

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 September 2024

DOCKET NUMBER: AR20240001083

APPLICANT REQUESTS:

- reconsideration of his prior request for correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the service period ending 15 June 1983, to show his uncharacterized discharge as honorable
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Ball State University (BSU) Transcript
- Resume
- Safety Ambassador Article

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 AR20230000989 on 27 September 2023.

2. The applicant states he is requesting reconsideration of his prior request in lieu of new evidence and arguments he believes were neither considered nor otherwise addressed. He was experiencing depression and generalized anxiety disorder during his military service which he believes were undiagnosed at the time. He wishes to appear, at his own expense, before the Board. The applicant further offers in his self-authorized statement:

a. He enlisted in the Regular Army on 1 February 1983 for a period of 6 years. He completed basic training and reported to Fort Gordon, GA for advanced individual training (AIT). He began to experience severe depression and generalized anxiety disorder during his military training and was unable to complete his AIT. His mental health disorders were undiagnosed and although he underwent a mental health

evaluation, no determinations were made or addressed as to the severity of his depression and generalized anxiety disorder.

b. He was released from active duty on 15 June 1983 by reason of entry-level status performance and conduct with his character of service listed as “entry-level status,” (uncharacterized). He was credited with 4 months and 15 days of net service; however, he was not awarded a military occupational specialty (MOS) and at no time during his military service did he demonstrate misconduct.

c. The applicant offers his post-service achievements, previously considered, which include his degree, his resume, and his community service as a Public Safety Ambassador, as significant contributions to consider in his request for an upgrade of his discharge. He further notes the Board should consider his argument to include his mental health conditions under the relevant prevailing published equity or clemency determination guidelines. His discharge did not involve issues related to drugs, alcohol, or bad behavior.

3. The applicant provides:

a. The below listed documents previously considered in Docket Number AR20230000989:

- BSU Transcript – Associate of Arts Degree, 17 December 2006
- Resume – lists work experience, education, and professional accomplishments to date

b. An article with numerous images shows the applicant served as a Public Safety Ambassador and describes their duties as “boots on the ground to help with whatever the day throws their way.” Two of the applicant’s responsibilities included meeting with partnership stakeholders and assisting a community member with retrieving keys dropped in the street grate.

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

a. He enlisted in the Regular Army on 1 February 1983.

b. On 27 May 1983, the applicant’s immediate commander notified the applicant of his intent to separate him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11 for entry level status performance and conduct.

c. After declining consultation with legal counsel, the applicant acknowledged:

- he understood he would receive an entry-level separation with uncharacterized service
- he would not be permitted to enlist in the U.S. Army for a period of two years after discharge
- he elected not to submit statements in his own behalf

d. The immediate commander initiated separation action against the applicant for entry level status performance and conduct. He indicated the applicant approached the chain of command for a discharge and shared his request for discharge in basic training was refused. The applicant totally failed to adapt emotionally to military service. He recommended that the applicant receive an uncharacterized discharge.

e. The service record includes the applicant's medical evaluations, dated 7 June 1983, for the purpose of separation which indicated he was generally in good health. He was marked qualified for separation.

- Standard Form (SF) 88 (Report of Medical Examination)
- SF 93 (Report of Medical History)

f. On 7 June 1983, the applicant underwent a mental evaluation. The DA Form 3822-R (Report of Mental Status Evaluations) shows:

- normal behavior and fully alert
- level mood and clear thinking process
- normal thought content and good memory
- mentally responsible
- able to distinguish right from wrong and able to adhere to the right
- has the mental capacity to understand and participate in proceedings

g. On 9 June 1989, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 11, for entry level status performance and conduct. He would be issued an uncharacterized discharge and transferred to the Individual Ready Reserve (IRR).

h. On 15 June 1983, he was discharged from active duty with an entry level status (uncharacterized) characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 4 months and 15 days of active service with no lost time. He was assigned separation code LGA (LET) and the narrative reason for separation listed as "Entry Level Performance and Conduct," with reenlistment code 3.

i. Orders D-01-011363 dated 26 January 1989 shows he was honorably discharged from the Ready Reserve with an effective date of 31 January 1989.

