

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 September 2024

DOCKET NUMBER: AR20240000170

APPLICANT REQUESTS:

- an upgrade of his character of service from under other than honorable conditions (UOTHC) to, in effect, general under honorable conditions or to fully honorable
- an opportunity to appear before the Board by video or telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Certificate of Live Birth
- General Order 1631, Headquarters 173rd Airborne Brigade
- Psychiatric Report, MD DLR, Washington, DC
- Mental Status Evaluation, DC Department of Human Services
- Rating Examination, Department of Veterans Affairs (VA) Medical Center
- Applicant's Letter to the Secretary of Veterans Affairs
- VA Rating Decision Review
- DOD Military Service Information
- VA Letter

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 1986, while on leave from the Army in Prince George County, MD, he was incarcerated for a crime that he did not commit. The Judge had him evaluated and he was diagnosed to suffered from extreme post-traumatic stress disorder (PTSD) that was combat related. The judge ordered the Sheriff's Deputy to take him to Fort Dix, NJ, where he was discharged, and brought back to the Upper Marlboro Jail. He had not been to [civil] trial yet. The Army officer led him to believe he would receive a general discharge and it would be sent to his home address. He signed the paperwork, and was taken back to jail, he would not have signed it had he known he

would receive an UOTHC discharge. When he went to trial in Upper Marlboro, MD, the charges were dropped, and he never received his discharge papers. On 14 November 2023, he found out he was issued an UOTHC discharge. He does not have a criminal record in Maryland. He does not understand how he could have an UOTHC discharge without a court-martial. He believes his rights may have been violated by both the Army and Maryland State. He annotated his application to show he has a disability; he suffers from PTSD.

3. Prior to the period of service under review the applicant served honorably in the Regular Army (RA) from 13 December 1967 to 4 November 1970.

a. He was issued a DD Form 214 for this period of service that shows he held military occupational specialty (MOS) 91A (Medical Specialist). He served in Vietnam from 11 July 1968 to 10 July 1969.

b. His awards are listed as the National Defense Service Medal, Republic of Vietnam Campaign Medal with 1960 Device, Vietnam Service Medal, Sharpshooter Marksmanship Qualification Badge with Rifle Bar, Two Overseas Service Bars, Army Commendation Medal with (1st Oak Leaf Cluster), Parachutist Badge, and Bronze Star Medal with "V" Device. During this period of service.

c. He also had 108 days of lost time due to being absent without leave (AWOL) and in confinement.

4. On 25 April 1984, the applicant enlisted in the RA for 3 years, in the rank of private first class (PFC)/E-3, which is the highest rank he held during this period of service. He completed initial entry training, and he was awarded MOS 91A, and he was assigned to Fort Benning, GA for completion of basic airborne training.

5. On 28 September 1984, he was in a casual leave status enroute to Fort Bragg, NC. On 12 October 1984, he went into an AWOL status when he failed to report. On 11 November 1984, he was dropped from Army rolls and was carried in a desertion status. On 11 February 1986, he was apprehended by civilian authorities in Upper Marlboro, MD, and he was returned to military control at the United States Army Personnel Control Facility (USAPCF), Fort Dix, NJ.

6. A PCF Information Sheet, dated 17 October 1986, shows the applicant declined a physical examination and he acknowledged he had been counseled regarding the waiver of a physical, which was not required, and he understand that by waiving the physical he may be ineligible later for medical claim[s] against the US Government. He also acknowledged that he did not want to stay in the service.

7. A DD Form 458 (Charge Sheet), dated 17 October 1986, shows he was charged with being AWOL from Fort Benning, GA, from 12 October 1984 to 11 February 1986.

8. On 17 October 1986, after consulting with counsel, the applicant voluntarily requested discharge for the good of the service under the provisions of AR 635-200, chapter 10. He acknowledged:

a. He understood the charges preferred against him authorized the imposition of a bad conduct or dishonorable discharge. He acknowledged he was making this request of his own free will and he had not been subjected to any coercion whatsoever by any person. He had been advised of the implications that were attached to it. By submitting this request for discharge, he acknowledged that he understood the elements of the offense(s) charged and he was guilty of the charge(s) against him or of lesser included offense(s) therein which also authorized the imposition of a bad conduct or dishonorable discharge. He stated that under no circumstances did he desire further rehabilitation, and he had no desire to perform further military service.

