

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 October 2024

DOCKET NUMBER: AR20240002715

APPLICANT REQUESTS:

- reconsideration of his earlier request for upgrade of his under honorable conditions (General) discharge
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record), 19 December 2023
- service records (7 pages)
- Veterans Administration (VA) letter, dated 3 November 1988
- Applicant correspondence with the VA, consisting of 13 letters, dated between 12 October 2002 and 26 April 2013
- letters, Veterans Service Officer (Organization), dated 7 December 2006, 21 September 2007, and 15 June 2010 (2 copies)
- VA Disability Benefits application, 2008
- Post-Traumatic Stress Disorder (PTSD) Rehabilitation Program Contract, VA 5 April 2010
- VA Statement of Case, 28 September 2010
- letter from Applicant to his employment investigator, (City), Texas, undated
- medical documents consisting of 4 pages, 2012
- medical document, August 2014
- letter, Dr. VD____, 14 October 2014
- medication list, 10 January 2022
- medical document, 27 January 2022
- medical document, schedule of care, 28 November 2022
- VA letter to Applicant, 1 July 2022

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 AR20160016149 on 25 March 2019.

2. The applicant indicates on his DD Form 149, that (PTSD) and other mental health issues or conditions are related to his request. He states:

a. He is so depressed that he tried suicide. He was in the mental health program for depression, anxiety, and PTSD. He was getting help from the VA. He hopes that someone can help him.

3. The applicant provides:

a. Service records consisting of 7 pages of documents.

b. A VA Regional Office letter, dated 3 November 1988, showing he was being counseled and receiving psychotherapy for depression, chronic backache, and impotence.

c. Multiple letters (18) from the applicant to the VA, which he authored between 2002 and 2013, chronicling his repeated requests for Veteran's service connected disability determinations through its appeals process.

d. A VA Disability Benefits application, dated 2008

e. A PTSD Rehabilitation Contract from the VA, dated 5 April 2010

f. A VA Statement of his case, dated 28 September 2010, notifying him he was not eligible to receive VA disability benefits.

g. An undated letter to his employment investigator (City), Texas, outlining his medical conditions at the time (c. 2009-2010).

h. A VA Disability Benefits Appeal Application to the Board of Veterans Appeals, dated 4 October 2010.

i. Medical documents consisting of 4 pages and documenting a hospital stay, medications, and prognosis.

j. A medical document, dated 1-31 August 2014, noting his ongoing conditions and treatments.

k. A letter from his Dr. VD____, dated 14 October 2014, noting his current symptoms and past medical and surgical history.

l. A list of medications he was prescribed, dated 10 January 2022.

m. A medical document, dated 27 January 2022, outlining his benefits.

n. A medical document, dated 28 November 2022, showing his follow-up schedule and current care for a kidney condition.

o. A VA letter dated 1 July 2022, denying him compensation for travel for care.

4. A review of the applicant's service records show:

a. On 25 January 1968, he enlisted in the Regular Army.

b. Special Court-Martial Order (SCMO) Number 1055, issued by Headquarters (HQ), U.S. Army Garrison Troops, Fort Hood, dated 18 July 1968, reflects he was tried and convicted of absence without leave (AWOL) from his organization from 1 June 1969 through 15 July 1969. He was sentenced to forfeiture of \$100.00 pay per month for 6 months. The sentence was adjudged on 18 July 1968.

c. On 1 August 1969, HQ, U.S. Army Garrison Troops, Fort Hood, issued SCMO Number 1119, suspending the unexecuted portion of his sentence to forfeiture in excess of \$100.00 pay per month for 2 months.

d. He served in Vietnam from 9 September 1969 to 8 September 1970 and he attained the rank/pay grade of specialist 4/E-4.

e. He accepted nonjudicial punishment (NJP) under the provisions of Article 15 of the Uniform Code of Military Justice (UCMJ):

(1) On 27 March 1970, for being AWOL from his platoon area overnight. His punishment consisted of reduction to rank/pay grade private first class (PFC)/E-3. He did not appeal this punishment.

