

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 September 2024

DOCKET NUMBER: AR20240000830

APPLICANT REQUESTS: in effect, change to his uncharacterized discharge from the Army National Guard, as well as the reason for discharge and associated codes.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 does not make a statement. However, he checked "Post-Traumatic Stress Disorder (PTSD)" on his application.

3. The applicant enlisted in [REDACTED] Army National Guard ([REDACTED] ARNG) on 5 March 2002.

a. He entered active duty for training (ADT) on 5 November 2002. He was assigned to Fort Sill, OK, for training.

b. The complete facts and circumstances surrounding his separation are not available for review. However, his DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was released from active duty on 19 February 2003 for "Entry Level Performance and Conduct" (chapter 11, Army Regulation 635-200, Personnel Separations – Enlisted Personnel) with uncharacterized service. His DD Form 214 also shows:

(1) He completed 3 months and 15 days of active service; he did not complete initial entry training and was not awarded a military occupational specialty. He was not assigned a Separation Code or a Reentry Code.

(2) He was transferred to the control of his State ARNG.

c. On 11 June 2003, Office of The Adjutant General, ■■■ ARNG published Orders 162-035 ordering the applicant's discharge from the ARNG effective 15 June 2003 with an uncharacterized discharge due to "Entry Level Performance and Conduct."

d. The applicant was discharged from the ■■■ ARNG on 15 June 2003. His NGB Form 22 (Report of Separation and Record of Service) shows he was discharged in accordance with National Guard Regulation (NGR) 600-200, Enlisted Personnel Management, paragraph 8-26c, "Entry Level Performance and Conduct."

(1) He completed 1 year, 3 months and 11 days of ARNG service.

(2) He was assigned Reenlistment Eligibility Code 3.

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

5. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of a change to his uncharacterized discharge and associated codes. He contends he experienced 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 ■■■■■ Army National Guard on 5 March 2002 and entered active duty for training on 5 November 2002.
- The facts and circumstances surrounding his separation are not available for review. However, his DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was released from active duty on 19 February 2003, for "Entry Level Performance and Conduct" (chapter 11, Army Regulation 635-200, Personnel Separation) with an uncharacterized characterization of service.
- The applicant was discharged from the ARNG on 15 June 2003 and completed 1 year, 3 months, and 11 days of ARNG service.

c. Review of Available Records: The Army Review Board Agencies (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant indicated PTSD was a factor in his discharge. The application did not contain any medical or mental health records. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed the applicant initiated care with the

VA through a call to the Veterans Crisis Line on 5 October 2017. He indicated a history of mental health treatment for Schizoaffective Disorder and suicidal behavior. After seeing to his immediate needs, he was referred to eligibility where it was determined he was ineligible for services. His next contact with VA was in May 2023 when he called the National Call Center for Homeless veterans. Attempts were made to get in contact with him, but he was unreachable. A community, non-VA continuity of care document showed the applicant has a history of diagnoses of PTSD and Schizoaffective Disorder from 2018.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient information to fully opine on the change of his characterization of discharge because of the absence of the specific facts and circumstances surrounding his discharge processing.

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 his discharge. VA documentation indicates he reported a history of mental health diagnoses, but he is ineligible for their services.

(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.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant indicated PTSD on his application, but there were no medical or mental health records, and he did not provide an explanation of how this condition was a factor in his discharge. Additionally, without knowledge of the basis for separation, no opinion regarding mitigation can be made, and there is insufficient evidence that the applicant was experiencing a mental health condition while on active service. However, per Liberal Consideration, his assertion warrants consideration by the board.

