

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 September 2024

DOCKET NUMBER: AR20240000560

APPLICANT REQUESTS:

a. Reconsideration of his previous requests to:

- remove the post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI) diagnosis from his records
- change his reentry code
- personal appearance before the Board

b. New Request:

- updated version of his DD Form 214 (Certificate of Release or Discharge from Active Duty) that contains all of his decorations, medals, badges, citations and campaign ribbons
- award of the Afghanistan Campaign Medal
- change his nearest relative to M- and V- M-

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

- Two DD Forms 149 (Application for Correction of Military Record)
- Personal Statement
- DD Form 214, 13 September 2009
- DD Form 214, 7 March 2012
- ABCMR Docket Number AR20220002276 Denial Letter and Record of Proceedings

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's cases by the Army Board for Correction of Military Records (ABCMR) in Docket Numbers AR20200005431 on 1 April 2021 and AR20220002276 on 4 November 2022.

2. In regard to the applicant's request for an updated DD Form 214 listing his awards, that portion of his request will be administratively corrected and will not be considered by the Board. The Board will make a determination regarding his request to remove his diagnosis of PTSD and TBI from his records, change his reentry code, and change his nearest relative on the DD Form 214 for the period ending 13 September 2009.

3. In regard to the applicant's request to remove the PTSD and TBI diagnoses from his records:

a. Medical records reflect the observations and opinions of medical professionals at the time they were created. Alteration of a diagnosis in those records after the fact may lead to fundamental questions about the veracity of the records in this case and in general. For these reasons, it would not be proper to change any of the medical documents which would, in effect, alter a diagnosis in the applicant's medical records.

b. The Army maintains an orderly system in which a physician makes certain observations and diagnoses and records them faithfully in the medical records at the time. It would take independent and corroborating evidence to alter a diagnosis. The applicant failed to provide the necessary evidence or proof to corroborate what he contends is incorrect in his medical records.

c. Correcting the applicant's diagnoses is not within the Board's purview. The Board will make a determination regarding whether or not he is recovered from his PTSD and TBI that would correlate to changing his reentry code in light of his discharge being upgraded to under honorable conditions (general) by the Army Discharge Review Board (ADRB).

4. The applicant states:

a. He is requesting the PTSD and TBI diagnosis be removed from his records so he can be recognized as being completely rehabilitated. He is also requesting that his reentry code be changed to 1.

b. His current reentry code has been wrongfully assigned for two reasons. First, it is from false testimonies he provided, while being interviewed in 2009 by the Department of Veterans Affairs (VA) office in Oklahoma City, Oklahoma. The second reason is for him being absent without leave (AWOL). Although his behavior was inexcusable around the time of his discharge in 2012, there were several events that took place outside of his control that led him to being AWOL. He also understands there were certain behaviors that were pointed out in the Board's response to his previous request. Given the new and detailed information he received, his goal is to address those concerns and infractions. This response is not trying to deflect the responsibilities of his actions but

rather provide the Board an understanding of what happened in an attempt for a second chance.

c. From the paperwork that was sent to him, it is his understanding that there are two main reasons his request was denied. The first being diagnosed with PTSD and TBI, and second being AWOL. These will be addressed in that order.

d. If he provided false testimony than the reasons for his separation (PTSD and TBI) are not valid. A look at his DD Form 214 or combat service record should tell the Board there is no reason to believe PTSD or TBI should be present, which leads to his behavior or actions that would lead to a diagnosis of PTSD and TBI.

e. It was 2008 and like many others, he wanted to do his part and serve his country. He would read and hear of other Soldiers' exploits but being fresh out of basic, he had nothing to say or contribute, which made him feel irrelevant and unimportant; he was motivated. He was mistakenly under the mindset that if he did not see combat, he was not fulfilling his duty as a Soldier.

f. He volunteered for his first deployment shortly after basic training. He served honorably but yet he lacked the combat experience he signed up for. He felt the need to lie in order to fit in. He lied to family, friends, and the VA. He lacked emotional maturity, self-awareness, and problem-solving skills. Essential skills that would have helped him navigate uncharted areas of the mind, especially the parts that were from the start, untruthful. As a result of this, he has been made into an example, an example that has been humiliated within the public eye, an embarrassment to his family, and a social outcast with his friends and community.

g. His three visits to the emergency room were not from panic attacks or suicidal ideations. He was drunk, underage, and acting a fool like he had PTSD for all three incidents. There was no suicidal ideation involved. The panic attack that was mentioned was not a panic attack. He does not get panic attacks. There was no panicking, just immature behavior.