5. There is no evidence the applicant has applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

6. On 27 September 2023, the ABCMR rendered a decision in Docket Number AR20230000989. The Board determined upon review of the applicant's petition and available military records, the governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The Board the applicant did not receive a military occupational specialty and was properly credited with 4 months and 15 days of net service. As such, his DD Form 214 properly shows his service as uncharacterized. Therefore, relief was denied.

7. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

8. By regulation (AR 635-200), service will be described as uncharacterized under the provisions of Chapter 11. Separation of a Soldier in entry level status may be warranted on the grounds of unsatisfactory performance and/or unsatisfactory conduct as evidenced by:

- inability
- lack of reasonable effort
- failure to adapt to the military environment
- minor disciplinary infractions

9. 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.

10. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting reconsideration of his prior request for his service period ending 15 June 1983 to be changed to show his uncharacterized discharge as honorable. He contends in this application that mental health conditions are related to his request. 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 Regular Army on 1 February 1983; 2) He was released from active duty on 15 June 1983 by reason of entry-level status performance and conduct with his character of service listed as "entry-level status,"

(uncharacterized). He was credited with 4 months and 15 days of net service; 3) The applicant's request for a change to his discharge was reviewed and denied on 27 September 2023 by the ABCMR.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) was also examined. No additional medical documentation was provided.

c. The applicant asserts he was experiencing mental health conditions, which were related to his discharge, and therefore he warrants a change to his discharge status. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition, while on active service. He underwent a mental status exam as part of his administrative separation on 09 June 1989, and he was not diagnosed with a mental health condition and was cleared from a psychiatric perspective to participate in the proceedings.

d. A review of JLV provided evidence the applicant passed away in March 2024. However, JLV was void of medical documentation for the applicant, and he did not provide any additional medical documentation in his application.

e. Based on the available information, it is the opinion of the Agency BH Advisor that there is insufficient evidence beyond self-report the applicant was experiencing a mental health condition during his active service, which would warrant a change to his discharge status.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends he was experiencing mental health conditions during his active service, which impacted his performance and warrants a change to his discharge status.

(2) Did the condition exist or experience occur during military service? Yes, the applicant contends he was experiencing mental health conditions during his active service, which impacted his performance and warrants a change to his discharge status.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant was experiencing a mental health condition during his active service, which would warrant a change to his discharge status. The applicant was recommended for separation prior to completing

his initial training, but this is not sufficient evidence of a mental health condition. However, the applicant contends mental health conditions resulted in his discharge, and per the Liberal Consideration Policy, his contention is sufficient for consideration.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered counsel's statement, 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 insufficient evidence beyond self-report the applicant was experiencing a mental health condition during his active service, which would warrant a change to his discharge status.
2. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The Board determined there is insufficient evidence to support the applicant's contentions for correction of his DD Form 214 to show his uncharacterized discharge as honorable. The Board agreed the applicant's record is absent any evidence he reported or was diagnosed with a mental health condition, while on active service. The applicant completed 4 months and 15 days of active service with no lost time, did not complete training and was discharged from active duty for entry level performance and conduct. As such, his DD Form 214 properly shows the appropriate characterization of service as uncharacterized. Based on this, the Board found reversal of the previous Board decision is without merit and denied relief.
3. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for his or her character of service to be rated as honorable or otherwise.
4. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20230000989 on 27 September 2023.

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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.

REFERENCES:

1. 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 in paragraph 2-11 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.

2. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the member's service generally has met, the standards of acceptable conduct and performance of duty for Army personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate.

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

c. Chapter 11 of the regulation states service will be described as uncharacterized under the provisions of this chapter. Separation of a Soldier in entry level status may be warranted on the grounds of unsatisfactory performance and/or unsatisfactory conduct as evidenced by:

- inability
- lack of reasonable effort
- failure to adapt to the military environment
- minor disciplinary infractions

3. Army Regulation 635-5 (Separation Documents), in effect at the time, states 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.

4. 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 post-traumatic stress disorder (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.

5. 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, on those conditions or experiences. The guidance further describes evidence sources and criteria and requires boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NRs) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief 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.

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.

7. 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//