(2) On 17 November 1970 for being AWOL from his unit from 28 October 1970 to 12 November 1970. His punishment consisted of reduction to PFC/E-3, suspended for 90 days. He did not appeal this punishment.

(3) On 24 November 1970, he was reduced to PFC/E-3 pursuant to supplementary NJP.

(4) On 18 December 1970, for being AWOL from his unit from 23 November 1970 to 7 December 1970. His punishment consisted of forfeiture of \$60.00 per month for 2 months and reduction to private 2/E-2, suspended for 4 months. He did not appeal this punishment.

f. On 10 June 1971, court-martial charges were preferred against him. A DD Form 458 shows he was charged with one specification of being AWOL from 21 December 1970 to 22 June 1971.

g. After consulting with legal counsel on 6 July 1971, he voluntarily requested discharge for the good of the service, under the provisions of chapter 10, Army Regulation 635-200 (Personnel Separations – Enlisted Personnel). In doing so, he acknowledged that the charges preferred against him under the UCMJ, authorized the imposition of a bad conduct discharge or dishonorable discharge. He further acknowledged:

- he had not been subjected to coercion with respect to his request for discharge
- he had been advised of the implications that were attached to it
- by submitting the request, he was acknowledging he was guilty of the charge(s) against him or of (a) lesser included offense(s) therein contained which also authorized imposition of a bad conduct or dishonorable discharge
- he could be discharged under other than honorable conditions, furnished an undesirable certificate, and he could be ineligible for many or all benefits administered by the Department of Veterans Affairs (VA)
- he could be deprived of many or all Army benefits and he could be ineligible for many or all benefits as a veteran under both Federal and State laws
- he could expect to encounter substantial prejudice in civilian life by reason of an under other than honorable conditions discharge
- he was advised he could submit any statements he desired in his own behalf, and elected to do so

h. His written statement is not contained in the available records.

i. His commander and intermediate commanders recommended approval of his request with issuance of an Undesirable Discharge Certificate on 7 July 1971 and 9 July 1971, respectively.

j. On 22 July 1971, the separation authority approved his request for discharge in lieu of trial by court-martial, under the provisions of chapter 10, Army Regulation 635-200, for the good of the service. He further directed issuance of an Undesirable Discharge Certificate and reduction to the lowest grade.

k. On 27 July 1971, the applicant was discharged. His DD Form 214 (Report of Separation from Active Duty) shows he was discharged under the provisions of Army Regulation 635-200, Chapter 10, with separation program designator (SPD) code 246 (discharge for the good of the service), and reenlistment code 4. His service was characterized as under other than honorable conditions. He completed 2 years, 8 months, and 27 days of active service and he had 276 days of time lost. His DD Form 214 further shows he had 92 days of excess leave, and he was awarded or authorized the National Defense Service Medal, Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16), Vietnam Service Medal, and Republic of Vietnam Campaign Medal with Device (1960).

5. On 16 August 1977, the Department of Defense (DOD) Discharge Review Program (Special) (SDRP) examined his case and determined his discharge, under other than honorable conditions, should be upgraded to under honorable conditions (General), effective 18 July 1977.

6. On 27 July 1971, he was issued a new DD Form 214 showing his service was characterized as under honorable conditions (General), and his SPD was changed to KCR.

7. On 13 July 1978, the Adjutant General, Department of the Army, issued him a DD Form 215 (Correction to DD Form 214), amending and adding to item 27 (Remarks) of his DD Form 214 to show "Discharge reviewed under provisions of Public Law 95-126 and a determination made that recharacterization of service is warranted by DOD Directive."

8. On 25 March 2019 and in ABCMR Docket Number AR20160016149, the Board found no evidence demonstrating the existence of a probable error or injustice and found insufficient basis upon which to correct his records.

