

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 September 2024

DOCKET NUMBER: AR20240000486

APPLICANT REQUESTS:

- amendment of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show in item 28 (Narrative Reason for Separation): condition that interferes with duty
- Department of Veterans Affairs (VA) Benefits to include the GI Bill

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Summary
- Self-Authored Letter
- Letter from Applicant's Mother to Senator
- Letter to Senator D- K. A-
- News Article Akaka Responds to Reports about Fort Drum
- Certificate of Achievement
- Army Discharge Review Board (ADRB) Case Report and Directive
- Letter from Applicant's Mother
- Letter from Lieutenant Colonel (LTC) Retired (R) J- H. E-
- Letter from Mr. C- B-
- Letter from Mr. F- J. N-
- Letter from Sergeant Major (SGM) V- J. V-
- Letter from Mr. S- J-
- Letter from Mr. J- L-
- Pictures of Applicant while in Service
- Picture of Plaque Operation Enduring Freedom (OEF)
- Medical Records

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:

a. He was originally discharged with an under honorable conditions (general) discharge; however after review of his records it was found his minor infractions were done because of post-traumatic stress disorder (PTSD) from serving in the Korengal for a year out in the field. Because he was able to prove he had PTSD and was treated with malice by his unit command, he humbly requests that item 28 (Narrative Reason for Separation) on his DD Form 214 be changed to "condition that interferes with duty" due to his ongoing stress responses, while still serving in the Army.

b. He attached copies of his diagnosis and treatment records, while stationed at Fort Drum, New York to prove he had a diagnosis of PTSD, while still in the Army. Also attached are copies of U. S. Hawaii Senator Akaka's concern for Fort Drum's ability to transition veterans. At the time, Fort Drum was known for being hard to get help for veterans benefits and proper planning after military life.

c. He was being swept under the rug and would like copies of any information the Board can find. He believes that after the Board reads his statements and the support statements of others they will find he was not properly prepared for the field of battle and yet was sent any way. He was used as an 18 to 20 year old shield to protect cowards who would not go themselves. It is hard to find words to describe the trauma and what happened to him.

d. When he deployed, he was sent with all the wrong gear on the first manifest because other medics within his platoon were not doing the right things. This forced him to suffer from multiple conditions including to begin losing trust in his command.

e. Orders coming down from battalion made little to no sense to him and many times made things worse. Then resulted in platoon leaders giving fake positions to company and battalion command i.e. if they were told to go out on an ambush and lookout in a spot that was well known for enemy activity, they would walk half way there, then the lieutenant would call over the radio fake positions at different times, while they sat in a hole somewhere trying not to die. This happened multiple times with 3rd Platoon in Alpha Company.

f. After two support medics burned to death and the Soldiers could not get them out of the fire because of the combat lock system inside the HMMWVs, he stopped trusting the Standard Operating Procedure (SOP).

g. He did all he could to give medical aid to the locals seeing that it bred results by them giving the Soldiers good intelligence and they did not shoot the Soldiers as much. In fact, they had good intelligence about Osama bin Laden's position in Pakistan, which would then take three more years to come to fruition. However, the further he got in his efforts to slow the violence and discuss real issues was almost always interrupted by the battalion command in one way or another. This left him no other choice than to distance himself from those that were basically trying to get him killed.

h. He was given his counseling statement for coming up positive on a urinalysis, while out in the field and instead of being flown back to the rear or being put on Forward Operating Base (FOB) guard duty, he was immediately sent back out to Korengal. The command all knew they were smoking hash and yet there was no investigation and for the most part the battalion command tried to sweep this under the rug.

i. There are many books and movies about Korengal. If the Board wished to know more they could help themselves. After his deployment back at Fort Drum, he was offered a medical discharge by a psychiatrist he worked for at Fort Drum mental health. He asked the psychiatrist which way was fastest to get out of the Army and away from Fort Drum because he wanted to kill himself if he could not leave as soon as possible. He had just gotten out of the Syracuse VA psychiatric ward. The psychiatrist told him the chapter would be faster than the medical board, so he chose the chapter.

j. The applicant provides a self-authored letter, which details his deployment, the lack of equipment he was provided, his missions on deployment, and his use of illicit drugs and eventual discharge from the Army.