b. He had been afforded the opportunity to consult with counsel who had fully advised him of his rights under the Uniform Code of Military Justice (UCMJ), (the elements of the offense(s) with which he was charged, and the maximum permissible punishment if found guilty.

c. He understood he could be furnished an Under Other Than Honorable Conditions Discharge Certificate. He had been advised and understand the possible effects of an UOTHC discharge and that, as a result of the issuance of such a discharge, he would be deprived of many or all Army benefits, that he may be ineligible for many or all benefits administered by the VA, and that he may be deprived of his rights and benefits as a veteran under both Federal and State laws. He acknowledged he understand he may expect to encounter substantial prejudice in civilian life because of an UOTHC Discharge. He understood that there was no automatic upgrading nor review by any Government agency of a less than honorable discharge and that he must apply to the Army Discharge Review Board or the ABCMR, if he wished a review of his discharge. He realized that the act of consideration by either board did not imply that his discharge would be upgraded.

9. On 17 October 1986, the applicant indicated in a statement that he went AWOL because his son was having some difficulties, he went on leave and requested an extension, which was granted, he requested more leave, and he was denied. His son was still having problems and his father was dying of cancer. His father passed away on 13 December 1985.

10. On 23 October 1986, the Commander, Company A, US Army PCF, Fort Dix, NJ, recommended approval of the applicant's request with the issuance of an UOTHC discharge.

11. On 8 December 1986, the appropriate authority approved his request for discharge under the provisions of Army Regulations (AR) 635-200, chapter 10, for the good of the service, in lieu of trial by court-martial and directed the issuance of an Under Other Than Honorable Conditions Discharge Certificate.

12. Accordingly, on 28 January 1987, he was discharged in pay grade E-1. The DD Form 214 he was issued shows he completed 1 year, 5 months, and 1 day of net active service this period. His awards are listed as the Army Service Ribbon, and Marksman Marksmanship Qualification Badge (M-16) Rifle. His DD Form 214 also shows in:

- Character of Service, "Under Other Than Honorable Conditions"
- Separation Authority, "AR 635-200, Chapter 10"
- Narrative Reason for Separation, "For the Good of the Service - In-Lieu of Court-Martial"
- Dates of Time Lost During This Period, "84/10/12 to 86/02/10"

13. The applicant's provided the following documents in support of his request:

a. Psychiatric Report, from MD DLR, Washington, DC, dated 24 March 1988 stating the applicant was an airborne combat medic in Vietnam from 1968 to 1969 and he was honorably discharged. He developed headaches, amnesic spells, nervousness, and became an alcoholic, he also abused heroin following his discharge from the military. He had a heavy use of alcohol in which he would drink more than one-fifth of whiskey per day and developed seizures and trembling as a result but denied having delirium tremens. He denied being addicted to heroin but used it along with free base cocaine for a number of years.

(1) As a result of his symptoms and substance abuse, he developed violent spells under the influence of alcohol and was jailed several times but was found innocent of the charges each time. Most recently, however, he spent 10 months in jail after attempting to shoot his wife. He claims he has no memory of any of these outbreaks of violence. He spent one month in Suburban Hospital in Bethesda, MD, in an alcoholic rehabilitation program in 1986. He reenlisted in the Army in 1983 and was discharged finally in 1987, after he went AWOL when he was intoxicated with alcohol and assaulted a sergeant. He was highly decorated during his Vietnam service; he has a Bronze Star Medal for valor.

(2) His previous civilian violent episodes were in the form of attacking police officers in 1974 and 1980. He states that he stopped drinking alcohol in 1986 but relapsed in 1987 and had not had anything to drink since December 1987. He also denied using any other drugs currently.

(3) He was attending an outpatient clinic at the VA Hospital and was placed on 150 milligrams of Elavil in January 1988. He felt he had improved somewhat with the treatment that made him less nervous. He would like to have psychotherapy, particularly with a psychologist, Dr. W, whom he saw at Suburban Hospital a year ago.

(4) A Mental Status Examination revealed a hyper alert and well-oriented man who wore dark glasses in the interview. He seemed somewhat guarded and on alert. His affect seemed somewhat strange and there was an underlying mood of paranoid hostility. He had a strange laugh on a number of occasions, particularly when he said he uses his body as a weapon. His speech was generally relevant, logical, and coherent without loose associations. His thinking revealed paranoid trends but not any clear, paranoid delusions. He felt generally that people are against him and that institutions do not wish to help him. He described having some perceptual distortions in the form of flashes of silver objects in front of his eyes, but he denied having any in the exam.