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

10. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his general, under honorable conditions discharge to honorable. On his DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD) and Other Mental Health Issues are related to his request. On his application, the applicant elaborated that he sprayed Agent Orange in Vietnam, has had kidney problems resulting in a transplant, and is taking ongoing medication for his health. 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 25 January 1968 as a 4D (Chemical Equipment Repairman), 2) a Special Court-Martial Order dated 18 July 1969 shows the applicant was convicted of being absent without leave (AWOL) from 01 June 1969 through 15 July 1969, 3) the applicant served in Vietnam from 09 September 1969 to 08 September 1970, 4) the applicant received three Article 15's between 27 March 1970 and 24 November 1970 for going AWOL, 5) on 10 June 1971, court-martial charges were preferred against the applicant for one specification of going AWOL from 21 December 1970 to 22 June 1971, 6) the applicant was discharged on 27 July 1971 under the provisions of Army Regulation (AR) 635-200, Chapter 10, with a separation program designator (SPD) code of 246, and his service was characterized as under other than honorable conditions., 7) on 16 August 1977, the applicant's discharge was upgraded to general, under honorable conditions by the Department of Defense (DoD) Discharge Review Program (Special) (SDRP), 8) The ABCMR found insufficient evidence to update the applicant's records at the time of his previous request, summarized in Docket Number AR20160016149 dated 25 March 2019.

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

c. The applicant's VA claim history is well outlined in the ROP. A review of JLV shows the applicant is not service-connected through the VA for any conditions. It is of note that a Department of Veterans Affairs rating letter dated 17 August 2015 documented that the applicant did not have honorable service for VA purposes, specifically citing that he had more than 180 days of AWOL while in-service and that AWOL is a bar to benefits. Review of records shows the applicant initiated BH treatment through the VA on 09 September 2004 following a crisis call following the unexpected death of his daughter which re-triggered flashbacks from his combat experiences in Vietnam. The applicant completed an intake with a psychiatrist the same day and it was documented that the applicant was experiencing 'flashbacks, vivid images, smells of rotting bodies, etc.' after viewing his daughters body following her death. It was also documented that the applicant reported he had experienced nightmares and intrusive symptoms but had been 'too proud' to seek help. The provider documented that the applicant was a gunman in Vietnam and killed hundreds of people, often at close range, and noted that the applicant had PTSD symptoms for years. The applicant was diagnosed with Acute Stress Reaction, Complicated Bereavement, and PTSD, Chronic, from VN, exacerbated by recent trauma. The applicant was started on Sertraline (antidepressant), Lorazepam (anxiolytic), and Quetiapine (antipsychotic) with a referral

to engage in individual counseling and continue with psychiatry. Individual counseling services were initiated on 13 September 2004 with a clinical nurse specialist in psychiatry. On 08 October 2004, his counselor completed a full intake documenting his military history and PTSD diagnostic criteria in accordance with DSM-IV-TR, the primary diagnostic manual at the time of the visit. The provider documented the applicant's Criterion A trauma(s) as participating in chemical warfare, flying on helicopters, and experiencing the threat of death to himself and others on a daily basis noting they often received fire and included a near-death experience while flying that was described in detail. Another incident was described wherein he observed a fatal accident between a Chinook and an airplane and the associated aftermath of the accident, later discovering that his cousin was killed in the collision. The provider further noted the applicant endorsed symptoms of re-experiencing, arousal, and avoidance. He was diagnosed with PTSD, Chronic, from VN, exacerbated by recent trauma, Acute Stress Reaction, and Complicated Bereavement. The applicant was admitted to the VA Posttraumatic Stress Residential Rehabilitation Treatment Program (PRRP) on 31 October 2005 and was discharged on 13 January 2006, with his BH discharge diagnosis noted as PTSD. The applicant re-engaged with his outpatient BH providers on 06 February 2006 and continued to engage with BH treatment, primarily psychiatry, on-and-off through 2022, at times with a 2-year gap in treatment. His BH treatment largely focused on PTSD and Major Depressive Disorder (MDD) and records show he had been trialed on several psychotropic medications for treatment of his conditions. It was documented in the record that the applicant was psychiatrically hospitalized on several occasions through the VA due to suicidal ideation and behavior.

