

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 December 2024

DOCKET NUMBER: AR20240003628

APPLICANT REQUESTS:

- upgrade of his characterization of service from "Bad Conduct" to either "General, Under Honorable Conditions" or "Honorable"
- credit for his periods of continuous honorable service

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Enlisted Record Brief (ERB)
- Enlistment documents (4 pages)
- Documentation for Awards (8 pages)
- Promotion Certificates (3)
- DA Forms 2166-7 (Noncommissioned Officer Evaluation Report (NCOER)) (7)
- Certificates of Recognition (15)
- Certificate of Baptism
- Character reference letter
- Excess leave explanation letter
- Article entitled "The Army increasingly allows Soldiers charged with violent crimes to leave the military rather than face trial"

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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, His DD Form 214 is incomplete, and he never received a DD Form 215 (Correction to DD Form 214) documenting his missing records. His individual periods of continuous honorable service are not accounted for because a period of reenlistment was omitted.

a. His court-martial conviction and BCD never held him down, but he feels there was unfairness in his case. He was basically given a General Court-Martial for fraternization, indecent assault, and adultery; even though he and his wife were legally separated and living in two different states at the time. His relationship was consensual, and Adultery is not recognized as a crime in a civilian court, and he feels he was railroaded after looking at cases, news, and current events about far worse offenses committed by members of the military of all ranks and the only punishment they received was a slap on the back.

b. He works with the city government, kids youth football groups, and is a treasurer with the Fraternal Order of Masons. He is also a God fearing family man who raised his children to do the right thing. One serves in the Army as a captain, one is a Correctional Officer, one is an Athletic Director and Teacher, and his 14 year-old son is an all A and B student.

c. He is requesting this correction so he can get Department of Veterans Affairs (VA) benefits for injuries and health conditions he incurred during his career. The reason it took him so long to submit this application is because after his lengthy court-martial appeal process, he basically gave up trying.

d. The applicant indicates on his DD Form 149 that mental health conditions are related to his request.

3. On 17 January 1989, the applicant enlisted in the Regular Army in the rank/pay grade of private (PV1)/E-1.

4. He reenlisted for a period of 4 years on 15 October 1992, and for a period of 6 years on 20 April 1995. He served in a variety of assignments at duty stations in the United States and Germany.

5. He served in the Imminent Danger Pay area of the Former Yugoslavia from 19 March 1997 to 9 September 1997. He was promoted to staff sergeant (SSG)/E-6 on 1 April 2000, which was the highest rank he held. On 12 June 2000, the applicant reenlisted for an indefinite period of service.

6. A corrected copy of General Court-Martial Order (GCMO) Number 23 issued by Headquarters, III Corps and Fort Hood, TX on 2 October 2002 shows he was arraigned at Fort Hood, TX at a General Court-Martial convened by Commander, III Corps and Fort Hood.

a. He pled guilty and was found guilty of the following charges and specifications in violation of the Uniform Code of Military Justice (UCMJ).

(1) Charge I, Article 92, UCMJ: Specification 1 (Specifications 1 and 3 were combined for sentencing purposes after findings were entered): In that he did, at or near Fort Hood, TX, on or about 23 February 2001, violate a lawful general regulation by wrongfully having sexual intercourse with Private (PVT) J.E.T., a subordinate over whom he had supervisory authority.

(2) Charge I, Article 92, UCMJ: Specification 2: In that he did, at or near Fort Hood, TX, on or about 21 February 2001, violate a lawful general regulation by wrongfully having sexual intercourse with PVT A.N.B., a subordinate over whom he had supervisory authority.

(3) Charge I, Article 92, UCMJ: Specification 3 (Specifications 1 and 3 were combined for sentencing purposes after findings were entered): In that he did, at or near Fort Hood, TX, on or about 21 February 2001, violate a lawful general regulation by wrongfully kissing PVT J.E.T., a subordinate over whom he had supervisory authority.

(4) Charge II, Article 134, UCMJ: Specification: Indecent Assault.

(5) Charge III, Article 134, UCMJ: Specification 1: A married man, at or near Fort Hood, TX, on or about 23 February 2001, wrongfully had sexual intercourse with PVT J.E.T., a woman not his wife.

(6) Charge III, Article 134, UCMJ: Specification 1: A married man, at or near Fort Hood, TX, on or about 21 February 2001, wrongfully had sexual intercourse with PVT A.N.B., a woman not his wife.

b. The applicant's sentence consisted of reduction from E-6 to E-1, total forfeiture of all pay and allowances, to be confined for six months, and a BCD. The sentence was adjudged on 4 December 2001.

c. The sentence was approved and, except for the BCD ordered to be executed. The adjudged forfeiture of all pay and allowances was deferred effective 14 December 2001 until 2 October 2002. The automatic forfeiture of all pay and allowances was waived effective 14 December 2001, for a period of four months.

7. The applicant was confined from 4 December 2001 to 26 April 2002 when he was released upon completion of his sentence. The appellate review is not available for review.

