

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 November 2024

DOCKET NUMBER: AR20240002763

APPLICANT REQUESTS: Upgrade of his under honorable conditions (general) discharge.

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

- DD Form 149 (Application for Correction of Military Record)
- in-service documents.
- Certificate of Achievement and Commendation

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 he was discharged due to the onset of a psychological disorder culminating in a suicide attempt. There was no misconduct unrelated to the mental health situation and his service was otherwise honorable. He received seven awards for honorable service including a successful deployment to Panama.
3. The applicant enlisted in the U.S. Army Reserve (USAR) on 10 February 1998. He entered active duty for initial entry training, on 18 September 1998. He was issued a DD Form 214 (Certificate of Release or Discharge from Active Duty) for this period.
4. On 28 August 2000, the applicant enlisted in the USAR Control Group (ROTC) and elected to participate in the [REDACTED] University ROTC program with entitlement to a scholarship. The applicant endorsed DA Form 597 (Army Senior ROTC Nonscholarship Cadet Contract) agreeing to enroll in the necessary courses and successfully complete, within the prescribed time, the requirements for the degree in his academic major. He agreed to remain enrolled in and successfully complete the ROTC program, including ROTC Advanced Camp and all training as prescribed by the Secretary of the Army or his/her designee, as a prerequisite for commissioning.

5. The applicant was discharged from the USAR for appointment as a Reserve Commissioned Officer in the Military Police Corps, on 10 May 2002.
6. On 16 September 2002, the applicant was ordered to active duty to perform duties as a Gold Bar Recruiter with subsequent attendance at the Military Police Officer Basic Course (MPOBC). He reported for MPOBC training, on 23 January 2003.
7. A DA Form 2173 (Statement of Medical Examination and Duty Status) shows that on 17 March 2003, the applicant was found with self-inflicted lacerations to his arm, a suicidal gesture. He was treated at the base hospital and further admitted to the psychiatric ward where he was diagnosed with depression and suicidal ideations.
8. On 21 March 2003, the applicant underwent a mental status evaluation. He was psychiatrically cleared to participate in any administrative action deemed appropriate by the command. However, the attending psychiatrist noted the applicant was evaluated for a disorder manifested by depression and suicidal ideation. Those symptoms would be expected to impair his potential for training and military duty and would not likely be amenable to rehabilitation. If he was retained, the Command could expect problems with escalating symptoms, depression, acting out behavior, behavior embarrassing to the Command, decreased unit cohesion from loss of morale, excessive use of cadre, and unreliability in stressful situations. The psychiatrist recommended the applicant's discharge, but given the manipulative nature of his suicidal gesture there may be other administrative action taken, if deemed appropriate by Command.
9. A memorandum dated 25 March 2003, from Small Group Leader (SGL) for Director of Training (DOT), initiated a Student Status Review (SSR) on the applicant for personal conduct which made his continuation in the course inappropriate. As the specific reasons, the SGL noted the applicant's mental health issues and admission to the psychiatric ward. Additionally, the applicant had missed 54 instruction hours. The SGL recommended his elimination from MPOBC with declaration as a non-graduate. The applicant was notified of the SSR and instructed he had the right to a personal appearance before the DOT.
10. The applicant acknowledged that a SSR had been prepared on his behalf and he had the right to submit statements on his own behalf. He indicated he understood he had the right to a personal appearance with the DOT, prior to his adjudication on the SSR. He also understood, he had the right to appeal the DOT's SSR decision to the Assistant Commandant, U.S. Army Military Police School (USAMPS).
11. Consistent with the chain of command's recommendations, the DOT decided to eliminate the applicant from MPOBC and declare him a non-graduate.

12. A memorandum from Commander, 701st Military Police Battalion, Fort Leonard Wood, MO, for Commandant, USAMPS dated 26 March 2003, requests initiation of a School Faculty Board (SFB) under the provisions of Army Regulation 600-8-24 (Officer Transfers and Discharges), Chapter 2, to review the applicant's recent misconduct and leadership deficiencies. The commander noted the applicant has demonstrated that he is completely unprepared for the leadership standards of the military police regiment. He recommended that a Board be convened, and that the applicant be discharged immediately thereafter, with no higher than a under honorable conditions (general) characterization of service.

