

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 July 2024

DOCKET NUMBER: AR20230013760

APPLICANT REQUESTS: an upgrade of his uncharacterized discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- In-service documents

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 his discharge paperwork notes that he had a desire to be discharged and he could not adjust to military life. He was not treated properly for depression and separation was suggested to him. It was also noted that his condition could worsen. The Army did not prepare him for reentry into civilian life. He has fought depression for 30 years.
3. On his DD Form 149, the applicant notes other mental health issues are related to his request.
4. On 12 November 1993, the applicant enlisted in the Regular Army, for 4 years. His record shows he was not awarded a military occupational specialty.
5. On 7 April 1994, the applicant underwent a mental status evaluation. The attending physician noted that he appeared to have poor coping capacity and acts on impulsivity. The applicant had expressed a strong desire to be separated. He was psychiatrically cleared to participate in any administrative action deemed appropriate by the command.
6. The applicant received formal counseling on 12 April 1994 to discuss his discharge due to severe stress and problems coping with the Army. He was dropped from training due to excessive lost training time.

7. The applicant's commander notified him on 21 April 1994, that he was initiating actions to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11, for entry level status performance and conduct. As the specific reason, the commander noted the applicant could not adapt socially or emotionally to military life.

8. The applicant acknowledged receipt of the separation notification. He waived his right to consult with counsel and elected not to make any statements in his own behalf.

9. The applicant's commander formally recommended his separation under the provisions of Army Regulation 635-200, Chapter 11. The separation authority approved the separation recommendation on 26 April 1994, and directed the issuance of an entry level separation with uncharacterized service.

10. The applicant was discharged accordingly on 3 May 1994. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under the provisions of Army Regulation 635-200, Chapter 11, for entry level performance and conduct. His service was uncharacterized. He was assigned Separation Code JGA and Reentry Code 3. He completed 5 months and 22 days of active service.

11. 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.

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

13. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his characterization of service from uncharacterized to honorable based on disability. He contends he experienced Other Mental Health Issues, specifically depression, to which he asserts his condition was not properly treated while in-service and he was not adequately prepared by the military for re-entry into civilian life. 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: 1) the applicant enlisted in the Regular Army (RA) on 12 November 1993 and was not awarded a military occupational specialty (MOS), 2) on 07 April 1994 the applicant underwent a Mental Status Examination (MSE) and the physician noted the applicant had poor coping capacity and acts impulsivity. It

was further documented that the applicant desired to be separated from the military. He was deemed psychiatrically cleared to participate in administrative proceedings as deemed appropriate by the command, 3) the applicant was formally counseled on 12 April 1994 to discuss his discharge due to severe distress and problems coping with the Army, 4) the applicant was notified on 21 April 1994 that his commander was initiating separation under Army Regulation (AR) 635-200, Chapter 11 for entry level status performance and conduct. The applicant acknowledged receipt of the separation notification, waived his right to consult with counsel, and elected not to make any statements on his own behalf, 5) the applicant was discharged on 03 May 1994 under the provisions of AR 635-200, Chapter 11 for entry level performance and conduct and was assigned a separation code of JGA. He completed 5 months and 22 days of net active service.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant provided an in-service Report of Mental Status Evaluation dated 07 April 1994 as part of his application which was completed at the Commander's request. The evaluating provider noted that the applicant was experiencing a high level of stress associated with difficulty adjusting to the military with the potential of getting worse [presumably if service continued]. It was further documented that the presenting problems were not amenable to brief treatment and that retention of the Soldier would likely 'create more stress and drive him into a deeper depression.' It was documented on the Chapter Request form that the applicant's commander noted he had difficulty dealing with peers and superiors. Furthermore, it was noted that the applicant had 'suicidal tendencies,' though further clarification of such tendencies was not documented. The chapter request form documented that the applicant had attended numerous counseling sessions with behavioral health and the Chaplain and has an 'intensive need for in depth counseling has affected his performance to the point where has been dropped from the course due to lost P.O.I. time.' A memorandum for recommendation for discharge signed by the Battalion Chaplain dated 11 April 1994 cited that the applicant had been referred for a BH evaluation and treatment due to his 'depression and suicidal ideation and gesture.' The term gesture is not consistent with current nomenclature regarding the spectrum of suicidal behaviors and consistent with current nomenclature would constitute suicidal behavior. The memorandum further stated that the applicant was not capable of adapting to military life.

d. VA records were available for review in JLV from 11 May 2021 through 27 June 2024. The applicant is 70% service-connected through the VA for Dysthymic Disorder