3. The applicant's request pertaining to Department of Veterans Affairs benefits is outside the purview of the ABCMR and will not be considered or discussed further in these Record of Proceedings.

4. The applicant provides:

a. A letter from his mother to a Senator, which states, in pertinent part it had come to her attention there was a serious lack of knowledge, training, and comprehension in the civilian and military regarding returning home from deployment. She believed that a book for each individual returning home which listed information like on and off post services for medical, psychological, food banks, churches etc. was needed. If the spouse and kids were taken care of Soldiers would be more focused on the task at hand. She discussed an event where a wife and kids return to her husband, after his deployment, she spends money on getting an apartment and setting it up. The Soldier was receiving an Article 15 for use of drugs and being separated from the Army. His wife takes his kids and leaves him, while he is at work and he then has to deal with his wife leaving, him being separated from the Army, and the reminders of his deployment.

The applicant states he could not find all of the letters his mother wrote to Senators but there were many. The entire letter is available for the Board's review.

b. A letter from the Office of the Brigade Commander to Senator A-, 16 November 2007, states:

(1) The letter was in response to the Senator's inquiry on behalf of the mother of the applicant and the applicant's mental health.

(2) The applicant was assigned to 3rd Brigade Combat Team, 10th Mountain Division, Fort Drum, New York. He deployed for 15 months in support of OEF VII as a platoon medic and he was attached to both C and A Companies. During this deployment, he tested positive for use of marijuana on 16 April 2007 and was given a Field Grade Article 15 for wrongful use of a controlled substance. On 6 September 2007, he tested positive for the use of cocaine and marijuana and was given a second Field Grade Article 15 for wrongful use of a controlled substance. He was sentenced to 45 days extra duty for each of the Article 15 proceedings. He was pending separation from the Army under Chapter 9 (Substance Abuse Rehabilitation Failure).

(3) His chain of command enrolled him into the Army Substance Abuse Program when he first tested positive for marijuana use and he started to attend meetings at Fort Drum Behavioral Health on 12 July 2007. In addition on 29 September 2007, he self enrolled into the Samaritan Health Clinic and was referred to the Syracuse VA hospital. He was released from the hospital after four days and was not diagnosed with depression or PTSD. His chain of command continued to ensure he attended group meetings at the Fort Drum Behavioral Health Clinic to help him cope with anxiety concerns. He was prescribed medications to include Trazodone 50 MG, Zoloft 50 MG, and Seroquel 300 MG. His mental evaluations at Fort Drum Behavioral Health Clinic, Samaritan Mental Health, and the Syracuse VA had not diagnosed him with depression or PTSD.

c. News article Akaka Responds to Report about Fort Drum, 7 February 2008 states U.S. Senator D- K. A-, chairman of the VA Committee, stated "he was concerned about reports suggesting that Soldiers at Fort Drum were prevented from receiving advise from VA employees regarding their injuries." The entire article is available for the Board's review.

d. A certificate of Achievement from VA Pacific Islands Health Care System for successful completion of the PTSD Residential Recovery Program from 30 June through 20 August 2008.

e. A letter from the applicant's mother, states:

(1) She wanted to confirm she contacted the offices of Senators from Honolulu. She was assured by both offices that they would investigate and launch a Congressional investigation into the treatment of the applicant, when he returned home from Afghanistan. As a mother, she was sickened by the way her son's command at Fort Drum, in 2007, treated him. He was not allowed to go home after being overseas for 17 months. She was not allowed to see him because he was supposed to be under barracks arrest. On multiple occasions he called her and told her he wanted to die or kill himself because he could not understand what he did wrong. He tested positive on a urinalysis for the use of marijuana, while out in the field with other Soldiers' lives at stake in Afghanistan. They should have sent him home immediately so he could get help right away. Instead, they used him for as long as they could and when they no longer needed him, they threw him aside and tried to bury the truth. She was frightened for his safety, at that time, because as a social worker, she has seen firsthand the affects of PTSD and isolation on one's mental stress. His battalion commander and his new company commander tried to isolate him from all his friends and family. They tried to keep him out in the field so they did not have risk their own lives.