BOARD DISCUSSION:

The Board carefully considered the applicant's request, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's record of service and the reason for his separation. The Board considered the applicant's PTSD claim and the review and conclusions of the ARBA Behavioral Health Advisor. The applicant provided no evidence of post-service achievements or letters of reference in support of a clemency determination. The Board found insufficient evidence of in-service mitigating factors and concurred with the conclusion of the medical advising official regarding his

there being insufficient information to determine if there is a mitigating condition related to his discharge based on entry level performance and conduct. The evidence confirms the applicant was an entry level Soldier when he was discharged, and his service was uncharacterized in accordance with the governing regulation. Based on a preponderance of the evidence, the Board determined the applicant's uncharacterized service and the reason for his separation and associated codes were not in error or unjust.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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

3/4/2025

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. 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 Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 11 of this regulation, in effect at the time, governed the entry level status discharge. It provided for the separation of service members who lacked the necessary motivation, discipline, ability, or aptitude to become productive Soldiers or have failed to respond to formal counseling. The regulation essentially requires that the service member must have voluntarily enlisted; must be in basic, advanced individual, on the job or service school training, and must not have completed of more than 179 days of active duty on their current enlistment by the date of separation. The regulation provided that Soldiers may be separated when they have demonstrated that they are not qualified for retention due to failure to adapt socially or emotionally to military life; cannot meet minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline; or have demonstrated character and behavior characteristics not compatible with satisfactory continued service. The regulation required an uncharacterized description of service for separation under this chapter.

b. Chapter 3 describes the different types of characterization of service. It states that an uncharacterized separation is an entry-level separation. A separation will be described as an entry-level separation if processing is initiated while a member is in entry-level status, except when characterization under other than honorable condition is authorized under the reason for separation and is warranted by the circumstances of the case or when The Secretary of the Army, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. For the purposes of characterization of service, the Soldier's status is determined by the date of notification as to the initiation of separation proceedings (emphasis added). Entry level status is defined as follows:

- Upon enlistment, a Soldier qualifies for entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active service after a service break of more than 92 days of active service.
- A member of a Reserve Component (RC) who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry level status upon enlistment in an RC.

4. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD

Code JGA is assigned to enlisted Soldiers separated under chapter 11 of Army Regulation 635-200 for entry level performance and conduct. Additionally, the SPD/RE (Reenlistment or Reentry) Cross Reference Table stipulated that Separation Code JGA has a corresponding Reenlistment (or Reentry) Code of 3.

5. Army Regulation 601-210 covers eligibility criteria, policies, and procedures for enlistment and processing in the Regular Army, U.S. Army Reserve, and Army National Guard. It determines Regular Army and Reserve reentry eligibility and provides regulatory guidance for the RE codes. Table 3-1 contains a list of RE codes.

- RE-1 applies to Soldiers completing their terms of active service who are considered qualified to reenter the U.S. Army. They are qualified for enlistment if all other criteria are met.
- RE-2 is not used by the Army.
- RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. They are ineligible unless a waiver is granted.
- RE-4 applies to Soldiers who are separated from their last period of service with a nonwaivable disqualification. They are ineligible for enlistment.

6. National Guard Regulation 600-200, Enlisted Personnel management prescribes the criteria, policies, processes, procedures, and responsibilities to classify; assign; utilize; transfer within and between states; separation; extension/reenlistment, and other personnel issues.

a. Character of service for administrative separation: A determination reflecting a Soldier's military behavior and performance of duty during a specific period of service. The 3 characters are Honorable; General (Under Honorable Conditions); and under Other Than Honorable Conditions. The service of Soldiers in entry-level status is normally described as uncharacterized. Service will be described as uncharacterized if separation processing is initiated while a Soldier is in an entry level status.

b. Paragraph 8-26 covers reasons, applicability, codes, and board requirements for administrative discharges from the Reserve of the Army and/or the State ARNG. Sub-paragraph 8-26(c) pertains to enlisted Soldiers of the ARNG separated for entry level performance and conduct .

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 DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole, or in part, to: mental health conditions, including PTSD; TBI; sexual assault; sexual harassment. Boards were directed to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for that misconduct which led to the discharge.

9. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NRs) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief based on equity, injustice, or clemency grounds, BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

10. Section 1556 of Title 10, United States Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory

opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//