

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 July 2025

DOCKET NUMBER: AR20240000053

APPLICANT REQUESTS:

- an upgrade of his general, under honorable conditions discharge to honorable
- a video and/or telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Medical Records
- Department of Veterans Affairs (VA) Rating Decision dated 16 April 2012
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 in effect, that he is requesting an upgrade of his general, under honorable conditions discharge to honorable. He believes he suffered from undiagnosed post-traumatic stress disorder (PTSD) during his service. The proper treatment, guidance, and medication would have allowed him to continue serving in the Army. He is now receiving treatment for his PTSD through his local VA Clinic.

3. The applicant provides:

a. His medical records pertaining to his diagnosis and collaborative treatment plan dated 31 August 2023 with a list of medications.

b. The VA Rating Decision dated 16 April 2012, shows in part, the applicant's service-connected disabilities for PTSD at a rating of 30 percent.

4. The applicant's service record shows:

- a. He enlisted in the Regular Army on 4 November 2004.
- b. A DD Form 458 (Charge Sheet), dated 3 May 2016, shows court-martial charges were preferred on the applicant for one specification of being absent without leave (AWOL) from on or about 18 June 2007 and one specification of desertion from on or about 18 July 2007. The through dates of either charge were not included.
- c. A DD Form 616 (Report of Return of Absentee), shows the applicant was apprehended and returned to military control on 27 December 2007 in Fort Myers, FL.
- d. A DD Form 2329 (Record of Trial by Summary Court Martial) shows in part, on 15 February 2008, a Summary Court-Martial convened, the applicant was found guilty of being AWOL from on or about 18 June 2007 and did remain so absent until on or about 8 January 2008. The court sentenced him to reduction to the grade of private/E-1, forfeiture of \$898.00 for one month, and confinement for 29 days.
- e. On 15 February 2008, the convening authority approved the sentence and ordered it executed.
- f. On 8 April 2008, the applicant underwent a mental evaluation. The Mental Status Evaluation shows there was no psychiatric disease or defect, which warrants deposition through medical channels. The applicant denied suicidal, homicidal, or psychotic disease ideation at this time. The applicant was cleared for any administrative action deemed appropriate by the command.
- g. On 15 April 2008, the applicant's immediate commander notified the applicant of his intent to initiate separation action against him under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c, for commission of a serious offense. The reason for his proposed action was the applicant's conviction in the Summary Court-Martial on 15 February 2008 for absence without leave from 18 June 2007 to 8 January 2008. The applicant acknowledged receipt on the same day.
- h. After declining consultation with legal counsel, he acknowledged:
  - the rights available to him and the effects of waiving said rights
  - he may encounter substantial prejudice in civilian life if a general discharge under honorable conditions was issued to him
  - he may apply to the Army Discharge Review Board or the ABCMR for upgrading

- he will not be eligible to apply for enlistment in the U.S. Army for a period of two years after discharge
- he elected not to submit statements on his own behalf

i. On 15 April 2008, the applicant's immediate commander-initiated separation action against the applicant under chapter 14-12c of AR 635-200 for commission of a serious offense. He recommended a general, under honorable conditions discharge. The intermediate commander recommended approval.

j. On 17 April 2008, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for separation under the provision of AR 635-200, Chapter 14, paragraph 14-12c. He would be issued a general, under honorable conditions discharge.

k. On 25 April 2008, he was discharged from active duty with a general, under honorable conditions discharge. His DD Form 214 shows he completed 2 years, 11 months, and 2 days of active service with 204 days of lost time. He was assigned separation code JKD and the narrative reason for separation is listed as "Misconduct (AWOL)" with reentry code 3. It also shows he was awarded or authorized the:

- National Defense Service Medal
- Global War on Terrorism Service Medal
- Army Service Ribbon

5. On 27 July 2012, the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

6. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

7. By regulation (AR 635-200), action will be taken to separate a Soldier for misconduct, such as commission of a serious offense, when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed. An absentee returned to military control from a status of absent without leave or desertion may be separated for commission of a serious offense.

