

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 October 2024

DOCKET NUMBER: AR20240003445

APPLICANT REQUESTS:

- upgrade of his uncharacterized discharge to honorable, based on an accident
- advancement to private first class/E-3
- personal appearance before the Board

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

DD Form 149 (Application for Correction of Military Record)

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 during a training exercise, he and his battle buddy were carrying a bunk bed. His battle buddy dropped his side of the bed causing the applicant's right hand to slip off the bed, tearing the labrum in his left shoulder. The applicant reported his injury to the medic on duty. A sergeant major told him he would be placed on leave so that he could receive physical therapy. Instead, he was demoted and discharged.
3. On his DD Form 149, the applicant notes post-traumatic stress disorder (PTSD) issues are related to his request.
4. The applicant enlisted in the Army National Guard (ARNG) on 31 March 2008. He entered active duty on or about 18 November 2008 for the purpose of completing initial entry training (IET). However, his service record shows he neither completed training nor was awarded a military occupational specialty.
5. A National Guard Bureau (NGB) Form 22-3 (Request for Waiver) dated 16 July 2010 shows the applicant's shoulder had some pulled muscles that disrupted him from

normal basic combat training. He was released from training and sent back to the control of the ARNG.

6. The applicant reenlisted in the ARNG on 10 January 2010 in the pay grade of E-1.

7. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge. However, his record does contain a NGB Form 22 (Report of Separation and Record of Service) that identifies the authority and reason for his discharge.

8. The applicant's NGB Form 22 shows he was discharged on 7 April 2011, under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management), paragraph 6-35d(4) for failure to attend IET. His service was uncharacterized.

9. Orders 110-5007, issued by the State of [REDACTED] Department of Military and Veterans Affairs, Office of the Adjutant General, [REDACTED] discharged the applicant from the ARNG and as a Reserve of the Army, effective 7 April 2011, under the provisions of National Guard Regulation 600-200, paragraph 6-35d(4).

10. On 17 April 2024, the ABCMR staff requested that the applicant provide medical documents to support his health issues. He was advised that he could contact the doctor that diagnosed him or his Veterans Affairs regional office for assistance. He did not respond.

11. 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.

12. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, the Army Aeromedical Resource Office (AERO), and the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting an upgrade of his uncharacterized discharge, and, in essence, a referral to the Disability Evaluation System (DES). He states:

“During a training exercise, my battle buddy and I were cleaning out our barracks. Upon carrying a bunk bed outside in [REDACTED] Heat, my right hand slipped off when my battle buddy dropped his side. During this, this my left hand went down with the bunk bed tearing my labrum in my left shoulder. I reported this to the medic on duty with my battle buddy. I also told SGM [REDACTED] who told me he would put in a leave for me to get PT [physical therapy]. Instead, I was demoted and discharged.”

c. The Record of Proceedings details the applicant’s military service and the circumstances of the case. His Report of Separation and Record of Service (NGB Form 22) for the period of service under consideration shows he enlisted in [REDACTED] Army National Guard ([REDACTED] ARNG) on 16 March 2010 and received an uncharacterized discharge on 4 April 2011 under the provisions of paragraph 6-35d(4) of NGR 600-200, Enlisted Personnel Management (31 July 2009): Failure to attend IET (phase I or phase II) within 24 months. It shows 01 year, 08 months, and 16 days of reserve component service and total service for pay.

d. The behavioral health portion of this case has been addressed in a separated advisory by an ARBA behavioral health provider.

e. No medical documentation was submitted with the case. There are no encounters in the EMR or HRR.

f. Documentation addressing his involuntary separation was neither submitted with the case nor uploaded into iPERMS.

g. There is no evidence the applicant had any medical condition which would have failed the medical retention standards of chapter 3, AR 40-501 prior to his discharge; or that prevented the applicant from attending a phase of IET. Thus, there was no cause for referral to the Disability Evaluation System. Furthermore, there is no evidence that any medical condition prevented the applicant being able to reasonably perform the duties of her office, grade, rank, or rating prior to his discharge.

h. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. For the reserve components, it also includes discharges prior to completing initial entry training (IET). There are two phases - Basic Combat Training (BCT) and Advanced Individual Training (AIT). Because the applicant did not complete BCT, he was in an entry level status at the time of his discharge and so received an uncharacterized discharge. This type of discharge does not attempt to characterize service as good or bad.

i. It is the opinion of the ARBA medical advisor that neither a discharge upgrade nor a referral of his case to the DES is warranted.

