

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 November 2024

DOCKET NUMBER: AR20240003048

APPLICANT REQUESTS: in effect, a medical discharge vice being honorably released from active duty due to “unsatisfactory performance.”

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

- DD Form 149, Application for Correction of Military Record
- Behavioral Health Records

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 request is related to post-traumatic stress disorder (PTSD) and other mental health conditions. He contends, in effect, that he received an honorable discharge and has not asked the military for anything in the 35 years since his separation. He is in dire need of medical assistance and the Department of Veterans Affairs (VA) has repeatedly denied him assistance and shunned him out the door. He further contends that he was admitted into the Mental Health Ward at Fort Bliss, Texas, while serving on active duty. He is not requesting compensation, only health benefits.
3. The record shows the applicant enlisted in the Regular Army on 23 March 1987.
4. His record is void of a separation packet; however he completed a separation physical on 11 February 1988, which shows he reported –
 - being in “fair to good physical health-no medical problems as of yet. More than normal back aches, mid to lower back.”
 - that he suffered from depression or excessive worry, and nervous trouble
 - being hospitalized at from 10 December 1987 to 18 December 1987 due a command referral
 - he saw a psychologist when he was 17 years old

- he was having suicidal thoughts, depression, and nervousness

5. The examining physician listed depression in Item 74, Summary of Defects and Diagnoses of Standard Form 88, Report of Medical Examination. The applicant was found to be qualified for discharge.

6. On 25 March 1988, the applicant was honorably released from active duty in the rank of private/E2. His DD Form 214, Certificate of Release of Discharge from Active Duty, shows he completed 11 months and 11 days of net active service for the period. The narrative reason for separation was unsatisfactory performance, in accordance with Army Regulation 635-200, Personnel Separations-Enlisted Personnel, chapter 13.

7. The applicant provided Behavioral Health records for the period 1 January 2023 to 6 December 2023 which show the applicant was diagnosed with generalized anxiety disorder, moderate recurrent major depression, bipolar II disorder, and chronic PTSD.

8. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting, in effect, a medical discharge vice being honorably released from active duty due to "unsatisfactory performance." The applicant indicated that Posttraumatic Stress Disorder (PTSD) and Other Mental Health Issues are related to his request. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) the applicant enlisted in the Regular Army (RA) on 23 March 1987, 2) his record is void of a separation packet, 3) he completed a separation physical on 11 February 1988 and he was found to be qualified for discharge, 4) on 25 March 1988 the applicant was honorably released from active duty. His certificate of Release of Discharge shows he completed 11 months and 11 days of net active service for the period. He was discharged in accordance with Army Regulation (AR) 635-200, Chapter 13, with the narrative reason for separation noted as unsatisfactory performance, a separation code of LHJ, and reentry code of '3,' 5) he provided civilian BH records from 01 January 2023 to 06 December 2023 showing he was diagnosed with Generalized Anxiety Disorder (GAD), Moderate Recurrent Major Depression (MDD), Bipolar II Disorder, and Chronic PTSD.

b. The Army Review Boards 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. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. His in-service Report of Medical History dated 11 February 1988 shows he stated his health was 'fair to good physical health-no medical problems as of yet more than normal back aches, mid to lower back. On the form he endorsed the following BH-related items: attempted suicide, depression or excessive worry, and nervous trouble of any sort. Regarding a history of mental health treatment, he marked 'yes' and noted from 10-18 December 1987 at William Beaumont Army Medical Center-Unit Referral. It also documented 'psychologist-17-years-old-[REDACTED] In the remarks section it shows 'attempted suicide Dec 1-Suicidal Though[t]-no attempt.' It was shows 'depressed, nervous seen by [illegible word] in Dec of last year.' The associated Report of Medical history showed the provider documented psychiatric as abnormal on clinical evaluation, noting 'depression.' His PULHES was documented as 111111, showing he was not on a BH profile at the time of separation.

d. Review of JLV shows the applicant is not service-connected through the VA for any medical conditions. He initiated services through the VA HUD- Veterans Affairs Supportive Housing (HUD-VASH) program on 14 October 2022. VA records show he was diagnosed with Sheltered Homelessness, Problem Related to Unspecified Psychosocial Circumstances, and Adjustment Disorder with Depressed Mood through the HUD-VASH program. He has continued to seek VA services through the HUD-VASH program through present day.