13. On a DD Form 261 (Report of Investigation – Line of Duty (LOD) and Misconduct Status) dated 27 March 2003, the investigator officer remarked on the applicant's suicidal gesture; his behavior was not due to negligence. The applicant's actions were found not to be in the line of duty – due to his own misconduct.

14. The applicant's commander formally recommended his involuntary release from active duty under the provisions of Army Regulation 600-8-24, paragraph 2-37, due to the applicant's misconduct and leadership deficiencies.

15. By legal review on 28 March 2003, the applicant's LOD investigation was found to be legally sufficient.

16. Memorandum from Commandant, USAMPS for Assistant Commandant, USAMPS dated 31 March 2003, directed that an SFB be convened to consider the applicant's case. The Board would make appropriate findings and recommendations for disposition of the case, i.e., discharge from his commission and elimination from the Army.

17. On 1 April 2003, the applicant acknowledged that he received notification of the SFB to determine whether he should remain in MPOBC. He declined to submit any written matters. He waived his right to such a Board, or alternatively, waived his right to personal appearance before the Board.

18. On 10 April 2003, the applicant acknowledged he received a copy of the LOD investigation conducted and he had been advised of his right to appeal the finding. He elected not to appeal.

19. The applicant's record is void of the separation authority's memorandum directing the applicant's discharge. However, The applicant was discharged on 18 April 2003. His DD Form 214 confirms he was discharged under the provisions of Army Regulation 600-8-24, paragraph 2-37, for failure to complete course of instruction. He was assigned Separation Code JHF. His service was characterized as under honorable conditions (general). He completed 7 months and 3 days of net active service this period.

20. The applicant provides certificates of achievement and commendation highlighting his performance and for recognition of his efforts.

21. 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.

22. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his under honorable conditions (general) discharge to honorable. The applicant indicates OMH as 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:

- The applicant enlisted in the U.S. Army Reserve (USAR) on 10 February 1998. He entered active duty for initial entry training, on 18 September 1998. He was issued a DD Form 214 for this period of service.
- On 28 August 2000, he enlisted in the USAR Control Group (ROTC) and elected to participate in the Western Illinois University ROTC program with entitlement to a scholarship.
- The applicant was discharged from the USAR for appointment as a Reserve Commissioned Officer in the Military Police Corps, on 10 May 2002.
- On 16 September 2002, he was ordered to active duty to perform duties as a Gold Bar Recruiter with subsequent attendance at the Military Police Officer Basic Course (MPOBC). He reported for MPOBC training, on 23 January 2003.
- A memorandum dated 25 March 2003, from Small Group Leader (SGL) for Director of Training (DOT), initiated a Student Status Review (SSR) on the applicant for personal conduct which made his continuation in the course inappropriate. As the specific reasons, the SGL noted the applicant's mental health issues and admission to the psychiatric ward. Additionally, the applicant had missed 54 instruction hours. The SGL recommended his elimination from MPOBC with declaration as a non-graduate. The applicant was notified of the SSR and instructed he had the right to a personal appearance before the DOT.
- On a DD Form 261 (Report of Investigation – Line of Duty (LOD) and Misconduct Status) dated 27 March 2003, the investigator officer remarked on the applicant's suicidal gesture; his behavior was not due to negligence. The applicant's actions were found not to be in the line of duty – due to his own misconduct.
- The applicant's commander formally recommended his involuntary release from active duty under the provisions of AR 600-8-24, paragraph 2-37, due to the applicant's misconduct and leadership deficiencies.
- The applicant was discharged on 18 April 2003. His DD Form 214 confirms he was discharged under the provisions of AR 600-8-24, paragraph 2-37, for failure to complete course of instruction. He was assigned Separation Code JHF. His

service was characterized as under honorable conditions (general). He completed 7 months and 3 days of net active service this period.

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 states, he was discharged due to the onset of a psychological disorder culminating in a suicide attempt. There was no misconduct unrelated to the mental health situation and his service was otherwise honorable. He received seven awards for honorable service including a successful deployment to Panama.

