

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 August 2024

DOCKET NUMBER: AR20230013835

APPLICANT REQUESTS:

- an upgrade of his under other than honorable conditions (UOTHC) discharge to an honorable discharge
- removal of all references to his absence without leave (AWOL) from his record
- removal of any reference to court-martial proceedings from his record
- to appear before the Board via video/telephone

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Doctorate degree diploma
- Master of Theology diploma
- Certificate of Ordainment
- Certificate of Affiliation
- Certificate of Alumni Association membership

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 is no longer the same person he was when he enlisted at the age of 17 years old. He has bettered himself for his family. He is currently having a hard time and feels it is due to his years of service. He would have submitted this request sooner but was not aware that he could. The applicant indicated on his DD Form 149 that post-traumatic stress disorder (PTSD) and other mental health conditions are related to his request.

3. On 7 June 2006, the applicant enlisted in the Regular Army in the rank/grade of private/E-2 for a period of 3 years and 19 weeks. Upon completion of initial entry training, he was assigned to a unit at Fort Bragg, NC.

4. The applicant's duty status was changed from Present for Duty (PDY) to AWOL on 20 February 2007 and from AWOL to PDY on 19 March 2007.

5. On 20 March 2007, the applicant accepted nonjudicial punishment under the provisions of Article 15 of the Uniform Code of Military Justice (UCMJ) for, AWOL from on or about 20 February 2007 through on or about 19 March 2007. His punishment consisted of reduction to private/E-1, forfeiture of \$650 pay per month for 2 months, extra duty for 45 days, and restriction for 45 days.

6. The applicant's duty status changed from PDY to AWOL on 6 April 2007 and from AWOL to PDY on 10 April 2007.

7. On 10 April 2007, the applicant was counseled by his commander regarding:

- being AWOL from 6 April to 10 April 2007
- failing to report
- disobeying a lawful order violating restriction
- lying to a commissioned officer
- recommendation for disciplinary action under the UCMJ
- possible separation from service

8. On 17 April 2007, the applicant was counseled for failing to report on five occasions and violating a direct order from a superior commissioned officer. He was reminded again that behavior of this nature could result in disciplinary action under the UCMJ and or administrative separation from the Army.

9. The applicant's duty status changed from PDY to AWOL on 21 April 2007 and from AWOL to PDY on 24 April 2007. Once again, he was counseled regarding the potential consequences of this behavior.

10. A DD Form 458 (Charge Sheet) shows on 2 May 2007, court-martial charges were preferred against the applicant for violation of the following Articles of the UCMJ:

- Charge I, Article 86:
 - two specifications of being AWOL
 - two specifications of failing to go at the time prescribed to his appointed place of duty
- Charge II, Article 91, one specification of being disrespectful in deportment towards two noncommissioned officers (NCOs)
- Charge III, Article 92, being derelict in the performance of his duties by willfully failing to prepare himself to deploy in support of combat actions in Afghanistan by not attending pre-deployment training and failing to properly account for his military equipment

- Charge IV, Article 107:
 - one specification of making a false official statement to a superior commissioned officer
 - one specification of making a false official statement to an NCO

11. On 10 May 2007, the applicant voluntarily requested discharge under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), Chapter 10, in lieu of trial by court-martial. He consulted with legal counsel and was advised of the basis for the trial by court-martial; the maximum permissible punishment authorized under the UCMJ; the possible effects of a UOTHHC discharge; and the procedures and rights that were available to him. He elected not to submit statements in his own behalf and reiterated his desire not to undergo a separation medical examination. The applicant's immediate commander recommended approval of his request.

12. On 17 May 2007, the applicant's request for separation underwent a legal review. It was noted the applicant's chain of command recommended approval of his request and so did the Acting Staff Judge Advocate.

13. On 17 May 2007, the separation authority approved the applicant's request for discharge in lieu of trial by court-martial, with his service characterized as UOTHHC. The charges forming the basis for this request were thereby withdrawn and dismissed effective the date of separation.

14. Orders and the applicant's DD Form 214 show he was discharged on 11 June 2007, in the grade of E-1, under the provisions of Army Regulation 635-200, Chapter 10, by reason of "In Lieu of Trial by Court-Martial" with Separation Program Designator code "KFS" and Reentry Eligibility code "4." He was credited with completing 10 months and 25 days of net active service this period. He had time lost due to AWOL from 20 February to 18 March 2007, from 6 April to 9 April 2007, and from 21 April to 23 April 2007. He did not complete his first full term of service.

