

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 December 2024

DOCKET NUMBER: AR20240002342

APPLICANT REQUESTS: reconsideration of his previous request for an upgrade of his uncharacterized discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Department of Veterans Affairs (VA) Rating Decision

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 AR20150004439 on 24 November 2015.

2. The applicant states, in effect:

a. During his service he experienced multiple and significant mistreatment by drill sergeants and was threatened with jail and endless recycles. He also experienced continuous physical and verbal harassment from my drill sergeant during basic training. He suffered from panic attacks and psychosis episodes during his weapons assessment as a result of his experience and treatment.

b. He lost enthusiasm. Receiving numerous unfair, untruthful counseling, and threats of punishment from the drill sergeant that frequently distressed him. He was forced to complete exhausting tasks as a leftover, under aggressive and disgraceful treatment by the drill sergeant. He did not receive medical attention during and before the separation process. Therefore, the uncharacterized discharge was an injustice.

c. Consideration of medical or other data was taken into consideration during the separation proceedings that determines the appropriate characterization of service. Since his discharge, he has been diagnosed and awarded service-connected disability for posttraumatic stress disorder (PTSD) and other mental conditions by the Department

of Veterans Affairs since April 2013. Lastly, he has been receiving medical treatment and services for his medical conditions since his discharge in April 2013.

3. The applicant provides:

a. DD Form 214 reflects the applicant was discharged on 9 April 2013 under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), paragraph 5-11, failed medical/physical/procurement standards, separation code JFW, reentry code 3, and character of service of uncharacterized. He served 3 months and 8 days of net active service this period.

b. VA Rating Decision (4 pages), dated 5 May 2014, reflects the applicant was granted a service connection for schizophrenia, chronic, undifferentiated type, claimed as depression, anxiety, panic attacks, low self-esteem, frustration and schizophrenia with an evaluation of 100 percent.

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

a. He enlisted in the Army Reserve on 9 April 2013.

b. On 28 March 2013, the applicant's immediate commander notified the applicant of his intent to initiate separation action against him under the provisions of AR 635-200, chapter 11, specifically for demonstrating to the chain of command on multiple occasions that he no longer possesses the motivation, and self-discipline to continue on his track to emotionally and socially adapt to military service. Further stating, he was provided the opportunity for rehabilitation required by paragraph 11-4. It was recommended that he receive an entry level separation (uncharacterized).

c. The applicant acknowledged receipt of the commander's intent to separate him on 28 March 2013. He waived consulting legal counsel and representation by military counsel and civilian counsel at no expense to the Government. He was advised of the importance of consulting with legal counsel, and the consequences of waiving that right. He elected not to submit statements in his own behalf, as well as elected to not request a separation physical. He acknowledged he:

- understood he could expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions were issued to him
- understood he could be ineligible for many or all benefits as a veteran under Federal and State laws as a result of the issuance of a discharge under other than honorable conditions
- understood if he received a discharge characterization of less than honorable, he could make an application to the Army Discharge Review Board (ADRB)

or the ABCMR for an upgrade, but he understood that an act of consideration by either board did not imply his discharge would be upgraded

d. On 1 April 2013, the separation authority approved the applicant's discharge under the provisions of AR 635-200, chapter 11, with his service characterized as uncharacterized.

e. His DD Form 214 reflects he was discharged on 9 April 2013 under the provisions of AR 635-200, paragraph 5-11, failed medica/physical/procurement standards (in error), separation code JFW, reentry code 3, and character of service of uncharacterized. He completed 3 months and 8 days of active service. He was not awarded a military occupational specialty.

f. U.S. Army Maneuver Support Center of Excellence orders 098-1315, dated 8 April 2013, reflects the applicant was discharged from the Reserve, with an effective date of 9 April 2013.

5. Entry-level status is defined as the first 180 days of continuous active duty or the first 180 days of continuous active service after a service break of more than 92 days. It further states the character of service for members separated under the provisions of chapter 11 will be uncharacterized. 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.

6. AR 635-200, Chapter 11 provided for the separation of personnel due to unsatisfactory performance or conduct, or both, while in an entry-level status. This provision applied to individuals who had demonstrated they were not qualified for retention because they could not adapt socially or emotionally to military life; lacked the aptitude, ability, motivation, or self-discipline for military service; and, demonstrated characteristics not compatible with satisfactory continued service.

