

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 August 2024

DOCKET NUMBER: AR20240000703

APPLICANT REQUESTS: reconsideration of his previous request to upgrade his characterization of service from under other than honorable conditions.

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

- DD Form 149 (Application for Correction of Military Record)
- MEDCOM Form 774 (Medical Record – Primary Care Behavioral Health Screening)
- Personal Health Information
- Diploma, Associate in Science in Aeronautics from [REDACTED]
- Diploma, Bachelor of Science in Aeronautics from [REDACTED]
- Certificate, NEO Training from the [REDACTED] Department of Rehabilitation and Correction
- Certificate, Notary Public from the [REDACTED]

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20150014607 on 10 January 2017.

2. The applicant states that his discharge was a result of his own actions that were caused by several mental health issues that came after a 15-month deployment to Iraq. He ignored these problems for several years, thinking there was nothing wrong with him. In 2015 he finally reached out to his primary care manager for help, stopped drinking, started therapy, and medication management for his severe anxiety. His entire life turned around once he addressed his issues and him and his wife have since made a successful life for themselves and their three children. He has used his G.I. Bill to obtain his associate's and bachelor's degrees in Aeronautics, and currently pursuing his master's degree. The applicant annotates post-traumatic stress disorder (PTSD) and other mental health are issues/conditions related to his request.

3. The applicant provides:

a. MEDCOM Form 774 dated 19 August 2015 in which the applicant was referred to Behavioral Health Case Management due to his screening results. The applicant selected the following on the assessment:

- feeling down, depressed, or hopeless: several days
- little interest or pleasure in doing things: several days
- feeling nervous, anxious, or on edge: more than half the days
- not being able to stop or control worrying: not at all
- how often did you have a drink containing alcohol in the past year?: monthly or less
- how many drinks did you have on a typical day when you were drinking in the past year?: 5 or 6
- how often did you have six or more drinks on one occasion in the past year?: less than monthly

b. Personal health information that includes a problem list and medication history. The applicant highlighted alcohol dependence, Fluoxetine HCL, and Citalopram.

c. An Associate in Science in Aeronautics degree from [REDACTED]

d. A Bachelor of Science in Aeronautics degree from Embry-[REDACTED]

e. A training certificate from [REDACTED] Ohio Department of Rehabilitation and Correction for NEO Training.

f. A certificate from the [REDACTED] Executive Department that commissioned the applicant as a Notary Public from 29 September 2022 to 28 September 2026.

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

a. He enlisted in the Regular Army on 28 July 2004.

b. He was discharged for immediate reenlistment on 13 March 2007, and reenlisted in the Regular Army on 14 March 2007.

c. DA Forms 4187 (Personnel Action), dated 28 May 2008 and 22 September 2009 shows the applicant's duty status went from:

- present for duty (PDY) to absent without leave (AWOL) effective 28 April 2008
- AWOL to dropped from rolls (DFR) effective 28 May 2008

d. A DA Form 458 (Charge Sheet) preferred court-martial charges on 21 September 2009, for violation of the Uniform Code of Military Justice (UCMJ) with one specification of violating Article 86 (AWOL) by absenting himself from his unit on or about 28 April 2008.

e. DD Form 616 (Return of Absentee) dated 3 October 2010 shows that the applicant was apprehended by civil authorities and returned to military control on 3 October 2010.

f. DA Form 4187 shows the applicant's duty status went from DFR to PDY effective 2030 hours, 13 October 2010.

g. On 14 October 2010, the applicant endorsed DA Form 3881 (Rights Warning Procedure/Waiver Certificate) pertaining to his AWOL status and completed a DA Form 2823 (Sworn Statement).

h. On 25 October 2010, he was formally counseled on DA Form 4856 (Developmental Counseling Form) in regard to his AWOL status from 28 April 2008 to 15 October 2010.

i. A DA Form 458 (Charge Sheet) preferred court-martial charges on 22 November 2010, for violation of the UCMJ with one specification of violating Article 86 (AWOL) by absenting himself from his unit on or about 28 April 2008 until he was apprehended on or about 13 October 2010. The applicant acknowledged receipt of the preferred charges the same day.

j. On 4 January 2011, the applicant voluntarily requested discharge in lieu of trial by court-martial under AR 635-200 (Active Duty Enlisted Administrative Separations), Chapter 10.

k. On 5 January 2011, the separation authority approved the applicant's request, directed reduction to private/E-1 and issuance of an Under Other than Honorable Discharge Certificate.

l. On 21 January 2011, the applicant was discharged accordingly, with an under other than honorable conditions characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 4 years and 8 days of active service. His DD Form 214 also shows he was awarded or authorized:

- Army Commendation Medal
- Army Achievement Medal
- Army Good Conduct Medal
- Iraq Campaign Medal with Campaign Star
- Overseas Service Ribbon

5. On 3 August 2012, the Army Discharge Review Board (ADRB) granted partial relief by administratively correcting his DD Form 214 to show a reentry code of 4, instead of 3, but denied his request to upgrade his discharge. The Board found the evidence presented did not demonstrate the existence of a probable error or injustice. Therefore, the Board determined that the reason for separation was both proper and equitable.

6. On 10 January 2017, the ABCMR denied his request to upgrade his discharge. The evidence presented to the Board does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of his case were insufficient as a basis for correction of his records.

7. In reaching its determination, the Board can consider the applicants petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

#### 8. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under other than honorable conditions (UOTHC) to under honorable conditions (general). He contends he experienced an undiagnosed mental health condition, including PTSD, that mitigates his misconduct.