(2) When he finally came home in January 2008, he was very angry. He would talk to himself and yell and scream a lot. She would hear him at midnight or in the early morning talking to himself and staring out his bedroom window. He attempted suicide two times and both times she had him go to the Tripler Army Medical Center Emergency room by ambulance. She had to come home both times to find him covered in his own blood because he was cutting all over his body. When she asked him why he was doing it he told her it was because he could not feel it when he would cut himself. She then had to watch as he had to go through multiple surgeries for spinal problems and cancer. She has watched him go through tremendous hardship. He is doing well now and she is proud of him. He does good in college and he is involved in legislating politics and helping with anti-child sex trafficking in Hawaii.

(3) She was writing the letter in support of his endeavors to change whatever paperwork should be changed due to the nature of hardship circumstances which caused severe PTSD which made him unable to perform his duties towards the end of his 17 month deployment.

f. Letter from LTC (R) J- H. E- who wrote the letter with the utmost support for changing the applicant's discharge. The applicant served under the LTC's command as a medic during their deployment from March 2006 to June 2007 and served under the LTC's direct supervision. He was a young Soldier but possessed great energy and was eager to please, often volunteering for guard duty and working closely to support the local villages, which was essential to their mission. The LTC was aware of his positive urinalysis in February 2007, still during the deployment. Despite the knowledge he would lose his rank and receive other punitive measures, he valiantly served above and

beyond his duty, caring for the Soldiers in this dangerous location. He was consistently one of the most dependable Soldiers and stood out among his peers for maintaining high morale and superior performance. It is the LTC's conviction that the applicant is fully deserving of an honorable discharge and full benefits due to him.

g. Letter from Mr. C- B-, who was writing on behalf of the applicant, his friend and who had the privilege of serving alongside the applicant during the deployment to Afghanistan and could attest to his dedication and commitment to his duties. He demonstrated exceptional dedication and versatility, during his service. He covered various positions throughout the brigade. He was informed of a positive urinalysis for the use of marijuana in March and received counseling for this incident and was sent to the Korengal area to complete his remaining service until their return from deployment. Upon their return, he did not take leave to go home but was under barracks arrest for an unspecified duration. He underwent multiple drug screenings and had frequent visits to the psychiatric clinics. He was placed on suicide watch in the day room, where he was exposed to prying eyes of new Soldiers who were unaware of their deployment experience. It is Mr. B-'s sincere belief the applicant displayed signs and symptoms of PTSD, during his service in Afghanistan, exacerbated by prolonged periods of high stress, sleep deprivation and the monotony of consuming Meals Ready to Eat for nearly a years. Given the circumstances, Mr. B- believes that it is worth considering amending the applicant's DD Form 214 to reflect his service-related condition.

h. Letter from Mr. F- J. N- states the applicant, at barely 19 years of age, deployed in support of OEF VII. The applicant was a medic and he was bounced around from platoon to platoon throughout the battalion. His skills developed as a Soldier and medic. He was good enough to handle any emergency scenario and to keep his composure under extreme stress. He had the ability to come upon the carnage, treat patients, and guide them to the next level of care. The applicant had experienced the worst that war can offer a man; especially for someone at his age. As a medic, he was involved with a myriad of attacks from combatants. As a result of his experiences, his nervous system had completely changed. The applicant was positive on a urinalysis, while in the field. Because of that, he was unable to take 30 days of leave upon his return to Fort Drum and he was confined to his barracks room for the term of the unit's break. In September he self checked himself into the VA hospital psychiatric ward for thoughts of harming himself or others. He was put on suicide watch for one week in the day room. He was trying to get help for his PTSD. Because his PTSD interfered with him being able to perform his duties, Mr. N- believes it is worth consideration to amend his DD Form 214 to state so.

