

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 September 2024

DOCKET NUMBER: AR20240000186

APPLICANT REQUESTS: An upgrade of his character of service from under other than honorable conditions (UOTHC) to general under honorable conditions.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States) in lieu of DD Form 149 (Application for Correction of Military Record)
- Character Reference Letters
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Psychiatric Evaluation from Bridgeway Center Incorporated, Behavioral and Educational Services
- Eighteen Progress Notes from Bridgeway Center Incorporated

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 at the time of discharge, he was very young, and he wanted to serve in the military, but he was very confused and unknowingly mentally unstable. When he went home to Crestview, FL, on leave, his mother was ill, and he did not want to leave her. That was his reason for being absent without leave (AWOL). While in basic training, he was also repeatedly harassed and was afraid to speak up about it. He only confided in a friend. Now he believes he should have spoken up and asked for help.
3. Additionally, he states, since leaving the military, he has tried to do the right thing, but his mental health has hindered him from achieving his goals. He is making this request so that his remaining years may be better than his previous years.
4. The applicant provided in support of his request:

a. Character Reference from Ms. RDW stating she has known the applicant all his life. They were reared together as kids. The applicant always had high self-esteem, he was happy and outgoing. He would give anyone the shirt off his back. He went to the military in hopes of achieving bigger and greater things. After basic training he returned home, and he was not the person she had previously known. He believed someone was watching and following him. Over many years that has not changed. He has been diagnosed as a Schizophrenic. She hopes and prays his nightmare comes to an end with a cure that is deserving of this amazing person.

b. A Psychiatric Evaluation from Bridgeway Center Incorporated, Behavioral and Educational Services, dated 24 August 2005, stating the applicant was a single male who was recently released from prison where he spent the last 37 1/2 months. He was released on Risperdal and he wanted to continue the medication. He had a long psychiatric history and a long history with Bridgeway Center dating back to 1990. Around that time, he had about five or six admissions to the "CSU." Originally, he was diagnosed as schizophrenic, but in 2002, he was diagnosed as having a schizoaffective disorder. He is also diagnosed as "Personality wise as antisocial personality disorder."

(1) Through the years he has been treated on and off. He has been noncompliant with his treatment and medication. He feels the Risperdal and Cogentin combination is beneficial. He complains that he still hears voices.

(2) He continues to exhibit some vague paranoid ideation, but it seems to have been exacerbated because he was in prison and in that atmosphere, he had to be on guard. There was lots of potential violence and issues in prison that he was dealing with.

(3) Initially, when he was discharged from jail, he resided at Harvest Vineyard Mission for about a week. and he said he just couldn't live there. At that time, he was living with his ex-brother-in-law in Fort Walton Beach.

(4) He has been on a variety of different antipsychotic medicines through the years to include Haldol, Narvane, and currently Risperdal.

c. Eighteen Progress Notes from Bridgeway Center Incorporated, dated between March 2010 and 12 July 2013. His latest progress note, dated 12 July 2013, shows: He was casually groomed and dressed, pleasant, and cooperative. His mood was slightly flat, and his affect was restricted. There was no perceptual disturbance and no delusional beliefs. No thoughts of wanting to harm himself or others. His memory was intact for recent and remote events. His insight and judgment were fair. He was alert and fully oriented. His level of attention and consciousness was consistent during the interview. His speech was spontaneous, logical, and linear. There were no impulsive

behaviors reported. The risk, benefit profile of his medication was reviewed. He appeared competent to give informed consent and did so.

(1) AXIS I DIAGNOSIS: Schizoaffective Disorder, improved with treatment  
CURRENT GAF: 65.

(2) MEDICATIONS/PRESCRIPTIONS:

- Risperdal 3 mg
- Zoloft, increase 100 mg
- Cogentin 1 mg
- Add Vistaril 25 mg

5. On 17 November 1982, the applicant enlisted in the Regular Army for 4 years. On 24 November 1982, he was assigned to Advanced Individual Training (AIT) at Fort Knox, KY.

6. On 25 February 1983, he accepted nonjudicial punishment (NJP) under Article 15, Uniform Code of Military Justice (UCMJ), for being AWOL from his AIT unit on 23 February 1983. His punishment consisted of a forfeiture of \$133 pay, and 14 days of extra duty, and restriction.