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

## 9. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under other honorable conditions characterization of service. He contends he experienced Posttraumatic Stress Disorder (PTSD) 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 04 November 2004, 2) a Summary Court-Martial convened on 15 February 2008 and the applicant was found guilty of being absent without leave (AWOL) on or about 18 June 2007 until on or about 08 January 2008, 3) the applicant underwent a Mental Status Evaluation on 08 April 2008 and was psychiatrically cleared for administrative action deemed appropriate by his command, 4) the applicant's commander notified him of his intent to initiate separation on 15 April 2008 due to the applicant's conviction via Summary Court-Martial on 15 February 2008 for being AWOL, 5) the applicant was discharged on 17 April 2008 under the provisions of Army Regulation (AR) 635-200, Chapter 14, paragraph 14-12c, 6) the Army Discharge Review Board (ARDB) reviewed the applicant's discharge processing on 27 July 2012 and determined it was proper and equitable and relief was denied.

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 applicant's military service treatment record was partially available for review in JLV. 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.

c. The applicant underwent an in-service Mental Status Evaluation on 08 April 2008 as part of his Chapter 14 administrative separation. The provider determined that the applicant had the mental capacity to participate in proceedings, was mentally responsible, and met retention standards in accordance with (IAW) AR 40-501, chapter 3. The applicant was diagnosed with occupational problem at the time of the evaluation and was cleared for administrative proceedings deemed appropriate by his command. In-service treatment records were available for review in JLV from 09 February 2007 through 08 April 2008. The applicant was seen as a walk-in at the Darnall Army Community Hospital (ACH) Counsel Center Psychology Clinic on 27 April 2007 as a safety check following discharge from the Metroplex Hospital. It was noted that the applicant had attempted suicide via overdose following failure of a romantic relationship and had one previous deployment to Iraq. At the time of the visit he was diagnosed with Adjustment Disorder with Anxiety and Depressed Mood and was psychiatrically hospitalized for one week as he expressed active suicidal ideation and was unable to ensure his own safety. A mental health note dated 29 May 2007 documented that the applicant was prescribed Prozac (20mg) for mood, Trazodone (100mg) for sleep, and Clonazepam (0.5mg) for anxiety. It was also documented that the applicant had been left behind from the field and told the provider he wanted out of the Army.

The applicant was evaluated on 09 January 2008 following his return from being AWOL. The provider documented that Chapter 5-17 was recommended and he was diagnosed with Adjustment Disorder with Anxiety and Depressed Mood. The provider documented that the 'root of the Soldier's desertion was his inability to manage post deployment stressors' which included relationship problems and loss of motivation to remain in the Army. Furthermore, it was documented that the applicant did not meet criteria for PTSD or TBI from his deployment and that a Chapter 5-17 was appropriate.

d. Review of the applicant's service record demonstrates he received an Army Commendation Medal for meritorious service while deployed in support of Operation Iraqi Freedom (29 November 2005 to 15 November 2006). He was awarded the Driver and Mechanic Badge for service from 25 November 2005 to 01 July 2006 while the applicant was deployed to Iraq. The applicant also received a Certificate of Achievement for service during a counter-insurgency operation from 22 July 2006 to 28 July 2006.