i. Letter from SGM V- J. V- states the applicant covered down for all three Alpha Company Platoons during OEF VIII from March 2006 through June 2007. He also served on the Pech river with Charlie and Delta Companies. The SGM could confirm the applicant was positive on a urinalysis, while in Afghanistan and was returned to Korengal for the remainder of their deployment. Upon redeployment he was not allowed

to take leave and was confined to his barracks for the term of the unit's break. Upon getting his Article 15 read to him, he was told he would not receive any VA benefits. In September, the SGM can confirm he checked himself into the VA psychiatric ward for having thoughts of harming himself or others and then was placed on suicide watch in the day room for one week. He was trying to seek help for his PTSD at the Fort Drum psychiatric clinic and was told a medical discharge would take longer than a chapter separation. Because of this, the applicant has been fighting to get back any benefits he can. It is the SGM's belief the applicant was having signs and symptoms of PTSD and should have taken the medical discharge to get out. During the deployment, he was exposed to numerous casualties and fire fights. The SGM believes it is worth consideration to amend his DD Form 214.

j. Letter from Mr. S- J- who like the applicant spent most of his deployment in the field. The applicant always put his duties first and risked his life on multiple occasions to save men on the battlefield. It is Mr. J-'s belief the applicant was showing signs and symptoms of PTSD and should have taken a medical discharge to get out of the Army. However, he just wanted to leave as quickly as possible. Because of this condition that interfered with him being able to do his duty, Mr. J- believes it is worth consideration to amend his DD Form 214.

k. Letter from Mr. J- L- who was an Infantry Soldier of the 10th Mountain Division and had the pleasure of serving with the applicant. He witnessed the applicant giving medicine to the locals and talking with them. He was learning the Koran from a village elder and talking with the kids. He always put his duties first and risked his life on multiple occasions to save men on the battlefield. It is Mr. L-'s opinion the applicant should have his DD Form 214 amended for the stress of having to be out in combat for such a long duration and that under hardship he was having signs and symptoms of PTSD, at the time.

l. Medical records, which show he had thoughts of harming or killing someone else. The reason for the appointments were delayed PTSD and chronic PTSD. He had been assigned the diagnosis of PTSD. Pacific Islands Health Care System Discharge Summary, 20 Augst 2008 shows he had 70 percent service connected disability for PTSD. The medical records are available for the Board's review.

5. A review of the applicant's service records show:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 6 July 2005.

b. DA Form 2807-1 (Report of Medical History), 27 July 2007 shows he was not in good health. He had frequent trouble sleeping, received counseling, and had

depression or excessive worry. He had been evaluated for a mental condition. He had mental health appointments for PTSD and he could not sleep.

c. DA Form 2808 (Report of Medical Examination), 27 July 2007, his "yes" answers to "over the past month, have you felt down or depressed, or hopeless" and "lost interest in doing things you used to find pleasurable" were crossed out, initialed and "no" was circled. There is no indication he suffered from mental health concerns.

d. DA Forms 2627 (Record of Proceedings Under Article 15, Uniform Code of Military Justice) show he accepted nonjudicial punishment on:

(1) 30 July 2007, in the rank of specialist, for wrongfully using marijuana between on or about 18 March 2007 and on or about 16 April 2007. His punishment included reduction to private (PVT)/E-1.

