

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 September 2024

DOCKET NUMBER: AR20240002700

APPLICANT REQUESTS: Upgrade of his under other than honorable conditions (UOTHC) discharge to honorable, based on disability.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- In-service personnel and medical documents
- Digital articles – case reports of acute psychosis secondary to low doses of Prednisone/Prednisolone
- Digital articles – medical journals on Sarcoidosis

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 his suicide attempts were due to medication he was taking for Sarcoidosis. He was diagnosed while on active duty and he was told he would be medical boarded. He found out his wife was cheating on him after his diagnosis, so his life turned upside down quickly. He became very depressed and confused. He was devastated when he found out that he would not be able to continue serving his country. He remembers just walking on the base every day, not remembering where he was sleeping nor what he was eating. He does not understand why he was charged for going absent without leave (AWOL) because he did not leave the base. His lawyer brought him paperwork to sign, assuring him that he would receive a medical discharge. He is trying to get his health back on track; he is recovering from lung cancer.

3. On 14 September 1978, the applicant enlisted in the Regular Army. He reenlisted on 31 July 1981, for 3 years.

4. Before a special court-martial on 19 January 1983, at Fort Sheridan, IL, the applicant was found guilty of one specification of damaging a military vehicle by failing to use due care while driving and causing damage to the vehicle, on or about 17 December 1982; and one specification of wrongful appropriation of a military vehicle, on or about 17 December 1982.
5. The court sentenced the applicant to forfeiture of \$300.00 pay per month for three months and 30 days extra duty. The sentence was approved on 11 April 1983.
6. The applicant reenlisted on 23 July 1984, in the rank/grade of sergeant/E-5.
7. On 12 February 1986, the applicant accepted non-judicial punishment under Article 15 of the Uniform Code of Military Justice (UCMJ), for being derelict in the performance of his duties for not updating hand receipts, nor the document register pertaining to the monthly inventory, on or about 10 January 1986; and making false official statements on or about 15 January 1986, and on or about 22 January 1986. His punishment included reduction to E-4, forfeiture of \$494.00 per month for two months, and 45 days extra duty.
8. A Medical Record – Narrative Summary, dated 22 April 1987, noted the applicant was a 26-year-old male active duty Army sergeant who was undergoing a medical evaluation board for Sarcoidosis. Extensive evaluation confirmed he had noncaseating granulomas consistent with Sarcoidosis. He was given Prednisone for his lung complaints and Indomethacin for left side chest pain. He was found to be mildly hypertensive, and this was treated with a diuretic. Hypertension was attributed to steroid use. The applicant was tapered off of his steroids and he was hospitalized in March 1987 on the psychiatry service for acute depression.
9. On 22 June 1987, the applicant was reported as AWOL and remained absent until his hospitalization on 16 July 1987.
10. A Medical Record – Narrative Summary dated 23 July 1987, noted the applicant was admitted to the hospital following an apparent suicide attempt on 16 July 1987. He had been hospitalized on two previous occasions for depression. The applicant's stressors included his Sarcoidosis diagnosis, pending disciplinary action, and marital issues. He refused to speak with a psychiatrist and was transferred to the custody of his unit for disciplinary action.
11. A DD Form 497 (Confinement Order) shows the applicant was placed in pretrial confinement on 24 July 1987 for violations of the UCMJ for the following: AWOL, malingering, resisting apprehension, assault, and being drunk on duty.

12. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing.

13. The applicant was discharged on 9 October 1987. His DD Form 214 (Certificate of Release or Discharge from Active Duty) confirms he was discharged under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10, for the good of the service – in lieu of trial by court-martial. He was discharged in the lowest enlisted grade and his service characterized as UOTHC. He completed 8 years, 10 months, and 29 days of net active service this period with 25 days of lost time.

14. His DD Form 214 shows he was awarded or authorized the Army Service Ribbon, Good Conduct Medal, Army Commendation Medal, Overseas Service Ribbon with Numeral 1, Expert Marksmanship Badge Rifle, M-16, and the Expert Marksmanship Badge Grenade.

15. The applicant petitioned the Army Discharge Review Board requesting upgrade of his UOTHC discharge. On 23 September 1988, the Board voted to deny relief and determined his discharge was both proper and equitable.

16. The applicant provides articles on the drug Prednisone and its implication as a cause of neuropsychiatric symptoms; and medical journals that provide education on Sarcoidosis. These articles are provided in their entirety for the Board's review within the supporting documents.

17. The applicant was charged due to the commission of an offense punishable under the UCMJ with a punitive discharge. Subsequent to being charged, he would have consulted with counsel and requested discharge under the provisions of Army Regulation 635-200, Chapter 10. Such discharges are voluntary requests for discharge in lieu of trial by court-martial.

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

19. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his under other than honorable conditions (UOTHC) discharge to honorable, based on disability. Due to the medical implications of this case, the report includes an addendum by the ARBA Medical Advisor.