h. "He reported recent suicidal ideation" and "four prior incidents in his history in which he struggled with suicide intent and a plan." Back then he was talking about "back then" (lower teenage years) and now knows for a fact, he did not know what it was like to struggle with suicide. Sure, he had a few thoughts of what it was and why people do commit the act, but for him personally, it was nothing serious or he never fully understood what he was saying. He lacked the emotional maturity and cognitive behavior to really understand his own problems. Therefore, because he was unable to express himself, let alone how to respond/act, while under different stressors, he would resort to feeling suicidal when all it meant was something was wrong, he did not know

how to explain it, and he did not know how to deal with it. It is only through self-discovery that allowed him to succeed from this.

i. It is now 2011 and as they were gearing up to head downrange, he did his best to keep the lies separate and focus on the mission. However, this time the lies were not so much the issue, it was his discipline. In Afghanistan he was able to get his hands on an illegal narcotic known as hashish and he believes experimenting with this drug created a chemical imbalance in his mind, which clouded his judgement and his ability to focus. He was sent back to the states without incident.

j. The lies then resurfaced, when he was at the Warrior Transition Unit (WTU) at Fort Sill, Oklahoma. "On 25 February 2012, court-martial charges were preferred against the applicant. His DD Form 458 (Charge Sheet) shows he was charged with one specification of being AWOL from 27 December 2011 to 14 February 2012." Though he was gone from Fort Sill, Oklahoma, during these dates, there is more to what happened than what the Board may be aware of.

k. He will admit that before the 27th of December, he would periodically not show up for formation either because he was not there, he was on the way, or he would be nearby (probably in his room or in the parking lot). He should also mention that he lived in Oklahoma City, Oklahoma before he left for deployment and he would occasionally drive up north and visit friends back home, especially during the weekends. He can also recollect talking to military and civilian staff at Fort Sill about reconnecting with his Army National Guard (ARNG) unit in Oklahoma City, returning to his job, and possibly receiving professional counseling at the VA in the city. There were times he would return but the WTU did not have a place for him to stay, often leaving him to sleep in his vehicle.

l. On or about the 27th of December, he can vividly remember receiving a call from his noncommissioned officer (NCO) and being asked to meet the NCO and some fellow Soldiers at the applicant's room. There was a discussion about him being dismissed from the WTU. He finally arrived at his room and met the NCO who told him he was dismissed from the WTU. He asked the NCO if he needed to sign any paperwork and he was told no, so he left.

m. It was not until some time had passed (around 14 February 2012) that he was notified by family that if he did not return to Fort Sill, he would be labeled as a deserter. He was put in communication with his command and told them he was going back and not to mark him as a deserter because he was warned that the police were looking for him. He was given the clear to go back by his command. On his way back, he was pulled over by the police for having a hold for the U.S. Army even though he was told by his command not to worry about it. He was then herded into the discharge process not

fully comprehending what he was doing to himself, especially in the long run. He was not AWOL; he was unofficially dismissed.

n. He understands and fully acknowledges the decisions he made that got him to where is not, but in fairness, he asked the Board to make a second judgement call. He respectfully requests that at the least, PTSD and TBI be removed from his file or that he be recognized as fully rehabilitated. He also asks that upon removing PTSD and TB or upon being recognized as fully rehabilitated, that his reentry code be changed to 1. This request is made on the grounds that he never had PTSD or TBI to begin with and he was never AWOL from 27 December 201[1] to 14 February 2012.

o. In addition, he is requesting an updated version of his DD Form 214 that contains all of his decorations, medals, badges, citations, and campaign ribbons on one form, preferably a member 4 copy. He also spent more than 30 days in Afghanistan and is eligible for the Afghanistan Campaign Medal. This should be fixed because when he provides employers his member 4 copy, they do not see his second deployment to Afghanistan. His service is not considered when applying for jobs. He also requests that his nearest relative to be changed from S- V- to M- and V- M- as he is no longer in contact with S- V-.

5. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the ARNG on 1 April 2008.

b. A DD Form 214 shows he was ordered to active duty as a member of the ARNG, on 3 December 2008 and was honorably released to his ARNG unit on 13 September 2009. He had service in Kuwait/Iraq from 13 December 2008 through 14 August 2009.

c. His service record was void of documentation showing his AWOL status; however, it contained a DD Form 616 (Report of Return of Absentee), which shows the date of his absence began on 27 December 2011. He was apprehended by civilian authorities on 14 February 2012 and returned to military control.

d. A DD Form 458 (Charge Sheet) shows one specification of AWOL from on or about 27 December 2011 through on or about 14 February 2012 was preferred against him on 24 February 2012.

e. On 24 February 2012, he voluntarily requested discharge in lieu of trial by court-martial because a charge of AWOL was preferred against him. On 2 March 2012, the appropriate approval authority approved his request for discharge and ordered he receive an under other than honorable conditions discharge. There is no mention of him suffering from PTSD or TBI in his separation packet.

f. A DD Form 214 shows he was ordered to active duty, as a member of the ARNG, on 27 March 2011 and was released to his ARNG unit on 7 March 2012. He received an under other than honorable discharge (which was later upgrade to a general discharge by the ADRB. He was discharged for discharge in lieu of trial by court-martial. He had service in Afghanistan from 12 June 2011 through 5 November 2011. Item 19b (Nearest Relative) shows S- V-. His reentry code was 4.

g. An NGB Form 22 (Report of Separation and Record of Service) shows he had service in the ARNG from 8 January 2010 through 7 March 2012. He was discharged from the ARNG for acts or patterns of misconduct, his character of service was under other than honorable conditions, and his reentry code was 4.