7. On 17 March 1983, he was awarded military occupational specialty (MOS) 19D (Cavalry Scout). On 20 March 1983, he was assigned to Fort Stewart, GA, with duties in his MOS.

8. On 22 March 1983, the applicant left his unit at Fort Stewart in an AWOL status. On 22 April 1983, he was dropped from Army rolls as a deserter. On 28 April 1983, he was returned to military control at the Personnel Control Facility (PCF), Fort Bragg, NC.

9. A DD Form 458 (Charge Sheet), dated 2 May 1983, shows he was charged with being AWOL from his unit at Fort Stewart from 22 March to 28 April 1983.

10. On 4 May 1983, after consulting with counsel, the applicant submitted a request for discharge for the good of the service, under the provisions of AR 635-200, chapter 10, in lieu of trial by court-martial. In his request he indicated that he was making the request of his own free will, without coercion from anyone and that he was aware of the implications attached to his request. He also admitted that he was guilty of the charges against him, under no circumstances did he desire further rehabilitation, nor did he desire to perform further military service. He acknowledged that he understood he could receive an UOTHC discharge and that he might be deprived of all benefits as a result of such a discharge. He acknowledged 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 (ADRB) or the ABCMR, if he wished a review of his discharge. He acknowledged he realized the act of consideration by either board did not imply that his discharge would be upgraded. He also declined to submit statements in his own behalf.

11. On 19 May 1983, he was granted excess leave pending completion of the separation process.

12. His medical examination is not available for review with this case.

13. On 23 May 1983, the applicant was interviewed by his immediate commander at the PCF, Fort Bragg, the applicant stated he departed AWOL from the 23d Detachment, Fort Stewart, GA, due to his inability to adjust to military discipline. He also stated that he really did not like the Army, or his MOS, and he was unable to handle all the rules. He stated he went home on leave and his mother ill; he did not report back to his unit, he remained AWOL at his leave address. He surrendered to military authorities on 28 April 1983 at Fort Walton Beach, FL. He desired to be discharged from the service. His immediate and intermediate commanders recommended approval of his request with an UOTHC discharge.

14. On 8 November 1983, 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.

15. Accordingly, on 28 November 1983, he was discharged in pay grade E-1. The DD Form 214 he was issued shows he was discharged under the provisions of chapter 10 (in lieu of trial by court-martial) of Army Regulation 635-200 (Personnel Separation) with an under other than honorable conditions characterization of service (Separation Code KFS and Reenlisted Codes 3 and 3B. He completed 11 months, and 6 days of net active service this period. His award is listed as the Sharpshooter Marksmanship Qualification Badge (M-16) Rifle.

16. His submissions were provided to the Board in their entirety.

17. 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.

18. 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.

19. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his character of service from under other than honorable conditions (UOTHC) to general under honorable conditions.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following:

- The applicant enlisted in the Regular Army on 17 November 1982.
- On 25 February 1983, he accepted nonjudicial punishment (NJP) under Article 15, Uniform Code of Military Justice (UCMJ), for being AWOL from his AIT unit on 23 February 1983.
- On 22 March 1983, the applicant left his unit at Fort Stewart on AWOL status. On 22 April 1983, he was dropped from Army rolls as a deserter. On 28 April 1983, he was returned to military control at the Personnel Control Facility (PCF), Fort Bragg, NC.
- A DD Form 458 (Charge Sheet), dated 2 May 1983, shows he was charged with being AWOL from his unit at Fort Stewart from 22 March to 28 April 1983.
- On 4 May 1983, after consulting with counsel, the applicant submitted a request for discharge for the good of the service, under the provisions of AR 635-200, chapter 10, in lieu of trial by court-martial.
- On 23 May 1983, the applicant was interviewed by his immediate commander at the PCF, Fort Bragg, the applicant stated he departed AWOL from the 23rd Detachment, Fort Stewart, GA, due to his inability to adjust to military discipline. He also stated he really did not like the Army, or his MOS, and he was unable to handle all the rules. He stated he went home on leave and his mother was ill; he did not report back to his unit, he remained AWOL at his leave address. He surrendered to military authorities on 28 April 1983 at Fort Walton Beach, FL. He desired to be discharged from the service. His immediate and intermediate commanders recommended approval of his request with an UOTHC discharge.

