

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 December 2024

DOCKET NUMBER: AR20240003459

APPLICANT REQUESTS: an upgrade of his under other than honorable conditions (UOTHC) discharge.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Self-Authored Statement
- Army Service Records (Eight pages), dated 12 May 2007 to 25 September 2009
- Service Treatment Records (Five pages), dated 26 March 2008 to 11 September 2008
- Civilian Medical Records (13 pages), dated 20 January 2012 to 8 July 2020
- Army Discharge Review Board (ADRB) Application Procedures

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, in effect:

a. He served his country honorably even though he received an UOTHC discharge. Throughout his career, he received awards and outdid his peers in physical fitness training. He was never in any kind of trouble until the last four months of his service. The trouble he did get in was trivial. He was having service related behavioral health issues, for which a medical board was initiated at Fort Sam Houston, TX. He was not in his right mind.

b. The years since his discharge have been very hard. He used to self-medicate and has been in and out of trouble. His diagnoses include post-traumatic stress disorder (PTSD), bipolar disorder, panic disorder, agoraphobia, and a bunch of other illnesses and problems. He wasted years self-medicating in an attempt to make his problems go

away. He was ashamed of his discharge and has had a hard time dealing with his service overseas. He is trying to better himself.

3. The applicant enlisted in the Regular Army on 6 July 2006. Upon completion of initial entry training, he was awarded military occupational specialty 19D (Cavalry Scout). The highest rank he attained was specialist/E-4.

4. He was deployed to Iraq from 24 October 2007 to 5 December 2008. During his deployment, he reenlisted, on 12 November 2008, to attend the 68W (Health Care Specialist) course.

5. The applicant accepted nonjudicial punishment under the provisions of Article 15 of the Uniform Code of Military Justice on 7 July 2009, for failing to obey a lawful order and being derelict in the performance of his duty, on or about 6 July 2009, by talking on his cellphone during a program of instruction (POI). His punishment consisted of 7 days of extra duty and restriction.

6. The applicant was formally counseled on six occasions between 7 July 2009 and 24 July 2009. Areas of emphasis covered in the counseling included:

- failure to obey a lawful order and possession of cellphone during POI
- failure to be at his appointed place of duty on four occasions
- wearing unauthorized insignia (specialist/E-4 rank)

7. A Military Police Report (MPR), dated 24 July 2009, shows that on that same date the applicant became disrespectful when he entered his first sergeant's (1SG) office and began yelling at the 1SG. After repeatedly being told to stop, patrols responded. He was apprehended and transported to the military police (MP) station. After being advised of his rights, he was further processed and released to his unit.

8. The applicant was formally counseled on four occasions between 28 July 2009 and 11 August 2009. Areas of emphasis covered in the counseling included:

- failure to be at his appointed place of duty on three occasions
- failure to obey an order to stay out of the initial entry training (IET) barracks

9. An MPR, dated 21 August 2009, shows the applicant was observed concealing a bottle of cologne in his pocket and exiting the post exchange without rendering payment. He was apprehended and transported to the MP station. After being advised of his rights, he rendered a sworn statement admitting to the offense. He was further processed and released to his unit.

10. The applicant was formally counseled on 24 August 2009 for failure to be at his appointed place of duty on two occasions.

11. The applicant underwent a medical examination on 28 August 2009. The relevant DD Form 2807-1 (Report of Medical History) and corresponding DD Form 2808 (Report of Medical Examination) show he reported being in good health. However, he noted a significant number of issues in his medical history. The examining provider noted the applicant was not deployable to an austere environment within the next 6 months.

12. The applicant was formally counseled on 31 August and 4 September 2009 for failure to report to his appointed place of duty.

13. An MPR, dated 4 September 2004, shows that a credit card and several bottles of prescription medication belonging to other Soldiers were found in the applicant's room during a health and welfare inspection. The applicant stated he stole the items. He was apprehended and transported to the MP station. He was advised of his rights and released to his unit.