(5) He appeared to have a history of alcohol dependence, (DSM III - 303.93) currently in remission, as well as a history of opioid abuse, (DSM III -- 305. SO). In addition, he may have an underlying psychotic condition, which could be described as an atypical psychosis (DSM III -- 298.9). He had an underlying paranoid personality (DSM III -- 301). He probably also had the so-called post-Vietnam traumatic stress syndrome.

(6) A prognosis for a return to regular employment was guarded because of his long history of inability to maintain employment for any length of time, although he had recently been able to stop using alcohol for several months. This could be a favorable sign for the future, although it was not clear that he had been free of drugs, and alcohol for a long enough period of time to assure that he could work without a relapse. He was currently beginning to have some psychiatric treatment which had some positive effect. He was capable of managing his own funds.

b. A Mental Status Evaluation, from the DC Department of Human Services, Doctor RIW, dated 1 April 1988, stating the applicant was referred to him for evaluation by his attorney, in connection with criminal charges in Prince George's County, MD, in June 1986. He was seen for evaluation over several weeks while detained. The diagnosis at completion of the evaluation was 309.81 PTSD, Chronic with depressive features and alcohol dependence.

c. VA Rating Decision Review, dated 27 October 2005, showing he was evaluated for PTSD, which was currently 70 percent disabling, increased to 100 percent effective 9 July 2004.

d. He also provided other documents that were created after his period of enlistment, dated between 1991 and 2023. His submissions were provided to the Board in their entirety.

14. AR 15-185 (ABCMR), provides that an applicant is not entitled to a telephone or video appearance before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

15. AR 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. An UOTHC discharge is authorized and normally considered appropriate; however, a member may be awarded an honorable or general discharge, if during the current enlistment period of obligated service, he has been awarded a personal decoration or if warranted by the particular circumstances of a specific case.

16. Clemency guidance to the Boards for Correction of Military/Navy Records (BCM/NR) does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority to ensure each case will be assessed on its own merits. In determining whether to grant relief 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. This includes consideration of changes in policy, whereby a service member under the same circumstances today would reasonably be expected to receive a more favorable outcome.

17. MEDICAL REVIEW:

1. The applicant is applying to the ABCMR requesting an upgrade of his under other than honorable conditions (UOTHC) characterization of service. On his DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD) is related to his request. The applicant asserts that he was evaluated in-service while incarcerated for a crime he said he did not commit and was diagnosed with PTSD due to combat. He also marked 'disability' and 'discharge/separation' as the categories related to his request. 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 served honorably in the Regular Army (RA) from 13 December 1967 to 04 November 1970 as a 91A (Medical Specialist). His DD Form 214 shows he served in Vietnam from 11 July

1968 to 10 July 1969 and received numerous Medals during this period of service to include a Bronze Star with "V" Device. He also had 108 days of lost time due to being absent without leave (AWOL) and in confinement, 2) he enlisted in the RA again on 25 April 1984, 3) the applicant was charged with being AWOL from 12 October 1984 to 11 February 1986. A statement submitted by the applicant signed 17 October 1986 indicated the applicant stated he went AWOL due to his son having difficulties. He was on leave and requested an extension which was granted at that time. He said he needed more time because his father was dying of cancer and his son was still having problems. He said he asked for more leave but was denied. 4) the applicant was discharged on 28 January 1987 under the provisions of Army Regulation (AR) 635-200, Chapter 10, for the good of the service 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. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. The medical records provided by the applicant were outlined in detail in the ROP. As such, a brief overview will be provided below. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

