

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]
[REDACTED]

BOARD DATE: 11 October 2024

DOCKET NUMBER: AR20240000576

APPLICANT REQUESTS: reconsideration of his previous requests to upgrade his undesirable discharge under other than honorable conditions.

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

- DD Form 149 (Application for Correction of Military Record)
- Civilian Medical Records
- Statement

FACTS:

1. Incorporated herein by reference are military records as were summarized in the previous considerations of the applicant's case by the Army Board for Correction of Military Records (ABCMR), identified as follows: an unlisted docket number, decided on 29 January 1975, and AC97-08577, dated 19 August 1998.

2. The applicant states, he is not a medical professional, but he believes he has been suffering from post-traumatic stress disorder (PTSD).

a. At present, doctors have diagnosed him with Stage 4 Lung Cancer; it is presumed that his medical conditions resulted from exposure to Agent Orange, which he incurred during his service in Vietnam. In addition, he suffers from diseases sustained as a result of poisoning, but he has been unable to get the help he needs due to his character of service.

b. On his application, the applicant has checked the block indicating that PTSD is a medical condition related to his request. He also notes this is his third attempt to be granted an upgraded character of service. The applicant includes a personal statement, wherein he offers a description of events during his Vietnam service:

(1) While on patrol, a platoon from another company came under attack from the North Vietnamese Army; when the applicant and members of his unit arrived at the scene, they found 12 Soldiers had been killed. The applicant and the other Soldiers had

to uncover the bodies from shallow graves so they could be retrieved and sent back to the continental United States (CONUS).

(2) When the applicant had completed 3 months in Vietnam, the command sent him to a unit to replace Soldiers who had either been killed or injured. With that change, he came under the leadership of a new platoon leader, and this new leader did not like the fact that the previous command had allowed him and other Soldiers to smoke marijuana.

(3) At a point where the applicant had only 3 months remaining in Vietnam, his leadership decided they wanted to "bust" him for smoking marijuana. They court-martialed the applicant and started the process for sending him back to CONUS. After sitting in jail for 30 days, they transferred him to Fort Lewis, WA, and he appeared before a hearing that was deciding whether he should stay in the Army. At the conclusion of the hearing, he went absent without leave (AWOL); they discharged him upon his return.

c. In support of his request, the applicant provides medical documents, which indicate he suffers from numerous medical conditions, to include COPD (Chronic Obstructive Pulmonary Disease) and respiratory failure; Stage 4 Lung Cancer; and depression and anxiety disorder. He additionally submits a letter of support from his daughter, in which she details what it was like being the child of a Vietnam Veteran.

(1) The applicant's daughter acknowledges it was not easy growing up with a father who fought in Vietnam, and, in a number of ways, the aftereffects of war ruined her childhood. Although the war was "a thing from his past, it was never far from Dad's mind and, in many, many ways, (it) affected his everyday life, and never in a good way."

(2) The applicant would tell his children stories about Vietnam; for example, he told them of the time he and his platoon were in a helicopter that was hit by enemy fire. The pilot told them to jump out, and, when he landed, the fall knocked the applicant unconscious. When the applicant came to, he had no idea whether he had landed in North or South Vietnam.

(3) Her father additionally disclosed that the first time he smoked marijuana was in Vietnam. "His first night in Vietnam, he was given orders to stand guard. He was also given a marijuana joint by his platoon leader...this platoon leader not only introduced my Dad to smoking marijuana but permitted the entire platoon to smoke it." The replacement platoon leader, by contrast, was strictly "by-the-book" and no longer allowed anyone to use marijuana.

(4) "Dad talked about his platoon as a band of brothers. Bonded together by their situation, their common desire to survive, and make it through. However, I recollect

Dad sharing one story about a guy in his platoon that I never forgot because the guy seemed to have 'gone off the deep end.' I don't know what would cause a person to do what this man did but my only answer is war brings out the worst. This soldier would cut off the fingers of the Vietnamese Soldiers they killed and make necklaces with them...Dad said this Soldier would even sometimes decapitate a Vietnamese Soldier and carry his head in his backpack. I can't even imagine being in my twenties and having witnessed the likes of something like this!"