c. Due to the period of service no active-duty electronic medical records were available for review. Hardcopy documentation submitted by the applicant show a DA Form 2173 (Statement of Medical Examination and Duty Status) indicating that on 17 March 2003, the applicant was found with self-inflicted lacerations to his arm, a suicidal gesture. He was treated at the base hospital and admitted to the psychiatric ward where he presented with depressed mood and suicidal ideation. On 21 March 2003, the applicant underwent a mental status evaluation. He was psychiatrically cleared to participate in any administrative action deemed appropriate by the command. However, the attending psychiatrist noted the applicant was evaluated for a disorder manifested by depression and suicidal ideation. Those symptoms would be expected to impair his potential for training and military duty and would not likely be amenable to rehabilitation. If he was retained, the Command could expect problems with escalating symptoms, depression, acting out behavior, behavior embarrassing to the Command, decreased unit cohesion from loss of morale, excessive use of cadre, and unreliability in stressful situations. The psychiatrist recommended the applicant's discharge. He further noted that given the manipulative nature of his suicidal gesture there may be other administrative action taken, if deemed appropriate by Command. A memo dated 26 March 2003, states the applicant failed to meet the conduct and leadership standards required of students attending the Military Police Officer Basic Course. The applicant had no desire to fulfill his responsibilities as a commissioned officer and had gone so far as to inflict injury upon himself to expedite his desired release from active duty. A memo dated 25 March 2003, states the applicant used a pocketknife to cut a two-inch superficial laceration in his right arm and as a result he was admitted to the psychiatric ward. His behavior was intentional, as a mechanism to leave the training program. While being treated in the inpatient psychiatric hospital, he stated he was not suicidal, but was willing to "do whatever it takes" to go home.

d. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 70% service connected for Chronic Adjustment Disorder. The applicant initially sought to establish behavioral health care with the VA in November 2022 when he reported significant financial stressors due to unpaid child support, termination from his job, and loss of his driver's license. Following an in-depth diagnostic assessment in December

2022, he was recommended for therapy and medication management. He was initially reluctant to participate in medication management since his primary mechanism for addressing his issues was cannabis use. The applicant agreed and was treated via monthly supportive therapy sessions and medication management. In April 2023, the applicant was arrested after threatening police officers who had come to his home related to a neighbor's complaint. He was released and provided with support via the Veteran Justice Outreach (VJOS) as well as more frequent therapeutic interventions. Overall, the applicant's therapy sessions focused on mood regulation, his legal issues, and child support delinquency. In September 2023, the applicant requested to discontinue his medications and was no longer participating in therapy. 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 BH condition during military service that mitigates his misconduct. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts OMH as related to his request.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is 70% service connected for Chronic Adjustment Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged due to engaging in a suicidal gesture as a mechanism to expedite his discharge from the Military Police Officer Basic Course. At the time, the applicant was psychiatrically hospitalized and was found to present with depressed mood. The applicant's available record does not indicate any additional suicidal ideation or gesture; however, he has been service connected for Chronic Adjustment Disorder, indicating difficulty coping with stressful situations. Given the association between depressed mood, due to Chronic Adjustment Disorder, and avoidance the applicant's misconduct is mitigated by his BH condition.

BOARD DISCUSSION:

1. The Board determined 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.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests. The evidence shows the applicant was discharged due to engaging in a suicidal gesture as a mechanism to expedite his discharge from the Military Police Officer Basic Course. He received a general discharge after completing 7 months and 3

days of active service. The Board found no error or injustice in his separation processing. The Board considered the medical records, any VA documents provided by the applicant and the review and conclusions of the medical reviewing official. The Board did not concur with the medical official's finding sufficient evidence to support the applicant had a condition or experience that mitigates his misconduct. The Board noted that despite the mitigation, his self-harm appears to be manipulative. He missed over 50 course hours and did not appear to want to serve in the Army. Therefore, based on a preponderance of available evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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 for correction of the records of the individual concerned.

11/18/2024

X

CHAIRPERSON

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 600-8-24 (Officer Transfers and Discharges) sets forth the basic authority for officer transfers from active duty (AD) to the Reserve Component and discharge functions for all officers on AD for 30 days or more. The version in effect at the time provided that:
 - a. An Honorable characterization of service. An officer will normally receive an honorable characterization of service when the quality of the officer's service has met the standards of acceptable conduct and performance of duty.
 - b. General (under honorable conditions) characterization of service. An officer will normally receive an under honorable conditions characterization of service when the officer's military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.
 - c. Paragraph 2-37 provided that a Reserve component officer with less than 3 years commissioned service will be released from AD and discharged from his or her USAR commission when the officer fails to meet the standards of service schools due to misconduct, moral or professional dereliction, academic or leadership deficiencies, or resignation from a course.
4. The Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Navy 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//