8. GCMO Number 67 issued by Headquarters, U.S. Army Armor Center and Fort Knox, KY on 6 April 2006 shows the sentence as promulgated in the corrected copy of GCMO Number 23 issued by Headquarters, III Corps and Fort Hood, TX on 2 October 2002, was finally affirmed, the portion of the sentence pertaining to confinement had been served, and the BCD was ordered to be duly executed.

9. Orders and the applicant's DD Form 214 show he was discharged in the rank/pay grade of PV1/E-1 on 7 July 2006 under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 3, as a result of "Court-Martial (Other)." He was assigned Separation code "JJD" and Reentry code "4." His service was characterized as "Bad Conduct." He was credited with completion of 17 years, 1 month, and 13 days of net active service. The applicant was separated from service on incomplete temporary records and his affidavit.

a. Block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) shows he was awarded or authorized the:

- Army Commendation Medal
- Army Achievement Medal (3rd Award)
- Army Good Conduct Medal (3rd Award)
- National Defense Service Medal (2nd Award)
- NCO Professional Development Ribbon
- Army Service Ribbon
- Overseas Service Ribbon
- North Atlantic Treaty Organization Medal
- Multinational Force and Observers Medal
- Parachutist Badge
- U.S. Army Basic Recruiter Badge-Silver with One Gold Achievement Star

b. Block 14 (Military Education) shows he completed the following full-time courses:

- Combat Engineer Course, 8 weeks, April 1989
- Airborne Course, 3 weeks, March 1993

c. The Remarks block shows partial entries as follows: He did complete his first full term of service. His immediate reenlistment this period is shown as from 15 October 1992 to 19 April 1995. He was credited with continuously honorable service from 17 January 1989 to 19 April 1995.

10. The applicant's DD Form 214 is missing important entries regarding his four periods of enlistment that may affect his eligibility for post-service benefits, medals and decorations to which he is entitled, and military education courses he completed. These matters will be further addressed in the Administrative Notes portion of this Record of Proceedings.

a. Block 13 does not show all of the awards and decorations to which the applicant is entitled.

b. Block 14 does not show all of the full-time resident military courses the applicant completed.

c. Block 18 (Remarks) does not show his immediate reenlistments this period from 20 April 1995 to 11 June 2000 and from 12 June 2000 to 7 July 2006; and does not identify his period of continuous honorable service from 17 January 1989 to 11 June 2000.

11. In addition to the previously discussed evidence, the applicant provides the following documents:

a. Documentation for medals he was awarded including an Army Commendation Medal, five Army Achievement Medals (one without any indication of permanent orders), an Army Good Conduct Medal, and a North Atlantic Treaty Organization Medal.

b. Promotion Certificates commemorating his promotions to specialist/E-4, sergeant/E-5, and SSG/E-6.

c. Seven DA Forms 2166-7 rendered for the period from November 1994 through May 2001 which show his raters and senior raters rendered favorable comments and ratings regarding his performance and potential.

d. Certificates presented to him in recognition of various achievements during his military career (15).

e. A Certificate of Baptism which shows the applicant was baptized on 5 September 1981.

f. A character reference letter wherein the author attests the applicant is a good, upstanding, and moral person.

g. A letter provided to the applicant on 26 April 2002 which explained he was on excess leave pending final discharge from the Army and would not be issued a

DD Form 214 until he was fully discharged. During this period of time, he was not employed by the military and was authorized to seek employment with any company.

h. An article entitled "The Army increasingly allows Soldiers charged with violent crimes to leave the military rather than face trial" wherein the co-authors discuss the fact that Soldiers leave the Army with a negative discharge, avoiding possible federal conviction and with little record of the allegations against them.

12. On 30 October 2024, a member of the Army Review Boards Agency (ARBA) staff requested the applicant provide a copy of medical documents in support of his mental health issue and afforded him an opportunity to comply. To date, the applicant has not provided a response.

13. Court-martial convictions stand as adjudged or modified by appeal through the judicial process. In accordance with Title 10, USC, Section 1552, the authority under which this Board acts, the ABCMR is not empowered to set aside a conviction. Rather, it is only empowered to change the severity of the sentence imposed in the court-martial process and then only if clemency is determined to be appropriate. Clemency is an act of mercy or instance of leniency to moderate the severity of the punishment imposed.

14. Army Regulation 635-200 provides that a Soldier would be given a BCD pursuant only to an approved sentence of a general or special court-martial and that the appellate review must be completed, and the affirmed sentence ordered duly executed.

15. 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.

16. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his bad conduct discharge (BCD). He contends mental health conditions are related to his request for an upgrade. 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 on 17 January 1989; 2) The applicant served in the Imminent Danger Pay area of the Former Yugoslavia from 19 March-9 September 1997; 3) The applicant pled guilty and was found guilty of the following charges and specifications: A) two specifications of wrongfully having sexual intercourse with a PVT, a subordinate over whom he had supervisory authority (two different PVTs); B) Indecent assault; and C) two charges of having sexual intercourse with a woman not his wife; 4) The applicant was discharged on 7 July 2006, Chapter 3, as a result of "Court-Martial (Other)." His service was characterized as "Bad Conduct."