(5) "I and my siblings weren't very old when we realized that the pot smoking and drinking were coping mechanisms my Dad used to drown memories from bygone days of horrors caused by that war. But post-war Vietnam services didn't reach out to my Dad for the treatment of PTSD. And my Dad came from a generation that, despite my Mom's best efforts, a man doesn't go to counseling. A man just gets on with his life...Even if it is a life, where self-medication is the only PTSD treatment you will ever be offered."

(6) The applicant's daughter concludes, "He was a young man who gave his all for a country he loved. Now it is getting close to 50 years since my Dad fought in Vietnam and (for) all these years, he has had this stigma of an undesirable discharge hanging over his head. To me the only thing undesirable about my Dad's discharge is the fact that it has taken almost 50 years for him to be recognized as an American hero, who fought for our country." She declares her father deserves an honorable discharge and the military benefits that he rightfully earned as a Veteran.

3. A review of the applicant's service record shows the following:

a. On 31 October 1967, after obtaining his parent's permission, the applicant enlisted into the Regular Army for 3 years; he had just turned 17. Upon completion of initial and airborne training, orders assigned him to an airborne infantry unit at Fort Bragg, NC (now renamed Fort Liberty); he arrived at his new unit, on or about 15 April 1968.

b. In or around August 1968, the applicant received reassignment instructions for Vietnam, and he arrived in country, on 19 February 1969; orders subsequently assigned him to the 3rd Battalion (Airborne), 503rd Infantry Regiment, 173rd Airborne Brigade, and he arrived at the battalion, on or about 23 February 1969. Effective 25 February 1969, the applicant's leadership promoted him to private first class (PFC)/E-3.

c. On or about 27 May 1969, the applicant accepted nonjudicial punishment (NJP), under the provisions of Article 15, Uniform Code of Military Justice, for sleeping while on guard duty; punishment included reduction to private (PV2)/E-2. On or about 17 September 1969, the command initiated court-martial charges against the applicant for possession of marijuana; the charges were ultimately dismissed due to the lack of a

speedy trial. On or about 9 November 1969, the applicant accepted NJP because he disobeyed a noncommissioned officer's order to go on patrol; the imposing commander's punishment included reduction to private (PV1)/E-1.

d. On 18 December 1969, the 173rd Airborne Brigade Surgeon rendered a psychiatric evaluation of the applicant. The surgeon stated that he based his assessment on information provided by the unit, the applicant's health record, and the applicant himself.

(1) "This is an EM (enlisted member) who has experienced marked conflict with authority since he enlisted in the Army. He is more inclined to passive measures of noncooperation than to active methods of disobedience. This individual has convinced himself that to remain in the Army will only mean more of the same 'hassle' and cause him to keep getting into trouble. He accounts for his attitude and behavior by saying, 'I was unable to adjust.'...He is a very immature and impulsive individual and clearly cannot be motivated to become an effective Soldier."

(2) "Diagnosis: 3211 – Passive-Aggressive Personality, chronic, moderate to severe, manifested by difficulty with authority, impulsiveness, questionable motivation, manipulateness, and stubbornness."

(3) Findings:

(a) "This condition and the problems presented by this individual are not, in the opinion of this examiner, amenable to hospitalization, treatment, transfer, disciplinary action, training, or reclassification to another type of duty within the military. It is unlikely that efforts to rehabilitate or develop this individual into an effective member of the military will be successful."

(b) "The individual meets the retention standards prescribed in Chapter 3 (Retention Medical Fitness Standards), AR (Army Regulation) 40-501 (Standards of Medical Fitness) and there is no psychiatric disease or defect which warrants disposition through medical channels."