6. In 2019, the ADRB reviewed his case and determined relief was warranted. They upgraded his discharge to under honorable conditions (general). The ADRB decision memorandum and Case Report and Directive are available for the Board's consideration.

7. On 1 April 2021, in AR2020005431 the Board made a decision regarding his request to remove the PTSD and TBI diagnosis from his record and to change his reentry code. The Army Review Boards Agency Medical Advisor provided a medical review, which states he was diagnosed with PTSD and received medication from April through September 2010. He was medically evacuated to Fort Sill with a diagnosis of PTSD. The Board stated they determined relief was not warranted. Based upon the available documentation and the findings and recommendation of the medical advisor, the Board concluded there was insufficient evidence of an error or injustice which would warrant a change to his medical record and/or reentry code.

8. On 4 November 2022, in AR20220002275, the Board made a decision regarding his request for reconsideration of his previous request to the Board, stating after reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. His contentions, the military record, a medical review, and regulatory guidance were carefully considered. Based upon a preponderance of the evidence, the Board determined there was insufficient evidence to amend the previous Board's decision. The Board agreed the behavioral health concerns that led to the upgrade of his character of service are supported by the evidence he previously provided and should not be removed from his record nor should the reentry code be amended.

9. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

10. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a reconsideration of his previous request to remove the diagnoses of PTSD and TBI from his medical records and change to his reentry code. 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 ARNG on 1 April 2008; 2) The applicant was discharged from ARNG for acts or patterns of misconduct, his character of service was under other than honorable conditions and his reentry code was 4; 3) On 1 April 2021 and 04 November 2022, the ADRB decided to not change to his medical record and/or reentry code.

b. The Army Review Boards Agency (ARBA) Behavioral Health (BH) Advisor reviewed the supporting documents and the applicant's available military service records. The Armed Forces Health Longitudinal Technology Application (AHLTA) and the Joint Legacy Viewer (JLV The VA's Joint Legacy Viewer (JLV) were also examined.

c. The applicant reported significant mental health symptoms while on active service, and he was evacuated out of theater in 2011 due to symptoms of PTSD and possible Dissociative Disorder, not otherwise specified. Later, he was medically evacuated to CONUS with the diagnosis of PTSD. He was non-compliant with behavioral health treatment, and he was engaged in misconduct of repeatedly going AWOL and drinking excessively. At one point, he was involved in a motor vehicle accident, and he was referred for a Command Directed Mental Health evaluation on 01 December 2011. The applicant denied experiencing mental health symptoms or problematic alcohol use. He was unhappy with his military service, and he did report some anger and anxiety. He was diagnosed with an Adjustment Disorder with disturbance of emotions and conduct. On 19 December 2011, he was seen for a Mental Status Exam as part of his administrative separation. He was found to meet retention standards and cleared for administrative action. On 20 February 2012, he was seen in the emergency room after having a panic attack.

d. A review of JLV indicates the applicant was initially evaluated on 26 Apr 2010. He reported symptoms consistent with PTSD due to his previous deployment (December 2008 to August 2009). He reported recent suicidal ideation and a history of suicidal ideation and behavior. He was diagnosed with PTSD and received therapy and medication management from April- September 2010. The applicant had three visits to the emergency room for either panic attack and/or suicidal ideation. He was also seen in 2015 for his reported symptoms of a TBI. More recently in May 2024, the applicant reengaged with the VA primary care for treatment. He denied mental health symptoms, but he did not report any history of exposure to a deployment or behavioral health care. The applicant does not receive any service-connected disability.