14. The applicant accepted nonjudicial punishment under the provisions of Article 15 of the Uniform Code of Military Justice on 17 September 2009 for three specifications of failure to go at the time prescribed to his appointed place of duty, on or about 20 July, 23 July, and 29 July 2009, for willfully disobeying a lawful order, on or about 8 July 2009, and for being disrespectful in deportment towards his 1SG, on or about 24 July 2009. The applicant's record is void of the document noting his punishment.

15. The applicant was formally counseled on 18 September 2009 for failure to obey an order or regulation after being found in the female barracks.

16. A Brooke Army Medical Center (BAMC) Form 1030 (Notification of Patient's Medical Status), dated 25 September 2009, shows the applicant was diagnosed with panic disorder with agoraphobia. It was requested he be transferred to a medical holding company in anticipation of a medical board/physical evaluation board action. Additionally, he was issued a permanent DA Form 3349 (Physical Profile) for the diagnosis above.

17. The applicant underwent a mental status evaluation on 30 September 2009. The evaluating provider noted the applicant was being recommended for separation due to misconduct. The provider noted the applicant was mentally responsible and had the capacity to understand and participate in proceedings; there was no evidence of bipolar disorder, traumatic brain injury, or PTSD; there was evidence of a mental health condition (panic disorder with agoraphobia) of sufficient severity which warranted disposition through military medical channels.

18. The applicant was formally counseled on 20 October 2009 for being caught outside of the sleeping quarters “making out” with an IET Soldier, after being given numerous warnings, and verbal and written counseling stating he was not to affiliate with IET Soldiers.

19. Court martial charges were preferred against the applicant for violations of the Uniform Code of Military Justice on 22 October 2009. The relevant DD Form 458 (Charge Sheet) shows the applicant was charged with the following:

- three specifications of failure to go at the time prescribed to his appointed place of duty, on or about 11 August, 24 August, and 31 August 2009
- failure to obey a lawful order from his 1SG, on or about 24 July 2009
- two specifications of failure to obey a lawful order from a commissioned officer, on or about 30 July and 10 September 2009
- violation of a lawful regulation, on or about 20 October 2009
- four specifications of stealing property of a value of less than \$500.00, between on or about 1 January 2009 and 4 September 2009

20. The applicant consulted with legal counsel on 22 October 2009.

a. He was advised of the basis for the contemplated trial by court-martial, the maximum permissible punishment authorized under the Uniform Code of Military Justice, the possible effects of a UOTHC discharge, and the procedures and rights that were available to him.

b. After receiving legal counsel, he voluntarily requested discharge, in lieu of trial by court-martial, under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 10. In his request for discharge, he acknowledged understanding that by requesting a discharge, he was admitting guilt to the charges against him, or of a lesser included offense that also authorized the imposition of a bad conduct or dishonorable discharge. He acknowledged making this request free of coercion. He further acknowledged understanding that if his discharge request were approved, he could be deprived of many or all Army benefits; he could be ineligible for many, or all benefits administered by the Veterans Administration; and he could be deprived of his rights and benefits as a Veteran under both Federal and State laws.

c. He was advised he could submit any statements he desired in his own behalf. He elected not to submit a statement.

21. On 23 October 2009, the separation authority approved the recommended discharge and directed a UOTHC characterization of service.

22. The applicant was discharged on 27 October 2009, under the provisions of Army Regulation 635-200, Chapter 10, in lieu of trial by court-martial. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows his characterization of service was UOTHC, with separation code KFS and reentry code RE-4. He completed 3 years, 3 months, and 22 days of active service. He was authorized or awarded the following:

- Army Commendation Medal
- Army Achievement Medal
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal with one campaign star
- Army Service Ribbon
- Overseas Service Ribbon

23. The applicant provides the following:

a. Army Service Records, dated 12 May 2007 to 25 September 2009, which include two award certificates for the Army Commendation Medal and Army Achievement Medal, and two letters of recommendation, dated 1 September and 5 September 2008, recommending the applicant for selection to the Green to Gold program.

b. Service treatment records, dated 26 March 2008 to 11 September 2008, and 13 pages of civilian medical records, dated 20 January 2012 to 8 July 2020, will be summarized in the medical review portion of this Record of Proceedings (ROP).

c. A copy of the Army Discharge Review Board (ADRB) Application Procedures provides the steps required for an applicant to request review of their discharge from the ADRB.