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

- The applicant enlisted into the Regular Army on 28 July 2004, and he reenlisted on 14 March 2007.
- The applicant had court-martial charges preferred against him on 22 November 2010, for violation of the UCMJ with one specification of violating Article 86 (AWOL) by absenting himself from his unit on or about 28 April 2008 until he was apprehended on or about 13 October 2010. He voluntarily requested discharge in lieu of trial by court-martial.
- The applicant was discharged on 21 January 2011 and completed 4 years and 8 days of active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts he experienced an undiagnosed mental health condition, PTSD, following a 15-month deployment. A Primary Care Behavioral Health screening document dated 18 August 2015 was included and showed that the applicant endorsed symptoms of depression, anxiety, and alcohol use, and it was noted that he was started on an antidepressant for anxiety, which was attributed to deployment history. Medical documentation showed diagnosis of Adjustment Disorder (dated 15 November 2016) and Alcohol Dependence (dated 21 May 2008), and prescription history including two antidepressants and an anxiolytic. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The VA's Joint Legacy Viewer (JLV) was also reviewed and showed the applicant initiated mental health treatment through the VA on 21 December 2007, and he reported nightmares "about Iraq," flashbacks, irritability, hypervigilance, and anxious mood. The next encounter was on 20 May 2008 when the applicant presented to behavioral health at Fort Riley, Kansas after trying to turn himself in to the military police, who could not detain him because he had not been reported as AWOL. Documentation indicated he reported sleep problems, depressed mood, irritability, suicidal ideation (3 weeks prior), and increased alcohol use with an alcohol related arrest. He was diagnosed with Alcohol Dependence and told to return to the military police. He was seen again by a DoD mental health provider on 28 October 2010 as related to Chapter 14 proceedings after being AWOL for 2.5 years. It was noted that he had made attempts at turning himself in, but that he was not listed in the military system. He reported living a "normal life" for the previous two years, and he discussed alcohol abuse following his return from deployment. He was determined to meet retention standards and possess the capacity to understand the proceedings. No diagnosis was rendered. The next encounter was on 19 August 2015 with a DoD primary care provider (wife was active duty) where he reported extreme fatigue and anxiety over the past year that was impacting his marital relationship. He was started on an antidepressant and an anxiolytic, and at follow up a month later he reported improvement in symptoms and relationship. Documentation showed follow up for medication in 2016 and 2018 when medication changes were made due to increased symptoms of anxiety and sleep difficulty. In 2019, he reported increased difficulty concentrating and focusing, and he was attending school with a reported history of ADHD. He was diagnosed with ADHD and Adjustment Disorder with anxiety and depressed mood, and he was prescribed a stimulant medication and antidepressant.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support that the applicant had a condition or experience that mitigates his misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. There is documentation while in active service that he reported symptoms associated with anxiety and PTSD. There is also evidence of treatment through medication management and a diagnosis of Adjustment Disorder with anxiety and depressed mood after discharge.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service. He deployed to Iraq as an 11B from August 2006 to October 2007.




(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records revealed the applicant reported symptoms related to PTSD and anxiety while on active service, and he has been diagnosed with Adjustment Disorder with anxiety and depressed mood and Alcohol Dependence. In addition to the presence of symptoms associated with PTSD, the applicant's history of alcohol abuse is a common self-medicating strategy for avoiding uncomfortable emotions and memories related to trauma exposure. The applicant's misconduct of being AWOL can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. Given the nexus between trauma exposure and avoidance and in accordance with liberal consideration, the basis for separation is mitigated.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the lengthy period of honorable service completed prior to any misconduct, the misconduct leading to the applicant's separation and the mitigation found in the medical review, the Board concluded there was sufficient evidence to upgrade the applicant's characterization of service to Under Honorable Conditions (General).

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

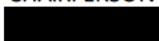
BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant 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 showing:

- Characterization of Service: Under Honorable Conditions (General)
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change

3/6/2025

X 

CHAIRPERSON  


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. Army Regulation 635-5 (Separation Documents) states:

a. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or

discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

b. For block 24 (Character of Service) the correct entry is vital as it affects a soldiers' eligibility for post-service benefits. Characterization or description of service is determined by directives authorizing separation. The entry must be one of the following: honorable, under honorable conditions (general), under other than honorable conditions, bad conduct, dishonorable, or uncharacterized.

2. Army Regulation (AR) 635-200, in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 provided that a Soldier who committed an offense or offenses, the punishment for which includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The discharge request may be submitted after court-martial charges are preferred against the Soldier, or, where required, after referral, until final action by the court-martial convening authority. Commanders will ensure that a Soldier is not being coerced into submitting a request for discharge for the good of the service. The Soldier will be given a reasonable time to consult with consulting counsel and to consider the wisdom of submitting such a request for discharge. After receiving counseling, the Soldier may elect to submit a request for discharge for the good of the service. The Soldier will sign a written request, certifying that they were counseled, understood their rights, may receive a discharge under other than honorable conditions, and understood the adverse nature of such a discharge and the possible consequences. A discharge under other than honorable conditions was normally appropriate for a Soldier who is discharged for the good of the service. However, the separation authority was authorized to direct a general discharge certificate if such was merited by the Soldier's overall record during their current enlistment. For Soldiers who had completed entry level status, characterization of service as honorable was not authorized unless the Soldier's record was otherwise so meritorious that any other characterization clearly would be improper.

b. An honorable discharge is a separation with honor. 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.

c. A general discharge is a separation from the Army under honorable conditions. When authorized, it is used for a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.



d. A discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct or for the good of the service.

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

4. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; Traumatic Brain Injury; 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.

5. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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//