3. A Forensic Diagnostic Evaluation report dated 18 July 1986 conducted by a Licensed Clinical Social Worker (LCSW) was provided as part of the applicant's application. He was referred for the evaluation by his attorney in connection with a nine-count indictment charging him with a variety of crimes. The evaluator documented there was evidence of alcohol dependence and withdrawal. He also noted symptoms of PTSD including re-experiencing (i.e., flashbacks), arousal (i.e., hypervigilance, irritability, and rage attacks), and negative alterations in cognition and mood (i.e., cognitive disruption) and avoidance (noted alcohol use was a method to 'anesthetize himself from the painful and intrusive memories of brutal and atrocious combat experiences as a front-line combat medic for over a year while serving in Vietnam'). The applicant was diagnosed with chronic PTSD with depressive features (rule out Schizophrenic Disorder) and chronic alcohol dependence. It was noted that the applicant was a 'seriously maladjusted man who is in need of extensive psychiatric and alcohol abuse treatment to help him overcome the long-term deficits he has experienced as a result of his combat exposure.' The evaluator opined that, based on the evaluation, that the applicant had been suffering from PTSD for over 16 years and that his behavior had become more 'erratic and destructive' and that without treatment he would continue to decompensate. It was recommended that he attend structured treatment and rehabilitation for alcohol dependence and PTSD, and specifically recommended an inpatient treatment program for alcohol rehabilitation that included inpatient treatment followed by six months of intensive after-care treatment. Intensive psychiatric treatment was also recommended for treatment of PTSD and noted that extensive treatment will be required and that a 'quick recovery is unlikely.' The applicant provided a letter dated 01 April 1988 by the

provider noted above who evaluated the applicant while he was incarcerated in June 1986. The provider noted that his report and findings were accepted by the court and the applicant was referred to the Suburban Hospital Addiction and Alcohol Treatment Unit for inpatient treatment on 22 October 1986 and was discharged on 18 November 1986.

4. Review of JLV shows the applicant is 100% service-connected through the VA for PTSD. He is also service-connected for numerous medical conditions. A Department of Veterans Affairs Decision letter dated 27 October 2005 shows the applicant is estranged from most of his family and had not worked since 2000. The letter further noted that the applicant's PTSD symptoms were ongoing and caused severe impairment in all areas (e.g., work, family, judgment, thinking and mood). The applicant underwent six BH Compensation and Pension (C&P) evaluations through the VA dated May 1988, 26 October 1989, 09 October 1991, November 28, 2000, December 11, 2001, and September 13, 2004. A disability evaluation dated 24 March 1988 documented the applicant was evaluated for PTSD. It was noted that the applicant reported a history of heavy alcohol use and also used substances (heroin and cocaine) though denied addiction [*Advisor's Note*: the entity conducting the evaluation is not noted on the documentation provided by the applicant though the provider is an M.D., and the type of claim is documented as Disability]. He also endorsed a history of violent episodes while under the influence of alcohol though indicated he was found innocent of the charges with the exception of one when he spent ten months in jail after attempting to shoot his wife. The applicant reported he had no recollection of the violent episodes. The applicant endorsed symptoms of anxiety, flashbacks, headaches, insomnia, paranoia, hypervigilance, increased temper, and difficulty concentrating. It was noted that he was receiving outpatient treatment through the VA and had been prescribed Elavil since January 1988 which somewhat helped with his symptoms, and he indicated that he was interested in engaging in psychotherapy. It was noted that the applicant also held many jobs and often got restless and would quit. The provider noted the applicant had a history of alcohol dependence, in remission and a history of opioid abuse. The provider also noted he may have an underlying psychotic condition, an underlying paranoid personality, and that he probably had post-Vietnam traumatic stress syndrome. The prognosis for returning to work was documented as guarded. A VA C&P examination dated 06 May 1988 documented the applicant's diagnoses as Alcohol Dependency and Substance Dependence such as Heroin and Cocaine, and Personality Disorder Mixed. The C&P evaluation dated 09 October 1991 documented the applicant's diagnosis as PTSD related to combat and noted his symptoms and diagnosis were related to his service in Vietnam. At the time of his 28 November 2000 C&P evaluation, he was diagnosed with PTSD, chronic and severe, alcoholism in remission since September 2000, Cocaine Dependent in remission since 2000, and Personality Disorder, Cluster B. At the time of his December 11, 2001, C&P examination, it was documented that the applicant reported he was subject to sniper fire and booby traps while serving in Vietnam and that he saw many wounded or killed, to

include one of his friends, and worked on many men as a combat medic. It was noted he had previously completed a PTSD program as well as CAT 5 (substance use) and homeless program. The applicant's diagnosis of PTSD, Chronic, Severe was reaffirmed. It was noted that he also had a history of suicidal and homicidal ideation. At the time of his C&P evaluation on 15 September 2004, the applicant was diagnosed with PTSD, Chronic and Severe, Alcohol and Cocaine Dependence, in Full remission. The provider noted his symptoms were the direct result of his combat experiences in Vietnam. BH treatment through the VA was initiated on 11 September 2000 following a referral from the emergency room (ER) due to suicidal and homicidal ideation in the context of alcohol and cocaine use. He was admitted to the hospital at that time. The applicant has been engaged in BH treatment through the VA on-and-off since initiating treatment with his last BH encounter was a psychiatric pharmacy note dated 06 September 2024 noting he had not been seen for some time (per records since 2022) though continued to experience nightmares. His prescription of Prazosin (nightmares) was increased with a plan to continue Trazodone (sleep) and Sertraline (antidepressant).