(c) "The diagnosis, as shown above, represents a character and behavior disorder within the meaning of TB Med (Technical Bulletin – Medical) 15 (Department of Defense Disease and Injury Codes), AR 40-401 (Armed Forces Medical Diagnosis Nomenclature and Statistical Classification), and AR 635-212 (Personnel Separations – Discharge – Unfitness and Unsuitability)."

e. On 13 January 1970, consistent with the applicant's plea, a special court-martial found the applicant guilty of AWOL from 25 November until 2 December 1969 (7 days). The court sentenced the applicant to 3-months' confinement and the forfeiture of

\$109 per month for 3 months. The special court-martial authority subsequently approved the sentence but directed a 3-month suspension of the applicant's confinement sentence.

f. On 15 January 1970, the applicant's company commander initiated separation action against him for unfitness, under the provisions of AR 635-212 and citing paragraphs 6a (1) (Frequent Incidents of a Discreditable Nature with Civil or Military Authorities), (3) (Drug Addiction, Habituation, or Unauthorized Use of Drugs), and (4) (Established Pattern of Shirking).

(1) The commander noted a bar to reenlistment action had been approved, and added, "Subject EM's military superiors and psychiatric examiner agree that rehabilitation would be useless. It is felt that this is not a conflict of personalities problem, but a failure to adjust to military life. EM has no motivation for continued military service, and (he) has difficult with authority."

(2) The commander recommended the applicant receive an undesirable discharge under other than honorable conditions.

g. On 16 January 1970, the applicant's battalion commander recommended approval of the company commander's separation recommendation and stated, "EM is presently in confinement at the USARV (U.S. Army, Vietnam) confinement facility at Long Binh, RVN (Republic of Vietnam)."

h. On 3 February 1970, the applicant's company commander formally advised the applicant of his pending separation action. On 4 February 1970, after consulting with counsel (a Judge Advocate General officer), the applicant acknowledged counsel had advised him of the basis for his separation action. The applicant elected to waive his rights to have his case considered by, and to personally appear before, a board of officers. In addition, he opted not to submit statements in his own behalf.

i. On 18 February 1970, the separation authority approved the company commander's separation recommendation and directed the applicant's undesirable discharge under other than honorable conditions. On 2 March 1970, the applicant departed Vietnam, and transferred to Fort Lewis for separation processing.

j. On 4 March 1970, the Army discharged the applicant under other than honorable conditions. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 2 years, 3 months, and 26 days of net creditable active service, with 7 days of lost time. The report additionally reflects the following:

(1) Item 11a (Type of Transfer or Discharge) – AR 635-212, SPN (Separation Program Number) "28B" (Unfitness – Frequent Involvement in Incidents of a Discreditable Nature with Civil or Military Authorities."

(2) Item 15 (Reenlistment (RE) Code) – RE-4 (non-waivable disqualification).

(3) Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) – National Defense Service Medal, Vietnam Service Medal, Combat Infantryman Badge, Parachutist Badge, Republic of Vietnam Campaign Medal with Device (1960), two overseas service bars.

(4) Item 30 (Remarks) – The dates of the applicant's Vietnam service are not listed.

j. On 15 June 1972, the applicant petitioned the Army Discharge Review Board (ADRB), requesting an upgraded character of service. After explaining that the applicant's name had changed as a result of adoption, counsel argued drug problems like the applicant's warranted an upgraded character of service rather than punishment. On 16 October 1972, the ADRB denied the applicant's request, finding his separation was proper and equitable.

k. On 26 September 1974, the applicant applied to the ABCMR, requesting an upgrade to general under honorable conditions. The applicant maintained, "anyone who was discharged from any branch of the service for drugs is subject to have (their) discharge changed to under honorable conditions," based upon recently passed legislation. On 29 January 1975, the Board denied the applicant's request.

l. On 23 October 1996, the applicant requested reconsideration of his previous petition to upgrade his discharge. On 19 August 1998, the ABCMR addressed the applicant's petition, noting that, because the Memorandum of Consideration for the applicant's first case was unavailable, it would review his case "de novo." After evaluating the applicant's arguments and reviewing his available service record, the Board voted to deny the applicant's request, finding the applicant failed to submit sufficient evidence to warrant relief.

