the existence of the physical or mental condition. Members may be separated for physical or mental conditions not amounting to disability, which are sufficiently severe that the Soldier's ability to effectively perform military duties is significantly impaired.

3. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. The regulation states:

a. The Secretary of the Army established the Army Service Ribbon on 10 April 1981. Effective 1 August 1981, all members of the Active Army, Army National Guard, and Army Reserve in an active Reserve status are eligible for the award upon successful completion of initial entry training. The award may be awarded retroactively to those personnel who completed the required training before 1 August 1981 provided, they had an Active Army status on or after 1 August 1981.

b. The National Defense Service Medal is awarded for honorable active service for any period between 27 July 1950 and 27 July 1954, 1 January 1961 and 14 August 1974, 2 August 1990 and 30 November 1995, and 11 September 2001 and a date to be determined.

4. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

//NOTHING FOLLOWS//