24. Discharges under the provisions of Army Regulation 635-200, Chapter 10, are voluntary requests for discharge for the good of the service, in lieu of a trial by court-martial. An UOTHC character of service is normally considered appropriate.

25. The Board should consider the applicant's argument and/or evidence in accordance with the published equity, injustice, or clemency determination guidance.

26. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under other than honorable conditions (UOTHC) to something more favorable. He contends he experienced an undiagnosed mental health condition, including PTSD, that mitigates his misconduct.

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:

- The applicant enlisted into the Regular Army on 6 July 2006 and reenlisted on 12 November 2008. He deployed to Iraq from 24 October 2007 to 5 December 2008.
- The applicant accepted NJP on 7 July 2009 for failing to obey a lawful order and being derelict in the performance of his duty by talking on his cellphone during a program of instruction (POI), and he was formally counseled on six occasions between 7 July 2009 and 24 July 2009 for the following: failure to obey an order and possession of a cellphone during POI; failure to be at his appointed place of duty on four occasions; and wearing unauthorized insignia. He was counseled again on four occasions between 28 July 2009 and 11 August 2009 for failure to be at his appointed place of duty on three occasions and failure to obey an order to stay out of the IET barracks.
- The applicant was formally counseled on 24 August 2009 for failure to be at his appointed place of duty on two occasions, and he was counseled again on 31 August and 4 September 2009 for failure to report to his appointed place of duty.
- The applicant accepted NJP on 17 September 2009 for three specifications of failure to be at his appointed place of duty, for willfully disobeying a lawful order, and for being disrespectful in deportment towards his 1SG.
- The applicant was formally counseled on 18 September 2009 for failure to obey an order after being found in the female barracks, and on 20 October 2009 he was counseled again for being caught outside of the sleeping quarters “making out” with an IET Soldier after being given numerous warnings and verbal and written counseling stating that he was not to affiliate with IET Soldiers.
- Court martial charges were preferred against the applicant for violations of the UCMJ on 22 October 2009 for three specifications of failure to be at his appointed place of duty, failure to obey a lawful order from his 1SG, two specifications of failure to obey a lawful order from a commissioned officer, violation of a lawful regulation, and four specifications of stealing property of a value of less than \$500.00. He voluntarily requested discharge, in lieu of trial by court-martial, and this was approved by the separation authority.
- The applicant was discharged on 27 October 2009 and completed 3 years, 3 months, and 22 days of net active service.

c. 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 asserts he was having service-related behavioral health issues at the time of his misconduct, and he indicated PTSD as a mitigating condition. A Medical Evaluation Board dated 25 September 2009 showed that the applicant was evaluated following a mental status examination related to the separation process, which indicated he was experiencing symptoms of panic disorder with agoraphobia, a condition he had been