(1) In regard to the applicant's claim that "anyone who was discharged from any branch of the service for drugs is subject to have (their) discharge changed to under honorable conditions," the Board pointed out that, "The applicant does not fall under the 'Laird Memorandum,' since there is no evidence his administrative separation was based, in whole or in part, on evidence that was developed as a direct or indirect result of urinalysis testing nor was his discharge based solely on personal drug use or possession."

(2) (In 1971, the Secretary of Defense issued memoranda that applied to administrative separations, approved prior to 7 July 1971, and which had resulted in under other than honorable conditions characters of service. The memoranda stated that discharges based solely on the personal use of drugs, or possession of drugs for personal use, were to be reviewed for recharacterization. Under this policy, each Secretary of a military department was authorized to upgrade to an under honorable conditions character of service; in practice, the policy virtually required such upgrading).

m. On 27 August 2010, the applicant applied again to the ABCMR and contended the Board should upgrade his discharge because he had incurred PTSD during his Vietnam service. On 23 February 2011, the Army Review Boards Agency (ARBA) administratively closed the request, stating the Board could not consider his request unless the applicant provided his medical records.

n. On 21 March 2011, the applicant submitted a copy of his service treatment records, along with documents from his service record and previous ADRB consideration. On 15 September 2011, ARBA administratively closed the request, citing the requirement then in effect that stated applicants needed to file reconsideration requests within one year of the Board's decision.

4. MEDICAL REVIEW:

a. Background: The applicant is requesting reconsideration of his previous requests to upgrade his undesirable discharge under other than honorable conditions. He contends PTSD mitigates his discharge.

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:

- On 31 October 1967, with parental consent, the applicant enlisted into the Regular Army at the age of 17.
- August 1968, the applicant received reassignment instructions for Vietnam, and he arrived in country, on 19 February 1969; orders subsequently assigned him to the 3rd Battalion (Airborne), 503rd Infantry Regiment, 173rd Airborne Brigade, and he arrived at the battalion, on or about 23 February 1969. Effective 25 February 1969, the applicant's leadership promoted him to private first class (PFC)/E-3.
- On or about 27 May 1969, the applicant accepted nonjudicial punishment (NJP), under the provisions of Article 15, Uniform Code of Military Justice, for sleeping while on guard duty; punishment included reduction to private (PV2)/E-2. On or about 17 September 1969, command-initiated court-martial charges against the applicant for possession of marijuana; the charges were ultimately dismissed due

to the lack of a speedy trial. On or about 9 November 1969, the applicant accepted NJP because he disobeyed a noncommissioned officer's order to go on patrol; the imposing commander's punishment included reduction to private (PV1)/E-1.

- On 13 January 1970, consistent with the applicant's plea, a special court-martial found the applicant guilty of AWOL from 25 November until 2 December 1969 (7 days).
- On 15 January 1970, the applicant's company commander initiated separation action against him for unfitness, under the provisions of AR 635-212 and citing paragraphs 6a (1) (Frequent Incidents of a Discreditable Nature with Civil or Military Authorities), (3) (Drug Addiction, Habituation, or Unauthorized Use of Drugs), and (4) (Established Pattern of Shirking).
- On 18 February 1970, the separation authority approved the company commander's separation recommendation and directed the applicant's undesirable discharge under other than honorable conditions. On 2 March 1970, the applicant departed Vietnam and transferred to Fort Lewis for separation processing. On 4 March 1970, the Army discharged the applicant under other than honorable conditions. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 2 years, 3 months, and 26 days of net creditable active service, with 7 days of lost time.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states, "he is not a medical professional, but he believes he has been suffering from post-traumatic stress disorder (PTSD)." At present, doctors have diagnosed him with Stage 4 Lung Cancer; it is presumed that his medical conditions resulted from exposure to Agent Orange, which he incurred during his service in Vietnam. In addition, he suffers from diseases sustained as a result of poisoning, but he has been unable to get the help he needs due to his character of service. The applicant includes a personal statement, wherein he offers a description of events during his Vietnam service: "while on patrol, a platoon from another company came under attack from the North Vietnamese Army; when the applicant and members of his unit arrived at the scene, they found 12 Soldiers had been killed. The applicant and the other Soldiers had to uncover the bodies from shallow graves so they could be retrieved and sent back to the continental United States (CONUS). When the applicant had completed 3 months in Vietnam, the command sent him to a unit to replace Soldiers who had either been killed or injured. With that change, he came under the leadership of a new platoon leader, and this new leader did not like the fact that the previous command had allowed him and other Soldiers to smoke marijuana. At a point where the applicant had only 3 months remaining in Vietnam, his leadership decided they wanted to "bust" him for smoking marijuana. They court-martialed the applicant and started the process for sending him back to CONUS. After sitting in jail for 30 days,