e. Civilian medical records were reviewed from [REDACTED]-DNA Comprehensive Therapy Services from 01 January 2023 through 06 December 2023. Prescription records show he was prescribed Amitriptyline (anxiety/insomnia), Prazosin (symptoms of night terror), Trazodone (sleep), and Vraylar (mood stabilizer). The records show he was diagnosed with Generalized Anxiety Disorder (GAD), Major Depressive Disorder, Recurrent, Moderate (MDD), Bipolar II Disorder, PTSD, Chronic. One of the notes (undated) shows he reported experiencing 'emotional, physical, sexual, and mental abuse since the age of 4.' An initial evaluation (undated) shows he reported that he had a history of depression, pain, neuropathy, and anxiety that started at an early age due to childhood trauma 'as well as traumatic experiences in the Army.' The traumatic experiences in the Army were not specified. It was noted that he reported an inpatient hospitalization while in the army due to hitting his Sergeant at work. It was noted that, as of that writing, he did not have a previous diagnosis and was referred by his Primary Care Provider (PCP).

f. The applicant is applying to the ABCMR requesting, in effect, a medical discharge. The applicant indicated that PTSD and Other Mental Health Issues are related to his request. Review of the available in-service records indicate the applicant was referred by his unit for mental health treatment while in-service in 1987 though the reason for referral was not specified. The separation physical also indicates he experienced depression and suicidal ideation. At the time of his separation, his PULHES showed 'S,' psychiatric as '1,' indicating he was not on a profile for BH reasons. He is not service-connected through the VA for any medical conditions. VA records show he has been

diagnosed with Sheltered Homelessness, Problem Related to Unspecified Psychosocial Circumstances, and Adjustment Disorder with Depressed Mood through the VA, though these conditions have not been associated with his military service. Civilian BH records show that the applicant has been diagnosed with GAD, MDD, Recurrent, Moderate, Bipolar II Disorder, and PTSD, Chronic. However, the onset of these conditions was not specified nor were they associated with his service.

g. Although there is evidence in the record that the applicant experienced problems related to depression and suicidal ideation while in-service, there is no indication that he was diagnosed with a BH condition that was determined to fall below medical retention standards in accordance with (IAW) AR 40-501 or that he had a BH condition that met the Medical Retention Determination Point (MRDP). Furthermore, even in-service diagnoses of PTSD or Other Mental Health Issues (e.g., GAD, or MDD, recurrent, and Bipolar II Disorder (without a history of a manic episode-to which there is no evidence of in the available records)) are not automatically unfitting per AR 40-501 and would not automatically result in medical separation processing. As such, a referral to IDES is not warranted.

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 Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the medical review, the Board concurred with the advising official finding that although there is evidence in the record that the applicant experienced problems related to depression and suicidal ideation while in-service, there is no indication that he was diagnosed with a behavioral health condition that was determined to fall below medical retention standards. As such, the Board concluded a referral to the Disability Evaluation System is not warranted.

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 for correction of the records of the individual concerned.

6/10/2025

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. Army Regulation (AR) 635-200, Personnel Separations-Enlisted Personnel, sets forth the requirements and procedures for administrative discharge of enlisted personnel. Chapter 13 provides for separation due to unsatisfactory performance when in the commander's judgment the individual will not become a satisfactory Soldier; retention will have an adverse impact on military discipline, good order and morale; the service member will be a disruptive influence in the future; the basis for separation will continue or recur; and/or the ability of the service member to perform effectively in the future, including potential for advancement or leadership, is unlikely. Service of Soldiers separated because of unsatisfactory performance under this regulation will be characterized as honorable or under honorable conditions.

3. AR 635-40, Personnel Separations-Physical Evaluation for Retention, Retirement, or Separation, sets forth policies, responsibilities, and procedures in determining whether a Soldier was unfit because of physical disability to reasonably perform the duties of his or her office, grade, rank, or rating. The mere presence of impairment does not, of itself, justify a finding of unfitness because of physical disability. All relevant evidence must be considered in evaluating the fitness of a soldier. Findings with respect to fitness or unfitness for military service will be made on the basis of the preponderance of the evidence.

a. Except as provided below, an enlisted Soldier may not be referred for, or continue, physical disability processing when action has been started under any regulatory provision which authorizes a characterization, of service of under, other than honorable, conditions.

b. If the case comes within the limitations above, the commander exercising, general court-martial jurisdiction over the Soldier may abate the administrative separation. This authority may not be delegated. A copy of the decision, signed by the general court-martial convening authority (GCMCA), must be forwarded with the disability case file to the Physical Evaluation Board. A case file may be referred, in this way if the GCMCA finds the following:

(1) The disability is the cause, or a substantial contributing cause, of the misconduct that might result in a discharge under other than honorable conditions.

(2) Other circumstances warrant disability processing instead of alternate administrative separation.

4. Title 38, U.S. Code section 1110, General - Basic Entitlement: For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

5. Title 38, U.S. Code, section 1131, Peacetime Disability Compensation - Basic Entitlement: For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

6. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

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.

7. Title 10, U.S. Code, section 1556 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.

8. AR 15-185, ABCMR prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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. Additionally, applicants may be represented by counsel at their own expense.

//NOTHING FOLLOWS//