treated for while in theater. The document outlines his history of diagnosis and treatment for panic attacks and ADHD and concluded with a diagnosis of Panic Disorder with agoraphobia, which existed prior to service but was aggravated by his deployment to Iraq. Mental health documentation from 1 June 2008 showed treatment for anxiety and panic with an anxiolytic and a tapering plan for discontinuing medications for sleep and anxiety. A note from 11 September 2008 showed that the applicant had 17 previous sessions and presented after 2.5 months of no treatment as referred by his battalion surgeon due to continued anxiety. Documentation from 27 March 2008 showed the applicant was diagnosed with Anxiety and started on an antidepressant medication. A Psychiatric Diagnostic Assessment dated 20 January 2012 indicated the applicant initiated mental health services for anxiety, sleep difficulty, and hyperarousal, but the report appears to have pages missing and does not provide a diagnosis. A Medication Clinic note dated 5 March 2012 showed a diagnosis of Bipolar Disorder and PTSD, and prescriptions for a mood stabilizer, two antidepressants, and a blood pressure medication commonly used for anxiety and sleep. Another note dated 8 June 2012 showed the applicant reported some improvement with medications, but he continued to experience hyperarousal symptoms. Documentation showed one additional visit on 3 August 2012 where medications were changed, and the applicant was required to take a drug screen. A Treatment Plan by LifeStream originally dated 4 February 2020 with a revision date of 8 July 2020 showed that the applicant was on probation and had a history of substance abuse, and he was being treated for PTSD with an evidence-based psychotherapy. The document showed a history of inpatient substance abuse treatment for Amphetamine and Opioid Use Disorders, PTSD, and Bipolar Disorder. A Report of Medical History dated 28 August 2009 noted several psychiatric medications and indication of nervous trouble, memory loss/amnesia, trouble sleeping, depression/excessive worry, and a history of evaluation and treatment for a mental condition. Additionally, a Report of Medical Examination with the same date showed diagnoses of ADHD, Panic Disorder, and Depression. A Physical Profile dated 25 September 2009 showed that the applicant was permanently profiled for Panic Disorder with agoraphobia and was considered non-deployable and did not meet retention standards. A Report of Mental Status Evaluation dated 30 September 2009 noted that the applicant's mental health condition was of sufficient severity to warrant disposition through medical channels and that he was diagnosed with Panic Disorder with agoraphobia. There was sufficient evidence that the applicant was diagnosed with a psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed the applicant was initially seen for a substance abuse evaluation through ASAP on 6 March 2007 and was diagnosed with Alcohol Disorder. Follow up sessions and/or case staffings were noted, but there was no documentation of details. However, an Operation (surgery) Report dated 7 March 2007 showed that the applicant had been involved in an altercation and sustained a displaced mandible fracture resulting in surgery and removal of four teeth. He was next

seen on 26 March 2008 while in theater, and he reported anxiety, restless sleep, agitation, and constant fear of imminent death. He was diagnosed with Anxiety and started on an antidepressant medication. He had several follow up sessions and medication changes with some improvement in symptoms before redeployment in December 2008, and it was documented that he reported improvement in symptoms after being home. In May 2009 he sought medication management for anxiety, concentration problems, and memory difficulties in the context of taking online classes, and he was provided with stimulant medication and diagnosed with ADHD. Documentation in July 2009 showed that he was struggling with ADHD symptoms while attending a school and sought a refill of stimulant medication. He also reported receiving an Article 15 for having a phone in class and explained his grandmother was ill, and he was worried about her. He was started on a non-stimulant medication to target ADHD symptoms and a medication to help with anxiety, and he was seen for several follow up visits before being referred for a separation physical on 24 August 2009. Documentation showed the MEB narrative summary was completed on 25 September 2009, and the applicant had one follow up visit for medication management on 30 September 2009 before he was discharged. His diagnosis remained Panic Disorder with agoraphobia, and documentation discussed a history of multiple medication trials with current treatment consisting of an anxiolytic and an antipsychotic commonly used to treat sleep and anxiety.

e. VA documentation showed that the applicant engaged with the Reentry Veterans Outreach program in March 2021, and it was noted that he was in his last year of incarceration and would be homeless upon release. However, the next encounter is in February 2024, and the applicant was again incarcerated for drug related offenses and was provided with housing assistance when released. He initiated mental health treatment on 28 August 2024, and he was diagnosed with Generalized Anxiety Disorder, Depression not otherwise specified (NOS), Polysubstance Dependence (in remission), and Concentration Disorder (ADD, TBI, versus substance induced). In subsequent sessions he reported deployment-related trauma, including a mortar attack resulting in the applicant trying to unsuccessfully help another soldier out of a burning vehicle, and he related his substance abuse history starting shortly after the altercation he had while in service. He explained he became addicted to prescribed opioids and later self-medicated anxiety with Oxycontin until beginning suboxone treatment. He was prescribed suboxone, two antidepressants, an anxiolytic, and a sleep medication, and he was diagnosed with Opioid Use Disorder, severe in remission, Alcohol Use Disorder, severe in remission, Sedative Hypnotic Use Disorder, PTSD, and Unspecified Depressive Disorder. He has utilized VA and non-VA providers for medication management with plans to transfer all medications to VA, individual and group therapy related to trauma history, housing assistance, and TBI clinical care. At his most recent visit with his psychiatrist on 16 December 2024, he reported continued abstinence from substances, improved mood, and stability on current medications.