(now termed Persistent Depressive Disorder (PDD)). The applicant initiated treatment for depression and anxiety through the VA on 04 May 2023. The applicant underwent three compensation and pension (C&P) examinations through the VA for BH reasons. His initial Disability Benefits Questionnaire (DBQ) was completed on 16 February 2023 with subsequent evaluations occurring on 13 July 2023 and 06 September 2023 as the applicant was requesting an increase in his service connection. On his initial DBQ he was diagnosed with PDD, Alcohol Use Disorder, moderate, early remission, and Cocaine Use Disorder, moderate, early remission. It was clarified that the applicant's use of cocaine was post-discharge. The DBQ documented the applicant did drink alcohol during Advanced Individual Training (AIT) in an attempt to cope with his depression though he discontinued due to it worsening his depression and unable to legally buy alcohol at the time. It was documented on the applicant's C&P examination that his alcohol and cocaine use disorders were secondary to PDD. The applicant's initial DBQ documented that the applicant reported basic training was 'fine' and that his problems with depression and suicide started during AIT. Of note, the DBQ dated 06 September 2023 suggested the applicant's overall report may be motivated by secondary gain and based on the results of a symptom validity inventory indicated that the applicant's report should be viewed with caution. However, his service-connected diagnosis of PDD was reaffirmed at each C&P examination. A mental health note dated 17 May 2023 documented that the applicant reported he was psychiatrically hospitalized in 2003 due to suicidal ideation. The applicant has also been diagnosed with several other BH conditions through the VA including Generalized Anxiety Disorder (GAD), Major Depressive Disorder, Recurrent, Moderate, and Insomnia.

e. The applicant is petitioning the Board to upgrade his characterization of service from uncharacterized to honorable based on disability. He contends he experienced Other Mental Health Issues, specifically depression, to which he asserts his condition was not properly treated while in-service. Review of in-service records indicate that the applicant did experience depression and stress due to difficulty adjusting to military life. Subsequent to his discharge, the applicant has been 70% service connected through the VA for PDD.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his discharge was related to Other Mental Health Issues and is 70% service connected through the VA for Persistent Depressive Disorder.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is 70% service connected through the VA for Persistent Depressive Disorder. Service connection establishes that the condition existed during service.

(3) Does the condition experience actually excuse or mitigate the discharge? No. The applicant contends that his discharge was related to Other Mental Health Issues, specifically depression, and per liberal guidance, his assertion is sufficient to warrant the Board's consideration. The applicant is 70% service connected for Persistent Depressive Disorder through the VA. VA examinations are based on different standards and parameters; they do not address whether a medical condition met or failed Army retention criteria or if it was a ratable condition during the period of service. Therefore, a VA disability rating does not imply failure to meet Army retention standards at the time of service or that a different diagnosis rendered on active duty is inaccurate. A subsequent diagnosis of Persistent Depressive Disorder through the VA is not indicative of misdiagnosis or other injustice at the time of service. Furthermore, even an in-service diagnosis of PDD is not automatically unfitting per AR 40-501 and would not automatically result in medical separation processing.

g. A review of in-service records documented that the applicant was experiencing depression due to difficulty adjusting to military life. Although there is no documentation available specifying if the applicant met criteria for a BH diagnosis at the time of discharge, had the applicant met criteria for a BH condition owing to disability while in-service, the applicant would have been referred for a Medical Evaluation Board (MEB) at the time of his in-service mental status examination. Furthermore, a diagnosis of Persistent Depressive Disorder requires that the symptoms are present for a period of two years. As the applicant's time in service was less than 180 days and the VA DBQ noted the applicant did not experience problems until he started AIT, the applicant would not have met criteria for this condition while in-service given the length of time required for the presence of symptoms and the duration of his service being less than 180 days. As such, there is no indication that the applicant had a condition at the time of his discharge that fell below the medical retention determination point (MRDP) that would have otherwise required disposition through medical channels. Given that the preponderance of evidence available does not indicate the applicant had a condition at the time of discharge that would have required disposition through medical channels, a referral to IDES for further processing is not warranted at this time and separation under provision of Chapter 11 of AR 635-200 appears proper and equitable given the applicant had less than 180 days in service and did not complete initial entry training.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy and regulation. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The applicant was released from active duty for entry level performance and conduct. The Board

determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized. The Board noted and concurred with the medical advisor's review finding the applicant experienced depression due to adjusting to military life; however, a behavioral health diagnosis was not rendered at the time of discharge and did not warrant processing through the Disability Evaluation System; therefore, the Board determined relief was not warranted.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

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.

[REDACTED]

[REDACTED]

[REDACTED]

[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. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.
3. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. At the time, this regulation prescribed the separation code "JGA" is the appropriate code to assign Soldiers separated under the provisions of Army Regulation 635-200, for entry level performance and conduct.
4. Army Regulation 635-200 sets policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.
 - a. Chapter 3 provides that a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.
 - b. Paragraph 3-7a provides that 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.
 - 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.

d. 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.

//NOTHING FOLLOWS//