d. The applicant provided several civilian medical records for review as part of his application. A note from Texas Health Care, P.L.L.C. dated 14 October 2014 shows the applicant was prescribed several BH-related medications: Citalopram (antidepressant), Trazodone (sleep), and Buspirone (anxiety). Another medication list, location and date unknown, shows the applicant was prescribed Escitalopram (antidepressant), Mirtazapine (antidepressant), and Prazosin (nightmares). A physician order report from Lake Lodge Nursing and Rehabilitation dated 01 August 2014 to 31 August 2014 notes the applicant's BH diagnoses as Depressive Disorder, Major, Anxiety Disorder, Generalized, and Insomnia, Persistent. A note from a medical provider [*Advisor's Note: specialty unknown*] dated 27 October 2004 documented the applicant's diagnosis as PTSD and noted that 'many veterans were exposed to war atrocities in Vietnam and fulfilled criteria of PTSD.' The provider recommended the applicant obtain a formal PTSD evaluation. A note from the Rosedale Psychiatric and Counseling Center dated 03 November 1988 documented that the applicant had been treated by the provider from April 1985 through April 1988 and continued to suffer from 'chronic backache, depression, and sexual impotence.'

e. The applicant is applying to the ABCMR requesting an upgrade of his general, under honorable conditions discharge to honorable. The applicant indicated PTSD and

Other Mental Health Issues are related to his request. There were no in-service medical records available for review. Review of JLV shows the applicant is not service-connected for any conditions through the VA; however, it is of note that the records indicate that due to his discharge and the reason for discharge (AWOL), the applicant was ineligible for VA services. Review of records shows the applicant was diagnosed with PTSD through the VA in September 2004 by a psychiatrist who attributed his PTSD symptoms to his combat experiences in Vietnam and at the time of the intake had been exacerbated by the recent and unexpected death of his daughter. The VA records show the applicant continued to receive BH treatment, to include a residential PTSD treatment program, through the VA on-and-off for PTSD associated with his service in Vietnam through 2022.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant was diagnosed with PTSD due to his combat experiences in Vietnam post-discharge by a VA provider.

(2) Did the condition exist or experience occur during military service? Yes, the applicant was diagnosed with PTSD due to his combat experience in Vietnam post-discharge by a VA provider.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant's records were void of any in-service BH diagnosis or treatment history. 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 symptoms were frequently not recognized as it was not a diagnosable condition until 1980, approximately 9 years after the applicant's discharge from the military. In such cases, the presence of PTSD has to be inferred from behavioral indicators documented in the applicant's record or post-discharge medical records. Such is the case with this applicant. The applicant is not service-connected through the VA for any conditions; however, it is of note that his discharge and reason for discharge rendered him ineligible for services. In September 2004, the applicant was diagnosed with PTSD by a VA psychiatrist who attributed the diagnosis to his combat experiences in Vietnam and was reaffirmed throughout his VA record. As there is an association between avoidance behaviors and going AWOL, there is an association between the applicant's diagnosis of PTSD and the misconduct of AWOL that led to his discharge. As such, BH mitigation is supported. Regarding the applicant's assertion of Other Mental Health Issues, while there is no evidence to support this diagnosis in-service, the applicant's self-assertion alone merits consideration by the Board.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was charged with absenting himself from his unit from 21 December 1970 to 22 June 1971, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board reviewed and concurred with the medical advisor's review finding the applicant was diagnosed with post-traumatic stress disorder (PTSD) due to his combat experiences in Vietnam post-discharge by the Department of Veterans Affairs (VA). His records were void of an in-service diagnosis; however, that does not necessarily indicate he did not have in-service PTSD. Based on the applicant's contention and VA diagnosis, the Board granted relief.