(2) 22 October 2007, in the rank of PVT, for wrongfully using marijuana between on or about 7 August 2007 and 6 September 2007 and for wrongfully using cocaine between on or about 3 September and on or about 6 September 2007.

e. DA Form 3822 (Report of Mental Status Evaluation), 11 October 2007 shows he met retention requirements and did not meet the criteria for a Medical Evaluation Board. There was no evidence of an emotional or mental condition of sufficient severity to warrant disposition through medical channels. There was no evidence of a psychiatric condition, which would prevent him from participating in any legal or administrative actions.

f. On 19 November 2007, his commander notified him he was initiating separation against the applicant for commission of a serious offense for receiving an Article 15 for wrongful use of marijuana in a combat environment and for receiving an Article 15 for wrongful use of marijuana and cocaine. His commander was recommending he receive an under honorable conditions (general) discharge. The separation authority would make the final decision in his case. On the same day, the applicant acknowledged receipt of the initiation of separation.

g. On 20 November 2007, after consulting with counsel, the applicant acknowledged counsel had advised him of the basis for the separation action, the rights available to him, and the effect of waiving those rights. The applicant indicated he understood his rights, and elected not to submit a statement in his own behalf.

h. His chain of command recommended approval of the separation with an under honorable conditions (general) discharge. In an undated memorandum, the appropriate approval authority approved his separation and directed he be issued an under honorable conditions (general) discharge.

i. On 10 December 2007, he was discharged with a characterization of service as under honorable conditions (General). He completed 2 years, 5 months, and 5 days of active duty service. He served in Afghanistan from 6 March 2006 through 15 June 2007. His narrative reason for separation was misconduct (minor infractions), his separation code was JKN and his reentry code was 3.

j. His character of service was upgraded to honorable by the Army Discharge Review Board (ADRB) on 4 September 2018.

6. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a change to his narrative reason for separation. He contends he experienced PTSD that mitigates his discharge. 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 on 6 July 2005; 2) The applicant deployed to Afghanistan from 6 March 2006-15 June 2007; 3) The applicant accepted nonjudicial punishments on 30 July 2007 and 22 October 2007 for using illegal drugs; 4) The applicant was discharged on 10 December 2007, Chapter 14-12c. His narrative reason for separation misconduct (minor infractions) with an under honorable conditions (general) characterization of service; 5) The applicant's character of service was upgraded to honorable by the ADRB on 4 September 2018, but there was no change to his narrative reason for separation.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) and hardcopy military and VA medical records provided by the applicant were also reviewed.

c. The applicant asserts he was experiencing PTSD as a result of his deployment to Afghanistan, which mitigates his misconduct and warrants a change to his narrative reason for separation. There is evidence the applicant was diagnosed with PTSD while on active service. In July 2007, the applicant was diagnosed with PTSD and began individual and group therapy. In addition, he started attending substance abuse treatment. He also was admitted to inpatient psychiatric treatment for PTSD and anger/homicidal ideation at the local VA and was prescribed psychiatric medication. On 11 October 2007, the applicant underwent a mental status exam, which determined he met retention requirements and did not meet the criteria for a Medical Evaluation Board. There was no evidence of an emotional or mental condition of sufficient severity to warrant disposition through medical channels. There was no evidence of a psychiatric condition, which would prevent him from participating in any legal or administrative actions.

d. A review of JLV provided evidence the applicant began to engage with the VA shortly after his discharge, and he was diagnosed with service-connected PTSD. He was also awarded service-connected disability for this condition (100%SC). The applicant has also been actively engaged in behavioral health and substance abuse treatment at the VA.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a condition or experience that mitigates his misconduct which led to his discharge and warrants a change to his narrative reason for separation. However, there is insufficient evidence the applicant's case warrants a referral to IDES, at this time. The applicant was engaged in treatment for PTSD and did receive inpatient treatment for PTSD and anger/homicidal ideation on one occasion. However, he was never placed on a permeant profile, received six months of consistent treatment, or was determined to not meet medical retention standards from a psychiatric perspective.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant asserts he experienced PTSD that mitigates his misconduct and warrants a change to his narrative reason for separation. There is evidence the applicant had been diagnosed with PTSD while on active service and later by the VA with service-connected PTSD.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD that mitigates his misconduct and warrants a change to his narrative reason for separation. There is evidence the applicant had been diagnosed with PTSD while on active service and later by the VA with service-connected PTSD.