15. The applicant provides the following documents in support of his request which are available in their entirety for the Board's consideration.

- diploma which shows a Doctorate of Theology degree was conferred upon him by the Bible Institute of America Theological Seminary on 12 October 2019
- diploma which shows a Masters of Theology degree was conferred upon him by the Bible Institute of America Theological Seminary on 12 October 2019
- certificate which shows he was ordained as a minister by the Universal Life Church
- certificate which shows he is an affiliate member of Bible Institutes of America, Incorporated

- certificate which shows he is eligible to become an honoree of the Alumni Association established by Bible Institutes of America, Incorporated; Southeastern Global Assembly for Apostolic Order; and the Paulinian International School of Ministry

16. Army Regulation 635-200 states a Chapter 10 is a voluntary discharge request in-lieu of trial by court-martial. In doing so, he would have waived his opportunity to appear before a court-martial and risk a felony conviction. A characterization of UOTHC is authorized and normally considered appropriate.

17. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition. By regulation, an applicant is not entitled to a hearing before the Board. Hearings may be authorized by a panel of the Board or by the Director of the ABCMR.

18. MEDICAL REVIEW:

1. The applicant is applying to the ABCMR requesting an upgrade of his under other than honorable conditions (UOTHC) characterization of service, removal of all references to his absence without leave (AWOL) from his record, and removal of any reference to court-martial proceedings from his record. The applicant also checked 'disability' on DD Form 149. The applicant's request to remove his AWOL and court-martial records are outside of the scope of this Advisory and therefore will not be addressed. He contends he experienced Posttraumatic Stress Disorder (PTSD) and Other Mental Health Issues that mitigates his misconduct. 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 07 June 2006, 2) the applicant received an Article 15 on 20 March 2007 for being absent without leave (AWOL) from 20 February 2007 to 19 March 2007, 3) on 10 April 2007 the applicant was counseled by his commander for being AWOL from 06 to 10 April 2007, failing to report, disobeying a lawful order violating restriction, lying to a commissioned officer, recommendation for disciplinary action under the UCMJ, and possible separation from service, 4) on 17 April 2007, the applicant was counseled for failing to report on five occasions and violating a direct order from a superior commissioned officer, 5) the applicant was AWOL from 21 April 2007 to 24 April 2007, 6) on 02 May 2007, court-martial charges were preferred against the applicant for two specifications of being AWOL, two specifications of failing to go at the time prescribed to his appointed place of duty, one specification of being disrespectful in deportment towards two noncommissioned officers (NCO), being derelict in the performance of his duties by willfully failing to prepare himself to deploy in support of combat actions in Afghanistan by not attending pre-deployment training and failing to properly account for his military equipment, one specification of making a false official statement to a superior commissioned officer, and one specification of making a false official statement

to an NCO. 7) the applicant was discharged on 11 June 2007 under the provisions of army Regulation (AR) 635-200, Chapter 10, by reason of in Lieu of Court-Martial.

2. 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. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

3. In-service medical records were available for review through JLV from 09 June 2006 to 02 May 2007. The applicant sought medical treatment from a non-DoD treatment facility on 14 September 2006 and was diagnosed with 'Chest pain anxiety' after he had taken approximately eight caffeine pills to stay awake. The applicant initiated BH services on 20 March 2007 and his chief complaint was noted as 'being tired [of] the army and under a lot of stress.' The provider documented the applicant reported he went AWOL for 27 days 'because he did not like how the army was.' More specifically, it was documented that the applicant reported his girlfriend was pregnant and due to his being in the military felt he could not be as supportive to her as he would have liked. Additionally, it was documented that before he joined the military he was 'happy and had many friends' though since joining felt alone and sad. It was documented the applicant endorsed drinking a bottle of liquor every day though he denied illicit substance use. At the time of the appointment the applicant endorsed experiencing sleep problems and anhedonia and was diagnosed with Adjustment Disorder. It was documented that the visit was not related to deployment. He was seen the following day, 21 March 2007, due to his girlfriend having an abortion 'last night' and feeling tired of the military. He endorsed feelings of hopelessness, sleep disturbances and anhedonia. The provider documented the applicant was scheduled to deploy in a few weeks and there was no documentation in the note that the applicant had previously deployed. The applicant was evaluated by a Physician's Assistant (PA) on 29 March 2007 for an upper respiratory infection. The reason for visit was noted as 'is not deployment-related.' It was documented that the applicant endorsed experiencing anxiety, depression, sleeping much more than usual, difficulty falling asleep, middle-night awakening, nightmares, anhedonia, social withdrawal, and difficulty functioning at work. The provider screened the applicant for PTSD, which was positive, and referred him to BH for treatment for PTSD. There was no specification of a 'Criterion A' trauma documented in the note which is required for the diagnosis of PTSD. It was documented in the A/P section that this was a 'visit for: military services physical (post-deployment examination).' The applicant was seen for feeling dizzy and stomach pains by a PA on 02 May 2007. It was documented that the applicant reported he had recently learned his best friend growing up was killed and that he was going to reach out to the unit Chaplain for support. The applicant was contacted on 18 June 2007 due to a consult for care that had previously been placed; however, due to his discharge was ineligible for care at the