2. Prior to closing the discussion, the Board determined additional relief was warranted. The Board concluded that due to the applicant's discharge upgrade to honorable; his corresponding blocks should also be amended to reflect Secretarial Authority, separation code JFF, and reentry code of 1 based on the medical advisor's review and significant post-service medical records. With that determination, the Board also concluded that his rank be restored to specialist (SPC)/E-4; the rank in which he held prior to his mitigated misconduct. Additionally, the Board determined his lost time reflected in the remarks block should be removed.

3. 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 determined the evidence presented is sufficient to warrant 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 27 July 1971 to remove the lost time from remarks and show:

- Grade, Rate or Rank: Specialist
- Pay Grade: E-4
- Date of Rank: 13 January 1969
- Character of Service: Honorable
- Separation Authority: Army Regulation 635-200
- Separation Code: JFF
- Reentry Code: 1
- Narrative Reason for Separation: Secretarial Authority

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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 (Army Board for Correction of Military Records) 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.

a. 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 (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 1-9 provided:

(1) An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier'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. Only the honorable characterization may be awarded a member upon completion of his/her period of enlistment or period for which called or ordered to active duty or active duty training or where required under specific reasons for separation unless an entry level status separation (uncharacterized) is warranted.

(2) 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

b. Chapter 10 stated a member who has committed an offense or offenses, the punishment of which under the UCMJ and the Manual for Court Martial, 1969 (Revised Edition) includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The discharge request may be submitted after

court-martial charges are preferred against the member, or, where required, after referral, until final actions by the court-martial convening authority.

(1) A medical examination is not required but may be requested by the member under Army Regulation 40-501 (Medical Services – Standards of Medical Fitness), chapter 10. A member that requests a medical examination must also have a mental status evaluation before discharge.

(2) Commanders will insure that a member will not be coerced into submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 72 hours) to consult with consulting counsel and to consider the wisdom of submitting such a request for discharge. Consulting counsel will advise the member concerning:

- the elements of the offense or offenses charged
- burden of proof
- possible defenses
- possible punishments
- provisions of Chapter 10
- requirements of voluntariness
- type of discharge normally given under provisions of Chapter 10
- rights regarding the withdrawal of the member's request
- loss of Veterans Administration benefits
- prejudice in civilian life because of the characterization of the discharge

(3) The separation authority will be a commander exercising general court-martial jurisdiction or higher authority. However, authority to approve discharges in cases in which a member has been AWOL for more than 30 days and has been dropped from the rolls of his or her unit as absent in desertion, and has been returned to military control, may be delegated to the commander exercising special court-martial convening authority over the member.

(4) An under other than honorable discharge certificate normally is appropriate for a member who is discharged for the good of the service. However, the separation authority may direct a General Discharge Certificate if such is merited by the member's overall record during the current enlistment.

3. Army Regulation 635-5 (Separation Documents), then in effect, prescribed the separation documents that would be furnished each individual who was separated from the Army, including Active Duty Training (ACDUTRA) personnel, and established standardized procedures for the preparation and distribution of these documents.

a. A DD Form 214 will be issued at the time of separation to each member of the Regular Army and to each member of the Reserve Components, and the Army of the United States without component, call or ordered to active duty for ACDUTRA for a period of 90 days or more.

b. Appendix A. Separation Program Number and Authority Governing Separation. The separation program designator "246" corresponded to "For the Good of the Service" and the authority, Army Regulation 635-200, chapter 10.

4. Army Regulation 635-5-1 (Separation Program Designators), in effect at the time (1 August 1978), listed the specific authorities and reasons for separation of all members of the Active Army, Army National Guard, and U.S. Army Reserve. The SPD KCR corresponded to the authority shown on DD Form 214 and the narrative reason, "Discharge Review Program (Special)."

5. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Chapter 3 prescribes basic eligibility for prior-service applicants for enlistment and includes a list of Armed Forces reentry eligibility (RE) codes. Table 3-1 (U.S. Army reentry eligibility codes) reads:

- RE-1 applies to persons completing an initial term of active service who are considered qualified to reenter the U.S. Army if all other criteria are met
- RE-3 applies persons who are not considered fully qualified for reentry or continuous service at the time of separation, but disqualification is waivable
- RE-4 applies to persons separated from their last period of service with a nonwaivable disqualification

6. Presidential Proclamation 4313, issued on 16 September 1974, provided for the issuance of a clemency discharge to certain former Soldiers, who voluntarily entered into and completed an alternate public work program specifically designated for former Soldiers who received a less than honorable discharge for AWOL-related incidents between August 1964 and March 1973. Under this proclamation, eligible deserters were given the opportunity to request discharge for the good of the service with the understanding that they would receive an undesirable discharge. Upon successful completion of the specified alternative service, the deserter was issued a clemency discharge. The clemency discharge did not affect the individual's underlying discharge and did not entitle him to any VA benefits. Rather, it restored federal and, in most instances, state civil rights which may have been denied due to the less than honorable discharge. If a participant of the program failed to complete the period of alternative service, the original undesirable characterization of service would be retained.

7. The Department of the Army Special Discharge Review Program (SDRP) was based on a memorandum from Secretary of Defense Brown and is often referred to as the "Carter Program." It mandated the upgrade of individual cases in which the applicant met one of several specified criteria and when the separation was not based on a specified compelling reason to the contrary. The ADRB had no discretion in such cases other than to decide whether re-characterization to fully honorable as opposed to a general discharge was warranted in a particular case. An individual who had received a punitive discharge was not eligible for consideration under the SDRP. Absentees who returned to military control under the program were eligible for consideration after they were processed for separation. Individuals could have their discharges upgraded if they met any one of the following criteria: wounded in action; received a military decoration other than a service medal; successfully completed an assignment in Southeast Asia; completed alternate service; received an honorable discharge from a previous tour of military service; or completed alternate service or were excused from completing alternate service in accordance with Presidential Proclamation 4313 of 16 September 1974. Compelling reasons to the contrary to deny discharge upgrade were desertion/AWOL in or from the combat area; discharge based on a violent act of misconduct; discharge based on cowardice or misbehavior before the enemy; or discharge based on an act or misconduct that would be subject to criminal prosecution under civil law.

8. On 8 October 1977, Public Law (PL) 95-126 was passed which denied veterans benefits to service members absent without authority (AWOL) for 180 consecutive days or more during the Vietnam era, 4 August 1964 to 28 March 1973, who were classified as deserters or who were classified as conscientious objectors regardless of discharge upgrade under previous programs. DOD was required to establish historically consistent, uniform standards by which to grant discharge upgrades. DOD was also required to review all discharges previously upgraded under the 5 April 1977 Department of Defense Special Discharge Review Program (SDRP), and certain other programs, utilizing these uniform standards to confirm or deny the previous upgrades. These reviews were conducted for Army service members by the Army Discharge Review Board (ADRB) under authority of the Secretary of the Army.

9. On 3 September 2014 the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) 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.

10. The acting Under Secretary of Defense for Personnel and Readiness provided clarifying guidance on 25 August 2017, which expanded the 2014 Secretary of Defense memorandum, that directed the BCM/NRs and DRBs to give liberal consideration to veterans looking to upgrade their less-than-honorable discharges by expanding review of discharges involving diagnosed, undiagnosed, or misdiagnosed mental health conditions, including PTSD; traumatic brain injury; or who reported sexual assault or sexual harassment.

11. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to 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, 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.

12. Section 1556 of Title 10, U.S. 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//