e. Based on the available information, it is the opinion of the Agency BH Advisor that the applicant had been diagnosed with PTSD and other mental health conditions during his active service by multiple behavioral health providers and by VA behavioral health providers. There was also evidence the applicant reported and was diagnosed with TBI symptoms. At this time, there is insufficient evidence beyond the applicant currently not reporting exposure to a deployment or significant mental health symptoms, that he no longer meets criteria for his previous conditions of PTSD and TBI. Also, he has not more recently engaged in behavioral health treatment or been appropriately evaluated by a behavioral health provider to be determined to no longer meet these criteria. Thus, there is insufficient evidence from a behavioral health perspective to change his reentry code.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No, the applicant had been diagnosed with PTSD and other mental health conditions during his active service by multiple behavioral health providers and by VA behavioral health providers. There was also evidence the applicant reported and was diagnosed with TBI symptoms. At this time, there is insufficient evidence beyond the applicant not reporting exposure to a deployment or significant mental health symptoms, that he no longer meets criteria for his previous conditions of PTSD and TBI. Also, he has not more recently engaged in behavioral health treatment or been appropriately evaluated by a behavioral health provider to be determined to no longer meet these criteria. Thus, there is insufficient evidence from a behavioral health perspective to change his reentry code.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The Board concurred with the conclusion of the ARBA Behavioral Health Advisor that the evidence does not support changing the applicant's reentry code. He has not corroborated his claim to have recovered from his conditions with any evidence, and even if he had, the only basis for changing the reentry code would be to change the

reason for separation and associated separation code. The Board noted that reentry codes are linked to the separation code, and absent a reason to change the separation code, determined the reentry code should not be changed, nor should the diagnoses of PTSD and TBI be removed from his records.

3. The regulation governing preparation of the DD Form 214 does not provide for updating information on the form provided by the service member, such as nearest relative, after the service member is discharged. The Board determined the entry for nearest relative on the DD Form 214 in question is not an error.

4. The Board concurred with the corrections described in Administrative Note(s) below.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

: : : GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

■ ■ ■ DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Other than the corrections addressed in Administrative Note(s) below, the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined that the overall merits of this case are insufficient as a basis to amend the decision of the ABCMR set forth in Docket Numbers AR20200005431 on 1 April 2021 and AR20220002276 on 4 November 2022.

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.

ADMINISTRATIVE NOTE(S):

Correct his DD Form 214 for the period ending 7 March 2012 by adding the following awards:

- Afghanistan Campaign Medal
- NATO Medal

REFERENCES:

1. Army Regulation 635-5 (Separation Documents), in effect at the time, prescribes policy and procedural guidance relating to transition management. Paragraph 2-4 (Completing the DD Form 214) provides detail instructions for data required for each block.

- item 19 (Mailing Address of Nearest Relative) will be provided by the Soldier; advise Soldier the name and address of a relative should be someone who will know their location an address at all times
- item 26 (Separation Code): obtain correct entries from AR 635-5-1 (Separation Program Designator (SPD) Codes), which provides the corresponding separation program designator code for the regulatory authority and reason for separation
- item 27 (Reentry Code): AR 601–210 (Active and Reserve Components Enlistment Program) determines reentry eligibility and provides regulatory guidance on reentry codes
- item 28 (Narrative Reason for Separation): this is based on regulatory or other authority and can be checked against the cross reference in AR 635-5-1 (Personnel Separation - Separation Program Designator (SPD) Codes)

2. Army Regulation 635-5-1 (Personnel Separations – 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 JFS is used for discharge In Lieu of Trial by Court-Martial.

3. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) table 3-1 (U.S. Army reentry 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.

4. 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.

5. Army Regulation 40-66 (Medical Record Administration and Healthcare Documentation) prescribes policies for preparing and using medical reports and records for Soldiers receiving medical treatment or evaluation in an Army military treatment facility.

a. Chapter 1-6 pertains to medical record ownership. It states Army medical records are the property of the Government. Thus, the same controls that apply to other Government documents apply to Army medical records. Army medical records, other than those of Reserve Components, will remain in the custody of the Medical Treatment Facilities at all times. Reserve Component records will remain in the custody of the appointed Service Treatment Record custodian. The Armed Forces Health Longitudinal Technology Application (AHLTA) record will remain in the custody of the U.S. Army Medical Department (AMEDD) and Department of Defense via electronic storage, and hardcopy of the treatment records will be retried to the National Personnel Records Center in accordance with the records dispositions schedule in Army Regulation 25-400-2 (The Army Records Information Management System (ARIMS)).

b. Chapter 3 (Preparation of Medical Records) states that unless authorized by this regulation, only documents prepared by authorized AMEDD personnel will be filed in Army medical records. This restriction does not prohibit the use of other documents created by attending physicians and dentists outside AMEDD (Navy, Air Force, civilian, and so forth) or the filing of other documents as summaries or brief extracts. If such documents are filed, their source and the physician or dentist under whom they were prepared must be identified.

c. Medical record entries will be made in all inpatient, outpatient, service treatment, dental, Army Substance Abuse Program, and occupational health records by the healthcare provider who observes, treats, or cares for the patient at the time of observation, treatment or care. No healthcare practitioner is permitted to complete the documentation for a medical record on a patient unfamiliar to him or her. In unusual extenuating circumstances (for example, death of a provider), local policy will ensure that all means have been exhausted to complete the record.

6. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

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

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//