military treatment facility (MTF). There are not any notes in the applicant's medical record that appear to have been conducted in a deployed setting.

4. The applicant's service records were reviewed. Review of his DD 214 does not show that the applicant deployed to Afghanistan nor served any foreign service tours. A DA Form 4187 dated 23 February 2007 documented his unit's attempts to find the applicant when he was AWOL on the first occasion. It was documented that the unit contacted the county who reported that the applicant was married on 20 February 2007 at the courthouse. A Developmental Counseling documented dated 19 March 2007 documented that the applicant was informed that going AWOL as he was preparing to deploy was in violation of article 85-desertion, and article 86-AWOL. Furthermore, it was documented he was informed he will 'resume his pre-deployment training and will be scheduled for a flight to Afghanistan departing on or about 09 April 2007.' The applicant was subsequently AWOL from 06 to 10 April 2007 and 21 April to 24 April 2007. The counseling statements was prepared by the 1-508th PIR Rear Detachment Commander. His court-martial charges showed the misconduct occurred on or around North Carolina.

5. VA records were available for review in JLV from 14 August 2017 to 25 July 2024. Per review of JLV, the applicant is 0% service-connected through the VA for PTSD for treatment purposes only. The applicant underwent a Compensation and Pension (C&P) examination on 08 August 2023. The examiner diagnosed the applicant with PTSD and Depressive Disorder with Anxious Distress. For both conditions, the examiner specified the etiology as childhood though aggravated by military service. The stressor(s) associated with his diagnosis of PTSD were identified as childhood abuse and bullying related to an injury he experienced in childhood, which the examiner stated was aggravated by combat trauma he experienced in Afghanistan. More specifically, it was documented that the applicant reported that while he was in Bagram his unit was trying to drop off supplies and one of the Humvee's hit an IED resulting in loss of life, to include one person who was close to him. Regarding his diagnosis of Depressive Disorder with Anxious Distress, it was documented that the onset of the condition started prior to the military though was exacerbated by the military, cited as being due to 'being sent to Afghanistan under-trained and under-prepared at age 18.' It was also documented that the applicant reported that everyone in his unit had been deployed in the first wave. Additional details regarding the stressor indicated that some of the aggravation was due to pre-deployment training activities such as jumping out of an airplane despite not having gone to Airborne school and that others in the unit 'took out their PTSD on the younger ones.' For example, by pulling out a gun and asking 'what are you going to do' during what was described as Russian Roulette. It was also documented that the applicant said he thought the 'terror was there [Afghanistan], but the terror started at my unit.' The VA Disability Rating Decision Letter dated 21 November 2022 documented that the applicant provided civilian treatment records from 2021 diagnosing the applicant with Generalized Anxiety Disorder and Depressive Disorder. Of note, there is additional information documented in the C&P examination that is inconsistent with the applicant's military service records available for review. For

example, the provider noted inconsistent dates of service and discharge (e.g., 29 October 2003 to 11 November 2011, June 2006 to June 2007, and discharged in June 2020 and was put out OTH June 2010), his MOS (e.g., EOD instead of supply), and type of chapter separation (e.g., Chapter 15 instead of 10). It is unclear if the error is clerical or due to the applicant's self-report.