e. Per review of JLV, the applicant is 70% service connected through the VA for PTSD. He is also service connected for several physical health conditions. VA records were available for review in JLV from 29 September 2010 through 07 May 2024. He appeared to initiate BH treatment through the VA on 05 October 2010 noting that he was having trouble controlling himself when angry, physical fights, and feeling stressed. He was diagnosed with PTSD, Chronic at the time of the visit. His BH treatment through the VA has primarily focused on treatment of PTSD and Polysubstance Use and has continued to undergo BH treatment through the VA for these conditions. The applicant underwent a re-evaluation for his service-connected PTSD on 11 January 2024, to which his diagnosis of PTSD was reaffirmed. The index trauma(s) were not specifically identified in the DBQ but noted that the applicant was deployed to a combat zone and was 'exposed to multiple traumatic events.' It was also documented that the applicant has a medical diagnosis of Traumatic Brain Injury. The initial DBQ was unavailable for review.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence that the applicant had a condition or experience while in service that mitigates his misconduct. The applicant was diagnosed with Adjustment Disorder with Anxiety and Depressed Mood and psychiatrically hospitalized while in-service due to a suicide attempt via overdose the year after he returned from Iraq and prior to going AWOL. There is no evidence in the record that the applicant had any misconduct prior to this event. Subsequent to his discharge, the applicant was diagnosed with PTSD and is 70% service-connected through the VA for this condition.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant is 70% service connected through the VA for PTSD.

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

(3) Does the condition experience actually excuse or mitigate the discharge? Yes. The applicant is 70% service-connected through the VA for PTSD. In-service treatment records demonstrate the applicant was diagnosed with Adjustment Disorder with Depressed Mood and Anxiety and was psychiatrically hospitalized via a suicide attempt the year after he returned from his deployment to Iraq and prior to going AWOL. There is no evidence of misconduct prior to this event. Avoidance behaviors are part of the natural sequelae among anxiety-based conditions and PTSD, of which AWOL is constituted as an avoidance behavior. Given the association between and avoidance and AWOL, there is a nexus between the behaviors that led to his discharge and his diagnosis of PTSD. As such, BH medical mitigation is supported.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was 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 the medical review, the Board considered the advising official finding sufficient evidence that the applicant had a condition or experience while in service that mitigates his misconduct. The opine noted, the applicant was diagnosed with PTSD and is 70% service-connected through the VA for this condition.

2. The Board notwithstanding the advising official finding the applicant's avoidance behaviors as part of the natural sequelae among anxiety-based conditions and PTSD, of which AWOL is constituted as an avoidance behavior. The Board determined the applicant provided no post service achievements or character letters of support for the Board to weigh a clemency determination. The Board found there is insufficient evidence of in-service mitigating factors to overcome the egregious misconduct of being AWOL for 204 days, desertion and conviction by civilian authorities. The Board recognize the applicant was discharged for commission of a serious offense and was provided an under honorable conditions (General) characterization of service. Furthermore, the Board agreed that the applicant's current discharge characterization is

warranted as he brought discredit on the Army and was prejudicial to good order and discipline and did not meet the standards of acceptable conduct and performance of duty for Army personnel to receive an Honorable discharge.

3. However, the Board during deliberation found the applicant's DD Form 214 was absent his foreign service, Army Commendation Medal for meritorious service in support of Operation Iraqi Freedom and his Combat Infantryman Badge. Based on this, the Board granted partial relief to correct his DD Form 214.

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 the applicant's DD Form 214 for the period ending 25 April 2008 to show in:

- Item 12f (Foreign Service) 00 years, 11 months and 18 days
- Item 13 (Decorations, Medals, Badge, Citations and Campaign Ribbons Awards or Authorizes):
  - Army Commendation Medal
  - Combat Infantryman Badge
  - Driver and Mechanic Badge w/ Driver (W) Bar
  - Driver and Mechanic Badge w/ Driver (T) Bar
- Item 18 (Remarks) SERVICE IN IRAQI (OPERATION IRAQI FREEDOM) FROM 20051129 UNTIL 20061115

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 an upgrade of the applicant's general, under honorable conditions discharge to honorable.



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 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 begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

3. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the soldier'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.

c. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct, such as commission of a serious offense, when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed. An absentee returned to military control from a status of absent without leave or desertion may be separated for commission of a serious offense.

4. 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 post-traumatic stress disorder (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.

5. 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, on 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.

6. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

7. Section 1556 of Title 10, United States Code, 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.

//NOTHING FOLLOWS//