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:

- Applicant enlisted in the Regular Army on 14 September 1978. He reenlisted on 31 July 1981 and 23 July 1984.
- Before a special court-martial on 19 January 1983, at Fort Sheridan, IL, the applicant was found guilty of one specification of damaging a military vehicle by failing to use due care while driving and causing damage to the vehicle, on or about 17 December 1982; and one specification of wrongful appropriation of a military vehicle, on or about 17 December 1982.
- On 12 February 1986, the applicant accepted non-judicial punishment under Article 15 of the Uniform Code of Military Justice (UCMJ), for being derelict in the performance of his duties for not updating hand receipts, nor the document register pertaining to the monthly inventory, on or about 10 January 1986; and making false official statements on or about 15 January 1986, and on or about 22 January 1986.
- A Medical Record – Narrative Summary, dated 22 April 1987, noted the applicant was a 26-year-old male active-duty Army sergeant who was undergoing a medical evaluation board for Sarcoidosis. Extensive evaluation confirmed he had noncaseating granulomas consistent with Sarcoidosis. He was given Prednisone for his lung complaints and Indomethacin for left side chest pain. He was found to be mildly hypertensive, and this was treated with a diuretic. Hypertension was attributed to steroid use. The applicant was tapered off of his steroids and he was hospitalized in March 87, on the psychiatry service for acute depression.
- On 22 June 1987, the applicant was reported as AWOL and remained absent until his hospitalization, on 16 July 1987.
- A Medical Record – Narrative Summary dated 23 July 1987, noted the applicant was admitted to the hospital following an apparent suicide attempt on 16 July 1987. He had been hospitalized on two previous occasions for depression. The applicant's stressors included his Sarcoidosis diagnosis, pending disciplinary action, and marital issues. He refused to speak with a psychiatrist and was transferred to the custody of his unit for disciplinary action.
- A DD Form 497 (Confinement Order) shows the applicant was placed in pretrial confinement on 24 July 1987, for violations of the UCMJ for the following: AWOL, malingering, resisting apprehension, assault, and being drunk on duty.
- Applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing.
- Applicant was discharged on 9 October 1987. His DD Form 214 (Certificate of Release or Discharge from Active Duty) confirms he was discharged under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10, for the good of the service – in lieu of trial by court-martial. He was discharged in the lowest enlisted grade and his service characterized as UOTHC. He was assigned separation code KFS and

reenlistment codes 3, 3B, 3C. He completed 8 years, 10 months, and 29 days of net active service this period with 25 days of lost time.

- Applicant petitioned the Army Discharge Review Board requesting upgrade of his UOTHC discharge. On 23 September 1988, the Board voted to deny relief and determined his discharge was both proper and equitable.

c. Review of Available Records: The Army Review Boards Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states, "his suicide attempts were due to medication he was taking for Sarcoidosis. He was diagnosed while on active duty and he was told he would be medical boarded. He found out his wife was cheating on him after his diagnosis, so his life turned upside down quickly. He became very depressed and confused. He was devastated when he found out that he would not be able to continue serving his country. He remembers just walking on the base every day, not remembering where he was sleeping nor what he was eating. He does not understand why he was charged for going absent without leave (AWOL) because he did not leave the base. His lawyer brought him paperwork to sign, assuring him that he would receive a medical discharge. He is trying to get his health back on track; he is recovering from lung cancer."

d. Due to the period of service no active-duty electronic medical records were available for review. However, the applicant provides hardcopy medical documentation evidencing a Physical Profile Board Proceedings dated 29 January 1987, indicating the applicant was undergoing treatment for lung disease and assigned PULHES T311111. A Narrative Summary, dated 22 April 1987, diagnosed him with Stage III Sarcoidosis; Hypertension, due to corticosteroids (Prednisone); and left side chest pains, due to open lung biopsy, scar formation, and sarcoidosis. The recommendation states: "It is the opinion of the Medical Evaluation Board that under the provisions of AR 40-501 para 3-35e, sarcoidosis, that the patient is unfit for duty due to a poor response to high dose steroid therapy and persistence of his dyspnea on exertion and left side chest pain." The Narrative Summary indicates the case was referred to the PEB for evaluation. A Narrative Summary dated 23 July 1987, indicates the applicant was medically hospitalized following a suicide attempt via overdose, after he was restarted on Prednisone. He was transferred to the psychiatric ward once he was medically stable; this was the applicants third psychiatric hospitalization. However, he was discharged since he refused to speak and was described as depressed and non-cooperative. This was an unusual medical disposition for someone who was presenting with clear psychiatric symptoms, had two prior psychiatric hospitalizations, and had attempted suicide.