(3) Does the condition/experience actually excuse or mitigate the discharge? Yes, there is sufficient evidence beyond self-report the applicant was experiencing PTSD while on active service. The applicant did use illegal drugs. This type of avoidant or self-medicating behavior can be a natural sequelae to PTSD. Therefore, per Liberal Consideration, the applicant's misconduct, which led to his discharge is mitigable and should warrant a change to his narrative reason for separation. However, there is insufficient evidence the applicant's case warrants a referral to IDES, at this time. The applicant was engaged in treatment for PTSD and did receive inpatient treatment for PTSD and anger/homicidal ideation on one occasion. However, he was never placed on a permeant profile, received six months of consistent treatment, or was determined to not meet medical retention standards from a psychiatric perspective.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was discharged for minor infractions. The Army Discharge Review Board previously upgraded his discharge from under honorable conditions (General) to honorable. The Board reviewed and concurred with the medical advisor's review finding sufficient evidence to support the applicant had a condition or experience that mitigated his misconduct that led to his discharge. The Board concluded the separation authority, separation code, reentry code, and narrative reason for separation should be amended to reflect Secretarial Authority and the corresponding codes.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 10 December 2007 to show in:

- item 25 (Separation Authority): Army Regulation 635-200
- item 26 (Separation Code): JFF
- item 27 (Reentry Code): 1
- item 28 (Narrative Reason for Separation): Secretarial Authority

█

█ █

█
█

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 635-200 (Personnel Separation Enlisted Personnel) prescribed the policy for enlisted separations.

a. An honorable discharge is a separation with honor and entitles a Soldier to full Federal rights and benefits provided by law. 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.

c. Chapter 14 of the regulation dealt with separation for various types of misconduct. The issuance of a discharge under other than honorable conditions (UOTHC) was normally considered appropriate for separations under the provisions of chapter 14. In a case in which an UOTHC is authorized by regulation, 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. Paragraph 14-12c provided for the separation of a Soldier due to commission of a serious military or civil offense if the specific circumstances of the offense warrant separation and a punitive discharge would be authorized for the same or a closely related offense under the Manual for Court-Martial.

3. Army Regulation 635-5-1 (Personnel Separations – Separation Program Designator (SPD) Codes), in effect at the time, prescribes the specific authorities, reasons for separating Soldiers from active duty, and the SPD codes to be entered on DD Form 214. It shows code JKN is used for discharge for misconduct (minor infractions). It does not provide for an SPD for "condition that interferes with duty".

4. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) table 3-1 (U.S. Army reenry eligibility codes) states:

a. RE-1: Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army.

b. RE-3: Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation or disqualification is waiverable.

c. RE-4: Applies to: Person separated from last period of service with a nonwaiverable disqualification.

d. RE-4R: Applies to: A person who retired for length of service with 15 or more years active federal service.

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; traumatic brain injury (TBI); sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. 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.

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.

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.

8. Army Regulation 621-202 (Regular Army and Army Reserve enlistment Program) provides, in pertinent part, eligibility requirements for receiving benefits under the MGIB. This regulation provides that must have served 3 or more years of continuous active duty if the initial obligated period of service was 3 or more years. This regulation further provides that if the Soldier is discharged for the convenience of the government whose initial active duty is 3 or more years must complete at least 30 months of continuous active duty. This regulation further provides that Soldiers who do not complete the qualifying term of service have no educational benefits and will not receive a refund of the \$1200 reduction in pay.

9. Chapter 30, Title 38 of the United States Code (USC) established eligibility requirement for participation in the Veterans' Educational Assistance Act of 1984 (New GI Bill). It provided that individuals who entered an initial period of active duty on or after 1 July 1985 would be automatically enrolled in the program unless they opted to terminate enrollment within a specific time frame established by the individual services. Once enrolled in the New GI Bill the individual's basic pay was reduced \$100.00 per month for each of the first full 12 months of active duty and could not be refunded, suspended or stopped. An honorable discharge is required for receipt of entitlements.

10. Title 10, U.S. Code, section 1556 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//