

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 October 2024

DOCKET NUMBER: AR20240001967

APPLICANT REQUESTS:

- an upgrade of his characterization of service from under other than honorable conditions (UOTHC) to honorable
- change in authority and reason to completion of required service

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

- DD Form 149 (Application for Correction of Military Record), 20 December 2023
- self-authored statement
- certificate of award of the Purple Heart, 11 December 1969
- General Orders Number 3855, Award of the Army Commendation Medal with "V" Device, 26 April 1969
- certificate of the Army Commendation Medal, 26 April 1969
- DD Form 214 (Report of Separation from Active Duty), 6 July 1976
- previous application to the Army Discharge Review Board
- Paramedic of the Year award correspondence, 18 August 1992
- Vietnam Veterans of America membership, 6 June 2023
- Veterans support group information sheet
- character reference letter, from Master Sergeant United States Air Force (Retired) T.O.

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 states post-traumatic stress disorder (PTSD) from combat operations while serving in Vietnam, significantly contributed to his poor decision making which led to his discharge.

a. Before joining the Army, he worked part time while attending school. He enlisted because he was failing school and decided to serve his country. He was deployed to Vietnam once he finished advanced individual training. He served as a combat medic and a rifleman.

b. While in Vietnam, he encountered many firefights, the base being attacked, and went on daily seek and destroy missions. One incident, a bomb exploded next to him, when he awakened, he was in a helicopter being transported to the hospital. He was wounded in his right leg below the knee from fragments of the bomb. Once released from the hospital, he was back to engaging the enemy. Again, being in firefights, resulting in many wounded or dead, he began to believe he would not return home. Serving in Vietnam was long and exhausting, with limited meals and showers. After almost 6 months in country, he got sick and passed out. He woke up to the doctors telling him he had a blood disorder, was sent for testing and had his spleen removed.

c. When he returned home from Vietnam, his relationships with family were strained. He started to drink as a coping mechanism. He states the lack of a welcoming committee made things even worse. His family was not happy to see him, nobody wanted to discuss anything that happened to him. When he returned to duty, he began having a difficult time keeping himself together, it was a drastic change from Vietnam to mundane day-to-day operations. He was serving with Soldiers who had no combat experience and he started getting into trouble, by drinking a lot, failing to return to the base, going home to see family without permission.

d. He was depressed, angry, and numb, and felt like he was back in Vietnam while working. He met another Vietnam Veteran, and they started drinking, he needed help and told his company commander, he was drinking alcohol and having bad thoughts, he was told to "get back to work". He needed help and remembered asking for it because he was drinking heavily, and his mental health was declining. He felt abandoned and at the mercy of the Army, one day his Vietnam Veteran friend asked him if he wanted to leave, he impulsively did so.

e. He was arrested and court-martialed due to being absent without leave. After his discharge from the Army, he worked on himself. He started attending church, he got active in his community, worked as a paramedic and volunteer firefighter.

3. A review of the applicant's record and governing regulations show he meets the regulatory criteria for additional awards not currently listed on his DD Form 214, for the period ending on 6 July 1976 [See Administrative Notes].

4. The applicant enlisted in the Regular Army on 5 June 1968, for a period of 3 years. He was awarded the military occupational specialty of 91B (Medical Specialist). The highest rank he attained was specialist four/E-4.

5. He arrived in Vietnam on 11 November 1968. His DA Form 20 (Enlisted Qualification Record) shows the following information:

a. Item 31 (Foreign Service) from 11 November 1968 to 13 March 1969 service in Vietnam.

b. Item 38 (Record of Assignments) shows the applicant received all excellent rating under conduct and efficiency from 6 June 1968 until 2 April 1970. He was rated UNSAT on 3 April 1970, after his return from Vietnam.

c. Item 39 (Campaigns) he was awarded two campaigns of Vietnam Counteroffensive Phase VI and TET 69 Counteroffensive.

d. Item 40 (Wounds) Fragment Wound Right Lower Leg on 10 December 1968.

e. Item 41 (Awards and Decorations) he was awarded the National Defense Service Medal, Vietnam Service Medal, Vietnam Campaign Medal with device 1960, Combat Medical Badge (1st award), and the Army Commendation Medal (1st award).