f. A Compensation and Pension Initial PTSD Disability Benefits Questionnaire dated 7 October 2024 was reviewed and showed that the applicant endorsed the requisite number of symptoms to warrant a diagnosis of PTSD, and he reported deployment related trauma, including witnessing a fellow soldier who had been severely injured in a mortar attack and trying to help save him from a burning vehicle, being shot at in convoys, and seeing Iraqis who had been tortured. He reported a history of "5 or 6 hospitalizations," two suicide attempts, and current prescriptions for seven psychiatric medications, and he was also diagnosed with Opioid Use Disorder, severe in sustained remission with partial agonist therapy, Alcohol Use Disorder, in sustained remission, and Unspecified Anxiety Disorder.

g. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support that the applicant was diagnosed with a mental health condition while on active service, and there is sufficient evidence to support partial mitigation of his misconduct.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had a mental health condition, including PTSD, at the time of the misconduct. Military mental health records show that the applicant engaged in mental health treatment for anxiety, sleep difficulty, agitation, and hyperarousal symptoms while on active service, and he was diagnosed with Panic Disorder with agoraphobia. An MEB determined he was unfit for service because of his mental health condition, and he has received mental health and substance abuse treatment post-discharge, dating back to 2012.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service, and documentation showed he was initially referred to ASAP in 2007 and started mental health treatment while deployed to Iraq in March 2008. He reported deployment related trauma exposure as part of his in-service mental health treatment.

(3) Does the condition or experience actually excuse or mitigate the discharge? Partial. A review of military medical and mental health records revealed sufficient evidence of a mental health condition, Panic Disorder, while on active service, but the applicant does not have a documented diagnosis of PTSD until 2012, after discharge. He has a long history of substance abuse and mental health treatment, both while in service and post-discharge, and the applicant's history of substance abuse is a common self-medicating strategy for avoiding uncomfortable emotions and memories related to trauma exposure. Additionally, relatively minor behavioral infractions, disregard for authority, and not being at an appointed place of duty can be natural sequela to mental health conditions associated with exposure to traumatic and stressful events and

present a partially mitigating nexus between his mental health condition and some of his misconduct. However, there is no nexus between his mental health condition, including PTSD, and his misconduct related to stealing property: 1) these types of misconduct are not part of the natural history or sequelae of a mental health condition; 2) his asserted mental health conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

i. Nonetheless, the applicant contends he was experiencing a mental health condition or an experience that mitigates his misconduct, and per Liberal Consideration his contention is sufficient for the board's consideration.

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 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 offenses punishable under the Uniform Code of Military Justice with a punitive discharge, including stealing property. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board found no error or injustice in the separation proceedings and designated characterization of service. The Board noted the medical advisor's review finding sufficient evidence for partial mitigation; however, determined the applicant's misconduct did not warrant an upgrade. Based on a preponderance of the evidence, the Board concluded that the characterization 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.

3/26/2025

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 (USC), 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 Army Board for Correction of Military Records (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. Section 1556 of Title 10, USC, 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 ABCMR applicants (and/or their counsel) prior to adjudication.
3. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), in effect at the time, set forth the basic authority for the separation of enlisted personnel.
 - a. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may, submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.
 - b. Paragraph 3-7a provides that an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.
 - c. Paragraph 3-7b provides that 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.
4. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records

(BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder; 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 sexual assault or sexual harassment was unreported, or 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. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

5. 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//