6. Regarding his post-military BH treatment history, the applicant initiated BH care through the VA on 14 August 2017 due to increased anxiety, resentment, feeling withdrawn, easily frustrated and difficulty transitioning since his discharge from the military. An intake completed on 18 October 2022 documented that he reported previous BH treatment through the civilian sector for recurrent bouts of depression he has had since childhood and was prescribed Buspirone, Bupropion, and Sertraline. It was documented that his symptoms were exacerbated in-service after his girlfriend reported having an abortion and 'caused him to go AWOL.' It was also documented that the applicant 'states he was never in a combat zone in the military.' The provider documented that the applicant had a history of two suicide attempts, the last occurring in either 2007 or 2008. The provider diagnosed him with MDD recurrent, mild to moderate, PTSD, Alcohol Use Disorder, in Sustained Remission and Probable Borderline Personality Disorder. A psychiatry note dated 16 November 2023 documented the applicant had recurrent bouts of depression and PTSD secondary to childhood abuse though also relates the applicant was endorsing nightmares related to military trauma. His last contact with BH through the VA was on 11 June 2024. Per the note, the applicant endorsed military trauma and cited an IED incident. There were some discrepancies noted between the applicant's military service record and his VA medical record. For example, a consult note dated 16 November 2023 documented that he was discharged in 2010 and that that he had a combat history from 2007-2008, 9 months; however, he was discharged in 2007. Furthermore, the provider documented the applicant's rank as E-5 and demoted to E-4 though his service records reflect the highest rank he achieved as E-3.

7. The applicant is applying to the ABCMR requesting an upgrade of his UOTHC characterization of service. The applicant also checked 'disability' on DD Form 149. In March 2007, he was diagnosed with Adjustment Disorder in-service. There is also documentation that the applicant saw a non-DoD provider in September 2006 and was diagnosed with 'chest pain anxiety.' Of note, this diagnosis of anxiety was likely substance induced and there were no other in-service encounters diagnosing the applicant with anxiety. Although the applicant was also diagnosed with PTSD in March 2007 in-service following a screening by a PA, a diagnosis of PTSD is typically determined by a specialty mental health provider. Moreover, the documentation did not provide adequate information regarding an identified traumatic event, which is required to meet criteria for PTSD. As such, the in-service diagnosis of PTSD by a non-behavioral health provider without adequate documentation of the criteria used to support the diagnosis does not provide sufficient evidence that this condition existed in-

service. Since being discharged from the military, the applicant has been 0% service-connected through the VA for treatment purposes only for PTSD, with onset prior to the military and noted as aggravated by his service, specifically an incident that occurred in Afghanistan. A C&P examiner in 2023 also diagnosed the applicant with Depressive Disorder with anxious distress, with the onset noted as prior to service though aggravated by his service. It was notable that there were discrepancies between the C&P examination, VA treatment records, as well as with his applicant's available service records, most notably to include dates of service and deployment history. An in-service counseling form from March 2007 indicates the applicant went AWOL while conducting pre-deployment training and was scheduled to be on a flight to Afghanistan in April 2007, though later documented he went AWOL at or around North Carolina on two other occasions in April 2007. The VA C&P examiner asserted the applicant's diagnosis of PTSD was aggravated by his exposure to combat; however, there is no documentation in the applicant's available service record indicating that he deployed during his time in the military.

8. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant was diagnosed with Adjustment Disorder and PTSD in-service. The applicant is 0% service-connected for treatment purposes only through the VA for PTSD and was also diagnosed with Major Depressive Disorder, Recurrent with Anxious Distress that was noted to be aggravated by his service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant was diagnosed with Adjustment Disorder and PTSD in-service. The applicant is 0% service-connected for treatment purposes only through the VA for PTSD and was also diagnosed with Major Depressive Disorder, Recurrent with Anxious Distress that was noted to be aggravated by his service.