they transferred him to Fort Lewis, WA, and he appeared before a hearing that was deciding whether he should stay in the Army. At the conclusion of the hearing, he went absent without leave (AWOL); they discharged him upon his return.” In addition, the applicant provides a letter from his daughter detailing the challenges of growing up with a father who had PTSD and apparently self-medicated as a result. The letter further contains stories her father shared related to his experiences in Vietnam.

d. Due to the period of service, no active-duty electronic medical records were available for review. Hardcopy medical documentation submitted by the applicant for review indicate he participated in a psychiatric evaluation on 18 December 1969. The applicant was diagnosed with Passive-Aggressive Personality, “manifested by difficulty with authority, impulsiveness, questionable motivation, manipulateness, and stubbornness.” The clinician opined, “he is a very immature and impulsive individual and clearly cannot be motivated to become an effective Soldier.” He was found to be mentally responsible, able to distinguish right from wrong and to adhere to the right, and mentally capable of understanding and participating in board proceedings. On 27 December 1969, the applicant participated in a physical as part of the separation process, he endorsed symptoms consistent with PTSD including depression, anxiety, nervousness, and sleepwalking.

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 service. No VA electronic medical records were available for review. The applicant provided medical documentation post-military service, with a note dated 23 November 2023 indicating he was admitted into a residential facility on 19 July 2023 with COPD (Chronic Obstructive Pulmonary Disease) and respiratory failure. The medical record further indicates the applicant is diagnosed with Stage 4 Lung Cancer, depression, and anxiety disorder.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had an experience, service in a combat zone, that more likely than not contributed to 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 the mitigating condition of PTSD.

(2) Did the condition exist or experience occur during military service? Yes. The applicant served in a combat zone, the Republic of Vietnam, from approximately 19 February 1969 to 2 March 1970.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. Command-initiated court-martial charges against the applicant for possession of marijuana were ultimately dismissed due to the lack of a speedy trial. A special court-martial found the applicant guilty of AWOL from 25 November until 2 December 1969. Although there is insufficient medical documentation confirming the applicant's diagnosis of PTSD, the following all support his contention: his serving in a combat zone, his description of a qualifying index trauma, existing medical documentation at the time of discharge where he endorsed symptoms consistent with PTSD, his daughter's statement/letter in support, and his current diagnosis of anxiety and depression. Given the association between PTSD and avoidance, the applicant's misconduct of being AWOL is mitigated by his BH condition.

h. Per Liberal Consideration guidelines, the applicant's assertion of PTSD is sufficient to warrant consideration by the Board.

BOARD DISCUSSION:

1. 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 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 concurred with the advising official finding sufficient evidence to support the applicant had an experience, service in a combat zone, that more likely than not contributed to a behavioral health condition during military service that mitigates his discharge.

2. The Board found there is sufficient evidence of in-service mitigating factors to overcome the misconduct of AWOL. The Board noted, the applicant accepts responsibility for his actions and was remorseful with his application, demonstrating he understands his actions were not that of all Soldiers. Furthermore, the Board determined that clemency is warranted based on liberal consideration, the medical opine and how the applicant has changed his life over the past 50 years in a positive way as a leader, father and mentor within his community. As such the Board granted relief to upgrade the applicant's discharge to under honorable (general) conditions.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 for the period ending 4 March 1970 showing his characterization of service as general, under honorable conditions.