6. General Orders Number 3855, dated 26 April 1969 awarded the applicant the Army Commendation Medal with "V" Device for his heroism in the Republic of Vietnam on 4 February 1969. Stating, the applicant distinguished himself while serving as a rifleman. On one evening, the first platoon-initiated contact against an estimated platoon of North Vietnamese Army Regulars. The applicant was a member of a sweep element that moved out under intense enemy automatic weapons fire. Even though he was under direct fire, he placed heavy fire upon the enemy position. Seeing two enemy run into a nearby house, he chased them. When he entered the house, he did not find the two enemy, but did find a wounded Vietnamese villager. Without regard for his own safety, he carried the wounded civilian through enemy fire to a friendly element. His display of courage materially contributed to the success of the mission in which eleven enemy were killed and two prisoners were captured. His humane and valorous action in carrying the wounded Vietnamese to safety represented a devotion to the people he was called upon to defend. The applicant's personal bravery and devotion to duty were in keeping with the highest traditions of the military service and reflected great credit upon himself, his unit, and the U.S. Army.

7. He arrived back to the U.S., where he was in a patient status at the Fort Polk hospital from 16 March 1969 until 19 June 1969. While in the hospital the applicant's commander requested orders awarding the applicant the Purple Heart on 11 April 1969. Stating, the applicant's DA Form 20 reflected he was wounded on 10 December 1968.

8. The applicant accepted nonjudicial punishment on three occasions, under the provisions of Article 15, of the Uniform Code of Military Justice (UCMJ):

a. On 10 October 1969, for absenting himself from his unit from 4 October 1969 and remaining absent until 8 October 1969. His punishment imposed was reduction to the grade of E-3, forfeiture of \$49.00 pay for one month, 14 days of extra duty, and 14 days of restriction.

b. On 24 February 1970, for disobeying a lawful order on or about 10 February 1970 by failing to remain at the position of attention. His punishment imposed was forfeiture of \$10.00 pay for one month.

c. On 5 May 1970, for disobeying a lawful order from his superior noncommissioned officer on or about 8 April 1970 and for absenting himself from his unit on or about 13 April 1970 and remaining absent until on or about 28 April 1970. His punishment imposed was reduction to the grade of E-2, forfeiture of \$50.00 per month for two months, and extra duty for 36 days.

9. Before a special court-martial on 22 March 1971 at Fort Ord, CA, the applicant was found guilty of violation of the UCMJ, for absenting himself without authority on 4 June 1970 and remaining absent until on or about 16 June 1970. He was sentenced to confinement at hard labor for 45 days, forfeiture of \$95.00 per month for 3 months, and reduction to the grade of E-1. The sentence was approved on 22 April 1971 and ordered to be duly executed.

10. The applicant's duty status changed from present for duty to dropped from rolls effective 7 June 1971. The relevant DA Form 3836 (Notice of Return of U.S. Army Member from Unauthorized Absence) shows the applicant was apprehended by the Federal Bureau of Investigation on 19 May 1976 and returned to military authorities.

11. The applicant's service record is void of a separation packet showing his request for discharge in lieu of trial by court-martial. However, his DD Form 214 shows he was discharged on 6 July 1976, under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), Chapter 10 (Discharge for the Good of the Service), in the grade of E-1. His service was characterized as under other than honorable conditions with separation program designator code KFS and reenlistment code RE-4. He was credited with 3 years and 5 days of net active service with 1852 days lost time from 4 June 1970 to 15 June 1970 and from 4 May 1971 to 17 May 1976. He was awarded or authorized:

- Vietnam Service Medal
- Vietnam Campaign Medal
- Combat Medical Badge
- Army Commendation Medal
- Expert (Rifle)

12. The applicant's information was found on the casualty roster showing he was wounded in action, not booby trap connected, by rockets/missiles/torpedoes while serving in Vietnam.