(3) Does the condition experience actually excuse or mitigate the discharge? Partially. The applicant's in-service treatment records demonstrate he was diagnosed with Adjustment Disorder. He screened positive for PTSD during an in-service medical appointment; however, as the diagnosis was rendered by a non-mental health provider, it is unclear whether the applicant met criteria for PTSD. Despite this, it is of note that the symptoms associated with that visit are related to both PTSD and depression with anxious distress (i.e., anxiety, depression, insomnia, nightmares, anhedonia, social withdrawal, and difficulty functioning at work). Since his discharge, the applicant has been 0% service-connected for treatment purposes only through the VA for PTSD and was also diagnosed with Depressive Disorder with Anxious Distress. The provider attributed aggravation of these conditions to military service, with the aggravation of PTSD being specifically due to deployment to Afghanistan. There are notable discrepancies throughout the applicant's VA medical record and VA C&P examinations

that do not align within themselves nor with the applicant's service record which decreases the confidence of the reliability of the available information. Most notably, there is a lack of evidence that the applicant deployed. As such, a nexus cannot be established between his SC diagnosis of PTSD and the conduct that led to his discharge at this time due to inconsistencies noted throughout the record and without evidence of the event associated with service aggravation (e.g., deployment).

9. However, the VA C&P examiner also diagnosed the applicant with Depressive Disorder with Anxious Distress and noted that some of the service aggravation was due to some of his pre-deployment training. There is documentation in the applicant's service record to suggest he had been engaged in pre-deployment training activities. Moreover, the symptoms that were documented in the applicant's service record are consistent with his post-service diagnosis of Depressive Disorder with Anxious Distress. In keeping with Liberal Guidance Guidelines, pre-existing conditions which are aggravated by military service may be considered as potentially mitigating conditions. More specifically, as there is an association between Depressive Disorder with Anxious Distress and AWOL, failure to report, disrespect, dereliction of duty, avoidance and occupational impairment, BH mitigation would be supported for these instances of misconduct. However, making false statements is not consistent with the natural history and sequelae of Depressive Disorder this condition does not interfere with one's ability to distinguish between right and wrong and act in accordance with the right. As such, BH mitigation would not be supported for these instances of misconduct. Thus, BH mitigation is partially supported. Regarding disability, there is no evidence in the applicant's record that he had a BH condition that fell below retention standards while in-service, and, as such, a referral to IDES is unwarranted.

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 Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition, available military records and medical review, the Board considered the advising official opine recommendation that found behavioral health mitigation is partially supported. However, the Board concurred with the opine regarding disability, finding there is no evidence in the applicant's record that he had a BH condition that fell below retention standards while in-service, and, as such, a referral to IDES is unwarranted.

2. The Board notwithstanding the opine's partial mitigation, determined there is insufficient evidence of in-service mitigating to overcome the pattern of misconduct. The

Board, based on the opine found a nexus cannot be established between his SC diagnosis of PTSD and the conduct that led to his discharge at this time due to inconsistencies noted throughout the record and without evidence of the event associated with service aggravation. The Board noted that removal of all references to his absence without leave (AWOL) from his record is generally not warranted unless it is factually incorrect. The applicant's service record exhibits numerous instances of misconduct during his enlistment period for 10 months and 25 days of net active service this period. He had time lost due to being AWOL on three separate occasions.

3. The Board found insufficient evidence to support the applicant's contentions for removal of any reference to court-martial proceedings from his record. The Board noted there is no evidence that the court martial proceedings are in error or unjust. However, the Board applauds the applicant's post service accomplishments of receiving his doctorate degree and other higher level educational achievements to include how he has turned his life around since being discharge. The Board noted the applicant provided no character letters of support for the Board to weigh a clemency determination. Furthermore, the Board agreed the applicant has not demonstrated by a preponderance of evidence an error or injustice warranting the requested relief, specifically an upgrade of the under other than honorable conditions (UOTHC) discharge to an honorable discharge. Therefore, the Board denied relief.

4. 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.

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 three 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 three-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. 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 regulation provides that 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. 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.

4. Army Regulation 635-200, in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 stated a member who committed an offense or offenses for which the authorized punishment included a punitive discharge could, at any time after the charges have been preferred, submit a request for discharge for the good of the service in lieu of trial by court-martial. Although an honorable or general discharge was authorized, a discharge under other than honorable conditions was normally considered appropriate. At the time of the applicant's separation the regulation provided for the issuance of an UOTHC discharge.

b. 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. 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.

d. When a Soldier was to be discharged UOTHC, the separation authority would direct an immediate reduction to the lowest enlisted grade.

5. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC 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.

6. 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 DRBs and BCM/NRs 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.

7. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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 on the basis of 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.

//NOTHING FOLLOWS//