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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):

1. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) should have the following corrections:

- Delete the Vietnam Service Medal and replace with Vietnam Service Medal with four bronze service stars
- Based on Department of the Army General Order (DAGO) Number 8, dated 1974, add the Republic of Vietnam Gallantry Cross with Palm Unit Citation

- Per DAGO Number 5, dated 1973, add the Republic of Vietnam Civil Actions Honor Medal, First Class Unit Citation

2. Item 30 (Remarks) is missing the dates of the applicant's Vietnam Service; the following comments should be added: "Service in Vietnam from 19 February 1969 to 2 March 1970."

REFERENCES:

1. Title 10, USC, section 1556 (Ex Parte Communications Prohibited) 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 applicant's (and/or their counsel) prior to adjudication.

2. Army Regulation (AR) 635-212 (Personnel Separations – Discharge – Unfitness and Unsuitability), in effect at the time, set forth the basic authority for separating enlisted personnel for reasons of unfitness or unsuitability. Paragraph 6 (Applicability) stated Soldiers were subject to separation for unfitness under the provisions of this regulation when they were involved in such misconduct as frequent acts of a discreditable nature.

3. AR 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, prescribed policies and procedures for enlisted administrative separations.

a. Paragraph 1-9d (Honorable Discharge) stated an honorable discharge was a separation with honor. Issuance of an honorable discharge was conditioned upon proper military behavior and proficient duty performance. A Soldier's service was to be characterized as honorable based on conduct ratings of at least "Good"; efficiency ratings of at least "Fair"; no general court-martial, and no more than one special court-martial conviction.

b. Paragraph 1-9e (General Discharge) stated a general discharge was a separation from the Army under honorable conditions, where the Soldier's military record was not sufficiently meritorious to warrant an honorable discharge.

c. Section II (Secretarial Authority), paragraph 5-3 (Authority) stated the Secretary of the Army had the prerogative to separate enlisted personnel for the convenience of the Government, and such a separate would only be accomplished per the Secretary's authority. Except as delegated by this regulation or by special Department of the Army directives, the discharge or release of any enlisted member of the Army for the convenience of the government would, at the Secretary's discretion, result in the issuance of either an honorable or a general discharge certificate.

4. AR 600-200 (Enlisted Personnel Management System), in effect at the time, prescribed policies and procedures for the management of enlisted personnel. Paragraph 7-30b (3) (Reduction Authority and Reasons – Reasons for Reduction – Approved for Discharge from Service with an Undesirable Discharge) stated Soldiers approved for separation with an undesirable discharge were required to be reduced to the lowest enlisted grade.

5. AR 635-5 (Separation Documents), in effect at the time, prescribed policies and procedures for the completion of the DD Form 214.

a. Appendix A (SPN and Authority Governing Separations) showed Soldiers separated under the provisions of AR 635-212 for unfitness because of frequent involvement in incidents of a discreditable nature with civil or military authorities received the SPN "28B."

b. Item 15 (Reenlistment Code). The "Remarks" section of each enlisted person's qualification record will be checked for eligibility for reenlistment. The regulation listed the RE codes:

- RE-1 – Fully qualified for immediate reenlistment
- RE-3 – Not eligible for reenlistment unless a waiver is granted
- RE-4 – Not eligible for reenlistment

6. AR 601-280 (Army Reenlistment Program) prescribed eligibility criteria for the immediate reenlistment in the Regular Army of persons currently serving on active duty with the Army. Table 2-3 (Persons Ineligible for Immediate Reenlistment) listed disqualifications for immediate reenlistment; Line "F" disqualified Soldiers separated per AR 635-212.

7. 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.

8. 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 Discharge Review Boards (DRBs) and Board for Correction of Military/Naval Records (BCM/NRs) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including Post Traumatic Stress Disorder (PTSD); Traumatic Brain Injury (TBI); sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part 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 misconduct that led to the discharge.

9. 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.

//NOTHING FOLLOWS//