13. The applicant additionally provides:

a. Certificate awarding the Purple Heart, issued on 11 December 1968 for wounds received in action in the Republic of Vietnam on 10 December 1968.

b. His previous application to the Army Discharge Review Board requesting his service be upgraded and showing his completion of required service. The request contained various letters of correspondence from Congressional Coordinator, U.S. Senator J. Bennett Johnston, B.R. a Member of Congress, and associated documents pertaining to his application.

c. A character reference statement, from Mr. W.B., dated 1 November 1983, stating the applicant was reliable, trustworthy, and a responsible person who was recommended to be an asset to his company and a dependable employee.

d. His high school equivalency diploma and a newspaper article referencing his representation in contributing to a Johnson fund.

e. A letter from the State of Texas, House of Representatives Mr. Dan Kubiak, awarding and congratulating him for being the recipient of the "Paramedic of the Year" dated 18 August 1992.

f. Various Vietnam Veterans of America correspondence, showing he is a life member, also Vietnam support groups, and a character reference from Retired Master Sergeant of the U.S. Air Force, the Veterans Service Officer, who summarizes the applicant as the standard of commitment to his veteran brothers and sisters. He takes pride in getting a group of veterans together with a common goal of healing the wounds from service to places like Vietnam, Afghanistan, Iraq, and even to those veterans who never deployed. He believes the applicant's combat and resulting PTSD is resulted because of his service in Vietnam.

14. Discharges under the provisions of Army Regulation 635-200, Chapter 10, are voluntary requests for discharge for the good of the service, a discharge under other than honorable conditions is normally considered appropriate.

15. Army Regulation 600-8-22 (Military Awards) states in order to justify award of the Purple Heart, a wound must be incurred as a result of hostile enemy action, the wound must have required treatment by a medical officer, and the treatment of the wound must be documented in the medical record; a medical officer as defined can be Special

Forces medic. The criteria for award of the Purple Heart does not justify award of the Purple Heart for accidental wounding not related to or caused by enemy action.

16. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

#### 17. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under other than honorable conditions (UOTHC) characterization of service to honorable as well as a change in authority and reason to completion of required service. On his DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD) is 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 in the Regular Army (RA) on 05 June 1968 as a 91B (Medical Specialist), 2) he arrived in Vietnam on 11 November 1968 and his DA Form 20 shows he had foreign service from 11 November 1968 to 13 March 1969. The form also shows he received all excellent ratings for conduct and efficiency from 06 June 1968 to 02 April 1970 though was rated UNSAT on 03 April 1970, 3) the applicant's records show he was awarded several Medals during his service, to include the Army Commendation Medal with a "V" device for heroism in the Republic of Vietnam on 04 February 1969, 4) he was in patient status at the Fort Polk (now known as Ft. Johnson) hospital from 16 March 1969 until 19 June 1969 and while in the hospital his commander requested orders awarding the applicant the Purple Heart on 11 April 1969, 5) the applicant received three Article 15's between 10 October 1969 through 05 May 1970 for absents himself from his unit, disobeying a lawful order by failing to remain at the position of attention, and disobeying a lawful order from his superior noncommissioned officer (NCO), 6) on 22 March 1971 a special court-martial found the applicant guilty of absents himself without authority on 04 June 1970 and remaining absent until on or about 16 June 1970. The applicant's duty status was changed from present for duty to dropped from rolls effective 07 June 1971. He was apprehended by the Federal Bureau of Investigation (FBI) on 19 May 1976 and returned to military authorities. 7) the applicant was discharged on 06 July 1976 under the provisions of Army Regulation (AR) 635-200, Chapter 10, with a separation program code of DFS and reenlistment code of RE-4.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. There were no in-service or post-discharge medical

records available for review. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. On his DA Form 20 his PULHES was documented as 111111, indicating he was not on a BH profile.