13. BEHAVIORAL HEALTH REVIEW:

a. Background: The applicant is requesting an upgrade of his uncharacterized discharge to honorable and advancement to private first class/E-3. He selected PTSD on his application as related to his request but provides no rationale or index trauma. This opine will narrowly focus on the applicant's request for an upgrade and defer all other requests to the Board.

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 Army National Guard (ARNG) on 31 March 2008. He entered active duty on or about 18 November 2008, for the purpose of completing initial entry training (IET). However, his service record shows he neither completed training nor was awarded a military occupational specialty.
- A National Guard Bureau (NGB) Form 22-3 (Request for Waiver) dated 16 July 2010, shows the applicant's shoulder had pulled muscles that disrupted him from normal basic combat training. He was released from training and sent back to the control of the ARNG.
- Applicant reenlisted in the ARNG on 10 January 2010, in the pay grade of E-1.
- Applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge.
- Applicant's NGB Form 22 (Report of Separation and Record of Service) shows he was discharged on 7 April 2011, under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management), paragraph 6-35d (4) for failure to attend IET. His service was uncharacterized, and he was assigned Reentry Code 3.

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 "during a training exercise, he and his battle buddy were carrying a bunk bed. His battle buddy dropped his side of the bed causing the applicant's right hand to slip off the bed, tearing the labrum in his left shoulder. The applicant reported his injury to the medic on duty. A sergeant major told him he would be placed on leave so that he could receive physical therapy. Instead, he was demoted and discharged."

d. Due to the period of service, no active-duty electronic medical records were available for review. No hardcopy medical documentation was submitted for review.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected. No VA electronic medical records were available for review, the applicant is not service connected, and he did not submit any medical documentation post-military service substantiating his assertion of PTSD. On 17 April 2024, a member of the ABCMR Case Management Division requested the applicant provide medical documentation in support of his contention. He was advised he could contact the doctor that diagnosed him or his Veterans Affairs regional office for assistance. He did not respond.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a behavioral health condition during military service that could potentially mitigate his discharge.

g. Kurta Questions:

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

(2) Did the condition exist or experience occur during military service? No. There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service or after his discharge.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The complete facts and circumstances surrounding his separation are not available for review. Therefore, it is not possible to determine if a BH condition would mitigate his discharge. However, there is insufficient evidence of any mitigating BH condition. There is no evidence of any in-service BH diagnoses, the VA has not service-connected the applicant for any BH condition, and there are no VA electronic records indicating he has been treated for PTSD or any other mental health condition. And while the applicant self-asserted PTSD, he did not provide any medical documentation substantiating any BH diagnosis.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, the evidence found within the military record and published DoD guidance for consideration of discharge upgrade requests, the Board found that relief was not warranted.

2. The Board carefully considered the applicant's statement and contentions, his record and length of service, the absence of evidence to show he completed MOS training, his return to his unit of assignment, the absence of separation packet, the reason documented on his separation orders and the character of service he received upon discharge. The Board found that the applicant, an ARNG Soldier, did not complete the required training to be awarded an MOS within 24 months. The Board considered his statement regarding an injury sustained during initial entry training and his PTSD check on the applications.

3. The Board considered the review and conclusions of the two medical reviewers. The Board found, based on the evidence, that there is no evidence the applicant had any medical condition which would have failed the medical retention standards of chapter 3, AR 40-501 prior to his discharge; or that prevented the applicant from attending a phase of IET; there was no medical condition that warranted referral to the Disability Evaluation System. The Board found that: (1) The selected PTSD on his application as related to his request but provides no rationale or index trauma; (2) There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service or after his discharge; (3) Absent evidence of the complete circumstances surrounding his separation and insufficient evidence of a mitigating BH condition in service or VA medical records an upgrade of his character of service is not warranted as a matter of liberal consideration. The applicant did not provide evidence of post-service achievements or reference letters for Board consideration of a clemency decision. Based on a preponderance of 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

:	:	:	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.

6/11/2025

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. 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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR.
 - a. Paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. 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 or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

4. Army Regulation 135-178 (Army National Guard and Army Reserve – Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted Reserve Component personnel.

a. An honorable characterization of service 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.

b. Service will be described as uncharacterized if separation processing is initiated while a Soldier is in an entry level status, except when the Secretary of the Army, or the Secretary's designated representative, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of military duty.

5. National Guard Regulation 600-200 (Enlisted Personnel Management) provides for management of enlisted personnel. Chapter 6 of this regulation sets the policies, standards, and procedures for the separation of enlisted Soldiers from the ARNG. It states, in pertinent part, that the separation of a Soldier from the ARNG is a function of State military authorities in accordance with State laws and regulations. Paragraph 6-35d(4) provides for separation for failure to attend IET within 24 months.

6. 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 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.

7. 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.

8. 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//