5. The applicant is applying to the ABCMR requesting an upgrade of his UOTHC characterization of service. On his DD Form 149, the applicant indicated PTSD is related to his request. There were no military health records available for review. A Forensic evaluation conducted by a civilian provider in 1986 while the applicant was incarcerated while in-service shows that he was diagnosed with PTSD due to his previous combat experience in Vietnam and was also diagnosed with Alcohol Dependence. The provider recommended intensive treatment for both PTSD and alcohol dependence at the time of the evaluation and a letter from 1988 documented that the applicant underwent inpatient treatment in 1986 for alcohol use. Post-discharge, the applicant has been diagnosed and 100% service-connected through the VA for PTSD.

6. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, records show the applicant was diagnosed with PTSD while he was in the military by a civilian evaluator and has been 100% service-connected for PTSD through the VA.

(2) Did the condition exist or experience occur during military service? Yes, records show the applicant was diagnosed with PTSD while he was in the military by a civilian evaluator and has been 100% service-connected for PTSD through the VA.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. There were not any military medical records available for review. However, a civilian forensic evaluation conducted while the applicant was still in-service shows that he was diagnosed with PTSD and Alcohol Dependence. Since being discharged from the

military, the applicant has been diagnosed and 100% service-connected through the VA with PTSD. As there is an association between avoidance behaviors and going AWOL, there is a nexus between the applicant's diagnosis of PTSD and his misconduct of going AWOL. As such, BH mitigation is supported.

Regarding disability, it is of note that 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. Specific to this applicant, while there were no military medical records available for review, there is documentation available showing the applicant underwent a civilian forensic evaluation while in-service which documented that he met criteria for PTSD and Alcohol Dependence. Furthermore, the provider opined that the applicant had been suffering from the condition for 16 years and documented that the applicant would require intensive treatment for both conditions in order to prevent further decompensation. Given the documented severity of his symptoms and recommendation for inpatient and intensive treatment of PTSD and Alcohol Dependence at the time of the forensic evaluation while in-service, as well as his well-documented history of PTSD with associated impairment in social and occupational functioning following his discharge from the military, it is recommended that the applicant's case be referred to IDES for further processing.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. One potential outcome discussed was to grant relief based upon the misconduct involved and the mitigation found in the medical review. However, based upon the short term of service completed within the applicant's last term of service and the lengthy AWOL offense, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

The board noted the findings and recommendations in the medical review related to referring the applicant's record to the IDES system for further evaluation, and based upon that recommendation, the Board determined in the interest of justice, referring the applicant's record to IDES was appropriate.

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 that the evidence presented was 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 directing the applicant be entered into the Disability Evaluation System (DES) and a Medical Evaluation Board (MEB) convened to determine whether the applicant's condition(s), to include PTSD and Alcohol Dependence, met medical retention standards at the time of service separation.

a. In the event that a formal physical evaluation board (PEB) becomes necessary, the individual concerned will be issued invitational travel orders to prepare for and participate in consideration of their case by a formal PEB. All required reviews and approvals will be made subsequent to completion of the formal PEB.

b. Should a determination be made that the applicant should have been separated or retired under the DES, these proceedings will serve as the authority to void their administrative separation and to issue them the appropriate separation retroactive to their original separation date, with entitlement to all back pay and allowances and/or retired pay, less any entitlements already received.

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 upgrading the characterization of his discharge.

[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. Army Regulation AR 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.

3. AR 635-200 sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, an UOTHC discharge is normally considered appropriate.

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.

4. 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.

5. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations, and mitigating factors, when taking action on applications from former service members administratively discharged under other than honorable conditions, and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

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; TBI; sexual assault; sexual harassment. Boards were directed 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 that misconduct which led to the discharge.

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

8. 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//