d. The applicant submitted a self-statement as part of his application for consideration. He asserted that following his tour in Vietnam he had difficulty adjusting to day-to-day non-combat operations noting that he was depressed, angry, and numb and that he was living in Vietnam despite being back in the United States (US). Furthermore, the applicant indicated that at one point he had asked for help from his Company Commander with his 'bad thoughts and alcohol use' and that he was told to get back to work. He further indicated that he was injured in Vietnam while rendering aid to another Soldier due to a bomb exploding next to him. He said that he was treated in the hospital and later returned to his unit. During his time in Vietnam, the applicant indicated that they engaged in many firefights with the enemy which resulted in many wounded and dead, which took a toll on him.

e. A review of JLV was void of medical information. It is of note that the applicant's UOTHC renders him ineligible for VA services. No civilian BH records were provided for review.

f. The applicant requests an upgrade of his UOTHC discharge to honorable. He contends his misconduct was related to PTSD. A review of records was void of any BH diagnosis or treatment history for the applicant during or after service and he provided no medical documentation supporting his assertion of PTSD. The available service records show the applicant's conduct and performance was consistently rated as excellent prior to his service in Vietnam. Furthermore, records indicate that the applicant was exposed to combat during his tour in Vietnam and was awarded a Purple Heart for injuries sustained while deployed. Although there is insufficient medical evidence that the applicant had a condition or experience during his time in service, he contends that his misconduct was related to PTSD, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his misconduct was related to PTSD.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant asserts his misconduct was related to PTSD, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration. A review of records was void of any BH diagnosis or treatment history for the applicant during or after service and he provided no medical documentation supporting his assertion of PTSD. The applicant does not have any VA records as his UOTHC discharge renders him ineligible for VA services. However, the lack of documentation of PTSD symptoms in the applicant's military records does not necessarily indicate he did not have in-service PTSD. In the era of the applicant's military service, PTSD was not a diagnosable condition and was not recognized in the DSM until 1980, 4 years after the applicant's discharge. In such cases, the presence of PTSD has to be inferred from behavioral indicators documented in the applicant's record. Such is the case with this applicant. The applicant had an otherwise unremarkable record prior to deployment to Vietnam and his performance and efficiency was consistently documented as 'excellent' until returning from Vietnam. Following his return from Vietnam, the applicant had several instances of going absent without leave (AWOL) and disobeying a lawful order. This pattern of performing well followed by a change in behavior is not uncommon in Soldiers suffering from PTSD. There is an association between avoidance behaviors and irritability and his misconduct of going AWOL and disobeying a lawful order. Given that AWOL and disobeying a lawful order are associated with avoidance behaviors and irritability which are part of the natural history and sequelae of trauma-exposure/PTSD and there is no indication of misconduct prior to his deployment, BH mitigation is supported.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests.

a. Discharge Upgrade: Grant to General. Although the applicant's service record is void of a separation packet, other evidence shows the applicant was charged with commission of an offense punishable under the UCMJ with a punitive discharge. After being charged, he presumably consulted with counsel and requested discharge under the provisions of AR 635-200, Chapter 10. Such discharges are voluntary requests for discharge in lieu of trial by court-martial and carry an under other than honorable conditions discharge. The Board found no error or injustice in his available separation processing. The Board also considered the medical records, any VA documents provided by the applicant and the review and conclusions of the medical reviewing official. The Board concurred with the medical official's finding sufficient evidence to support the applicant had a condition or experience that mitigates his misconduct. Thus,



the Board determined that while his service clearly did not rise to the level required for an honorable characterization (given his lost time); however, a general, under honorable conditions characterization of service is appropriate under published DoD guidance for liberal consideration of discharge upgrade requests. The Board determined that such upgrade did not change the underlying reason for separation and thus the narrative reason for separation and corresponding codes should not change.