- The applicant was discharged on 28 November 1983, under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), Chapter 10 (in lieu of trial by court-martial) with an under other than honorable conditions characterization of service. His DD Form 214 shows he was assigned separation code KFS and reentry code 3 and 3b.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states, "at the time of discharge, he was very young, and he wanted to serve in the military, but he was very confused and unknowingly mentally unstable. When he went home to Crestview, FL, on leave, his mother was ill, and he did not want to leave her. That was his reason for being absent without leave (AWOL). While in basic training, he was also repeatedly harassed and was afraid to speak up about it. He only confided in a friend. Now he believes he should have spoken up and asked for help. Additionally, he states, since leaving the military, he has tried to do the right thing, but his mental health has hindered him from achieving his goals. He is making this request so that his remaining years may be better than his previous years."

d. Due to the period of service no active-duty electronic medical records were available for review.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected, likely due to the characterization of his discharge. The applicant has attempted to connect with the VA for behavioral health services but has been deemed ineligible. An annual physical in the VA record dated 29 January 2021, indicates the applicant reported a history of being diagnosed with Schizophrenia, paranoid type; Schizoaffective Disorder; and Antisocial Personality Disorder. The applicant submitted medical documentation from a community provider that indicates he has been treated for a psychotic disorder since 1990 and has been diagnosed with Schizophrenia, paranoid type; Schizoaffective Disorder; and Antisocial Personality Disorder. The medical documentation further notes the applicant has been repeatedly psychiatrically hospitalized, has been incarcerated three times, and has an extensive psychiatric history with long-standing treatment via antipsychotic medication.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence the applicant had a behavioral health condition during military service that mitigates his discharge.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts a mitigating condition, OMH (Schizophrenia).

(2) Did the condition exist or experience occur during military service? Yes. There are no medical documents evidencing the applicant was diagnosed with a behavioral health condition during military service. However, the applicant provides medical documentation confirming he is diagnosed with Schizophrenia. Based on the trajectory of the disorder, the symptoms typically present in late adolescence or early adulthood which is consistent with the applicant's indication that he was experiencing prodromal symptoms of the disorder during military service. Prodromal Schizophrenia is the earliest stage or the initial signs of the illness, which typically occurs prior to the active stage of the disorder and presents with changes in personality and behavior. The symptoms often include dysregulated behaviors, nervousness, anxiety, depression, difficulty concentrating, isolation, lack of appropriate personal hygiene, bizarre behaviors, and conduct problems. It is likely the applicant was experiencing the prodromal stage, of what was later diagnosed as Schizophrenia, when he was in military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged due to being AWOL from his unit from 22 March to 28 April 1983. Given the nexus between Schizophrenia and dysregulated behaviors, it is likely the applicant's BH condition contributed to the behavior (AWOL) that led to his discharge.

#### 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 counsel's statement, 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 finding sufficient evidence the applicant had a behavioral health condition during military service that mitigates his discharge. The opine noted, it is likely the applicant was experiencing the prodromal stage, of what was later diagnosed as Schizophrenia, when he was in military service.

2. However, the Board, notwithstanding the advising official determined there is insufficient evidence of in- service mitigating factors to overcome the misconduct of AWOL. The Board found no medical documents evidencing the applicant was diagnosed with a behavioral health condition during military service. The Board noted, the applicant self-authored statement whereas he stated he went AWOL from the 23rd



Detachment, Fort Stewart, GA, due to his inability to adjust to military discipline. He also stated he really did not like the Army, or his MOS, and he was unable to handle all the rules. He stated he went home on leave and his mother was ill; he did not report back to his unit, he remained AWOL at his leave address. 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 a general under honorable conditions discharge. Therefore, the Board denied relief.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

■ [REDACTED]

■ [REDACTED] ■ [REDACTED]

■ [REDACTED]

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.



REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation (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.

3. 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.

4. 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.

5. 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.

6. 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//