7. The applicant applied to the ADRB for an upgrade of his discharge on 8 November 2013. The ADRB determined the discharge was both proper and equitable and voted to deny relief. However, in the processing of the applicant's case, the Board determined that the applicant's DD Form 214 required certain administrative corrections. The applicant's DD Form 214 was corrected to reflect the following:

- Item 25 (Separation Authority): AR 635-200, Chap 11
- Item 26 (Separation Code): JGA
- Item 28 (Narrative Reason for Separation): Entry Level Performance and Conduct

8. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his uncharacterized discharge to honorable. He contends he experienced an undiagnosed mental health condition that mitigates his discharge. 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 2 January 2013.
- On 28 March 2013, the applicant's immediate commander notified the applicant of his intent to initiate separation action against him under the provisions of AR 635-200, chapter 11, specifically for demonstrating to the chain of command on multiple occasions that he no longer possesses the motivation, and self-discipline to continue on his track to emotionally and socially adapt to military service. He was provided the opportunity for rehabilitation required by paragraph 11-4.
- The applicant was discharged on 9 April 2013 and completed 3 months and 8 days of service.

b. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts he was threatened and harassed by drill sergeants during basic training, and he suffered from panic attacks and a psychotic episode resulting in his separation and uncharacterized discharge. He believes he should receive an honorable discharge. A VA Rating Decision letter dated 5 May 2014 showed that the applicant is 100% service connected for Schizophrenia. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

c. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed a document dated 14 March 2013, which included questions related to mental health symptoms (i.e. depression, suicidal ideation), and all items were indicated as "no" responses. A Separation Health Assessment dated 19 March 2013 reported no psychological symptoms and concluded with no diagnosis. VA documentation began on 28 February 2014 with a Compensation and Pension Examination report that noted the applicant exhibited impairment of cognition and judgment and was not capable of managing his funds in his own best interest. Documentation from the evaluation indicated that the applicant sought psychological services one month after discharge and a psychiatric evaluation was recommended, but the applicant did not comply. Symptoms endorsed included depression, anxiety, sleep impairment, impairment in thought process or communication, and persistent delusions or hallucinations, and the evaluator concluded "that a temporal relationship between the neuropsychiatric disorder and the veteran military service is well established." The applicant engaged mental health treatment

through the VA on 27 May 2014, and he reported he had been receiving non-VA care and was taking medications for mood, anxiety, and an antipsychotic. He reported a history of symptoms consistent with schizophrenia, which was his primary diagnosis. The applicant was evaluated for PTSD on 14 October 2014 and reported his primary trauma as being ridiculed by drill sergeants. He also discussed an incident that occurred at the shooting range where he “began to tremble and shake uncontrollably” and had his gun removed by a drill sergeant. He reported that he ran away from the range and experienced disturbing thoughts related to “having the capacity to kill others, including children.” He related that he was put on a medical holdover prior to being discharged from the military. The evaluator concluded he did not meet criteria for PTSD and indicated his symptoms were more consistent with Depressive Disorder not otherwise specified (NOS). At his most recent psychiatrist visit on 27 September 2024, documentation indicated he is stable on an antidepressant and an antipsychotic medications, and his diagnosis remains Schizophrenia.

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

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 at the time of his discharge. Documentation from his time in service does not show that the applicant reported any mental health symptoms, but VA documentation from February 2014 showed that the applicant was diagnosed with Schizophrenia and is 100% service connected for this condition.

(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, and he discusses basic training as the precipitating experience.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed no documentation of any mental health symptoms while on active service. Although the applicant has been diagnosed with Schizophrenia and difficult or stressful experiences can be a precursor to the onset of this condition, the event described as a psychotic episode during his weapons assessment does not include what would be considered a hallucination or delusion. Additionally, there is insufficient evidence that the applicant was exposed to an experience at initial training that was atypical. There is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service. However, the applicant contends he experienced a mental health condition as a

result of his service, and per Liberal Consideration his contention is sufficient for the board's consideration.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant demonstrated he no longer possessed the motivation, and self-discipline to continue on his track to emotionally and socially adapt to military service. As a result, his chain of command separated him for entry level performance and conduct. He was separated after completing 3 months and 8 days of active service. He did not complete initial entry training and was not awarded an MOS. His service was uncharacterized. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. The Board found no error or injustice in his 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 agreed with the medical reviewer's finding that based on available information, there is insufficient evidence to support the applicant had a behavioral health condition during military service that could potentially mitigate his discharge. Therefore, based on a preponderance of evidence, the Board determined the character of service the applicant received upon separation was 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 to amend the decision of the ABCMR set forth in Docket Number AR20150004439 on 24 November 2015.

■

■ ■

■

■

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. AR 635-200 (Personnel Separations - Enlisted Personnel), sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a states 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.

b. Paragraph 3-7b states 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.

c. Chapter 11 provided for the separation of personnel due to unsatisfactory performance or conduct, or both, while in an entry-level status. This provision applied to individuals who had demonstrated they were not qualified for retention because they:

- could not adapt socially or emotionally to military life
- lacked the aptitude, ability, motivation, or self-discipline for military service
- demonstrated characteristics not compatible with satisfactory continued service

2. 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.

3. 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.

4. 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.

5. 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//