e. Medical Advisor ADDENDUM: The applicant was diagnosed with Stage III Sarcoidosis by bronchoscopy and confirmed by open lung biopsy. Pulmonary function tests showed moderately severe restricted ventilatory defect and decrease in diffusion

capacity. There was an adequate trial of high dose steroids: The applicant took Prednisone up to 60mg per day from June to December 1986 (6-month trial) and then was tapered off. In March 1987 during a psychiatric hospitalization for depression, he complained of dyspnea on exertion and was therefore restarted on Prednisone at 40mg per day. The 22Apr1987 MEB determined the Stage III Sarcoidosis did not meet medical retention standards of AR 40-501 chapter 3-35e. This provision concerning Sarcoidosis provides that the condition does not meet retention standards when it is progressive with severe or multiple organ involvement and not responsive to therapy. The applicant's Sarcoidosis condition had poor response to high dose steroid therapy. In addition, there was objective evidence the condition had also involved the liver—he had abnormal liver function tests in May 1986 although these later normalized with steroid therapy. His current symptoms (at the time of the MEB) included occasional nocturnal diaphoresis, significant left side chest pain (also in part, due to scarring status post lung biopsy) and persistent dyspnea on exertion. The dyspnea on exertion interfered with his ability to complete the 2-mile run to standard. He was referred for a PEB; however, it is unclear if this ever took place. Although the record only showed a temporary P3 physical profile which expired 28Feb1987, it is usual practice to review the old physical profile(s) when the MEB process is initiated and generate a permanent P3 profile (if one does not already exist) for condition(s) that appear to not meet retention standards. The condition would likely have been found unfitting by a PEB. Referral into the DES is warranted.

f. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected, likely due to the characterization of his service, and he has not received any medical treatment via the VA.

g. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a medically induced behavioral health condition during military service that potentially mitigates his misconduct. In addition, there is evidence in the available service record, the applicant was diagnosed with a condition that failed retention standards and/or was unfitting; he suffered from a medical condition that affected his ability to perform the duties required by his Military Occupational Specialty; and he was diagnosed with a medical condition that warranted his entry into the Army Physical Disability Evaluation System (PDES) per Narrative Summary, dated 22 April 1987. Based on the documentation available for review, there is indication the applicant warrants a referral to the DES process

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant selected OMH on his application.

(2) Did the condition exist or experience occur during military service? Yes. There is medical documentation indicating the applicant experienced a medically induced psychiatric condition, Acute Depression, that resulted in three psychiatric hospitalizations while in military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing. However, a DD Form 497 (Confinement Order) shows the applicant was placed in pretrial confinement on 24 July 1987, for violations of the UCMJ for the following: AWOL, malingering, resisting apprehension, assault, and being drunk on duty. The applicant's medical record indicates despite no prior psychiatric history, he experienced three psychiatric hospitalizations following treatment with Prednisone, including a significant suicide attempt requiring medical stabilization. The applicant reports experiencing medically induced psychosis and mood dysregulation related to his treatment with Prednisone. Given the nexus between psychosis and mood dysregulation and difficulty with distinguishing right from wrong and dysregulated behaviors, the applicant's AWOL, malingering, resisting apprehension, assault, and being drunk on duty would be mitigated by his behavioral health condition.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found partial relief is warranted. The Board concurred with the conclusions of the ARBA Behavioral Health and Medical Advisors that there was a basis for the applicant to continue in the Disability Evaluation System process that was not completed, likely because of his misconduct, which was mitigated by his physical and mental health conditions. Based on a preponderance of the evidence, the Board determined processing of the applicant through the Disability Evaluation System should be completed, and his record should be corrected to reflect the final outcome of his Disability Evaluation System processing in lieu of the discharge he originally received.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. 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 referring his records to the Disability Evaluation System to complete the process he started prior to his discharge.

a. The individual concerned will be afforded due process through the Disability Evaluation System for consideration of any diagnoses identified as having not met retention standards prior to his discharge.

b. In the event that a formal PEB becomes necessary, the individual concerned will be issued invitational travel orders to prepare for and participate in consideration of his case by a formal PEB. All required reviews and approvals will be made subsequent to completion of the formal PEB.

c. Should a determination be made that the applicant should be retired or discharged for disability, these proceedings serve as the authority to issue him the appropriate separation retroactive to his original separation date, with entitlement to all back pay and allowances and/or retired pay, less any entitlements already received.

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 any relief without benefit of the review described above.

[REDACTED]

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. Title 10, U.S. Code, Section 1556, 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 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

a. 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. 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 10 provided that a member who had committed an offense or offenses, for which the authorized punishment included a punitive discharge, could submit a request for discharge for the good of the service in lieu of trial by court-martial. The request could be submitted at any time after charges had been preferred and must have included the individual's admission of guilt. Although an honorable or general discharge was authorized, a UOTHC discharge was normally considered appropriate.

4. The Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR), on 3 September 2014, 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. The Under Secretary of Defense for Personnel and Readiness provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017. The

memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, 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 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.

6. 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//