b. Reason for Separation: Deny. The applicant's narrative reason for separation was assigned based on the fact that he was discharged under chapter 10 of Army Regulation 635-200. He committed an offense punishable under the UCMJ with a punitive discharge via a court-martial, and when court-martial charges were preferred against him, he voluntarily requested a discharge in lieu of trial by a court-martial. The Board noted that the underlying reason for his separation is his request to be voluntarily discharge instead of being tried by a court-martial. The only valid narrative reason under chapter 10 of AR 635-200 is in lieu of trial by court-martial which is correctly listed on his DD Form 214. Enlisted Soldiers who request a voluntary discharge under chapter 10 of AR 635-200 are assigned Separation Code KFS. The Board found no mitigating factors that would merit a change to the applicant's narrative reason for discharge. In view of the foregoing, the Board determined that the reason and authority for discharge were both proper and equitable and there is no reason to change it.

c. Awards: Grant. The evidence shows the applicant was wounded in Vietnam as a result of hostile action when he received Fragment Wound to the Right Lower Leg on 10 December 1968. He also provides the certificate that confirms award of the Purple Heart. The Board determined the Purple Heart should be added to his DD Form 214.

3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:                :                :                GRANT FULL RELIEF

█                █                █                GRANT PARTIAL RELIEF

:                :                :                GRANT FORMAL HEARING

:                :                :                DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the correction addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- Amending the applicant's DD Form 214 for the period ending 6 July 1976 to show Character of Service: Under Honorable Conditions (General)
- Adding to the applicant's DD Form 214 the Purple Heart.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to upgrading his discharge to honorable, changing the authority and narrative reason for separation, or the corresponding Separation.

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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):

Review of the applicant's record and Army regulations show he meets the regulatory guidance for additional awards not currently listed on his DD Form 214; for the period ending 6 July 1976.

The applicant served in the 2nd Battalion, 327th Infantry from 22 November 1968 to 7 March 1969. The 327th Infantry, 2nd Battalion was awarded the following:

- Department of the Army General Order Number (DAGO) 43, 1970 awarded the Republic of Vietnam Gallantry Cross with Palm Unit Citation
- DAGO 48, 1971 awarded the Republic of Vietnam Civil Actions Honor Medal

Remove the following from Item 26 – Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized:

- Vietnam Service Medal
- Army Commendation Medal

Add the following in Item 26 - Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized:

- Vietnam Service Medal with two bronze service stars
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal
- Change his Army Commendation Medal (ARCOM) to the ARCOM with "V" Device

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. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.

3. Army Regulation 600-8-22 (Military Awards) states the following:

a. The Purple Heart is awarded to any member who, while serving under competent authority in any capacity with one of the Army Services, has been wounded or killed or who has died or may hereafter die after being wounded as a result of hostile enemy action. Substantiating evidence must be provided to verify that the wound was the result of hostile action, the wound must have required treatment by a medical officer, and the medical treatment must have been made a matter of official record.

b. A bronze service star will be awarded for wear on the Vietnam Service Medal for participation in each campaign. During the applicant's service in Vietnam, he participated in the following two campaigns:

- Vietnam Counteroffensive, Phase VI, 2 November 1968 - 22 February 1969
- TET Counteroffensive, 23 February 1969 - 8 June 1969

4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam. This pamphlet shows the 2nd Battalion, 327th Infantry from 22 November 1968 to 7 March 1969. The 327th Infantry, 2nd Battalion was awarded the following:

- Department of the Army General Order Number (DAGO) 43, 1970 awarded the Republic of Vietnam Gallantry Cross with Palm Unit Citation
- DAGO 48, 1971 awarded the Republic of Vietnam Civil Actions Honor Medal

5. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) states that separation codes are three-character alphabetic combinations that identify reasons for and types of separation from active duty. Separation codes and corresponding narrative reasons are aligned with applicable regulatory authority paragraphs. The regulation provides that the separation code "KFS" is the appropriate code to assign Soldiers separated under the provisions of Army Regulation 635-200, by narrative reason of "in lieu of trial by court-martial."

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

a. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a

punitive discharge may, submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

b. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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.

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

7. 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 (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) 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; traumatic brain injury; sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. 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.

8. 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, 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//