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service records. The VA's Joint Legacy Viewer (JLV) was also examined. No additional medical documentation was provided for review.

c. The applicant stated he experienced mental health conditions, which mitigates his misconduct. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition while on active service.

d. A review of JLV provided insufficient evidence the applicant has been diagnosed with service-connected mental health condition, and he does not receive any service-connected disability.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence to support the applicant had a condition or experience that mitigates his misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he was experiencing a mitigating mental health condition.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mitigating mental health condition, while on active service.

(3) Does the condition or experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant experienced mental health conditions while on active service. In addition, there is no nexus between the applicant's reported mental health condition and his misconduct of fraternization with lower enlisted whom he had supervisory authority, indecent assault, and adultery that: 1) these types of misconduct are not a part of the natural history or sequelae of the applicant's reported mental health condition; 2) the applicant's reported mental health condition does not affect one's ability to distinguish right from wrong and act in accordance with the right. However, the applicant contends he was experiencing a mental health condition or an experience that mitigated his misconduct, and per Liberal Consideration his contention is sufficient for the board's consideration.

BOARD DISCUSSION:

1. 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 applicant's trial by a court-martial was warranted by the gravity of the offense charged (wrongfully having sexual intercourse with subordinates over whom he had supervisory authority, wrongfully kissing a private, indecent assault, and as a married man, having sexual intercourse with privates). The applicant's conviction and discharge were conducted in accordance with applicable laws and regulations and the discharge appropriately characterizes the misconduct for which she was convicted. He was given a bad conduct discharge pursuant to an approved sentence of a court-martial. The appellate review was completed, and the affirmed sentence was ordered duly executed. All requirements of law and regulation were met with respect to the conduct of the court-martial and the appellate review process, and the rights of the applicant were fully protected. The Board found no error or injustice in his separation processing. The Board also considered the medical records, any VA documents provided by the applicant and the review and conclusions of the medical reviewing official. The Board agreed with the medical reviewer's finding insufficient evidence to support the applicant had a condition or experience that mitigates his misconduct. Also, the applicant provided insufficient evidence of a persuasive nature of post-service achievements or letters of reference in support of a clemency determination. 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.
2. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

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.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

ADMINISTRATIVE NOTES:

1. Army Regulation 635-5 (Separation Documents), in effect at the time, stated the DD Form 214 was required to list all of a separating Soldier's periods of deployment, awards and decorations, immediate reenlistments, periods of continuous honorable service, and full-time resident military courses.
2. A review of the applicant's record shows his DD Form 214, for the period ending 7 July 2006, is missing important entries regarding his four periods of enlistment that may affect his eligibility for post-service benefits.

3. Army Regulation 600-8-22 (Military Awards) states:

- a. The Army Achievement Medal is awarded to members of the Armed Forces of the United States, who while serving in a noncombat area on or after 1 August 1981,

distinguished themselves by meritorious service or achievement. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

b. The NCO Professional Development Ribbon was established by the Secretary of the Army on 10 April 1981. It is awarded to Active Army, Army National Guard, and U.S. Army Reserve Soldiers for successful completion of designated NCO professional development courses. Effective 30 March 1989, a service member will be awarded the NPDR with the numeral which identifies the highest level of NCOES successfully completed as follows:

- 1 = Bar Ribbon Device = Primary Level
- 2 = Basic Level
- 3 = Advanced Level
- 4 = Senior Level

c. The Global War on Terrorism Service Medal is authorized for award to members of the Armed Forces of the United States who have participated in Global War on Terrorism operations outside of the areas of eligibility designated for award of the Global War on Terrorism Expeditionary Medal, Afghanistan Campaign Medal, or Iraq Campaign Medal. All Soldiers on active duty, including Reserve Component Soldiers mobilized or National Guard Soldiers activated, on or after 11 September 2001 to a date to be determined having served 30 consecutive days or 60 nonconsecutive days are authorized the Global War on Terrorism Service Medal.

4. Evidence shows the applicant served 30 consecutive days on or after 11 September 2001. Therefore, he is entitled to award of the Global War on Terrorism Service Medal.

5. The applicant's ERB, dated 31 July 2001, and certificates provided by the applicant show he:

(1). was awarded or authorized the following awards and/or decorations which are not reflected on his DD Form 214:

- Army Achievement Medal (4th Award)
- NCO Professional Development Ribbon with Numeral 2

(2). completed the following full-time resident military courses which are not reflected on his DD Form 214:

- Primary Leadership Development Course from 1 June through 30 June 1994 (4 weeks)

- Basic Noncommissioned Officer Development Course on 12 December 1997 (Duration of course not specified)
- Army Recruiter Course from 1 March through 8 April 1999 (5 weeks)

6. The evidence of record confirms orders awarded the applicant the Army Achievement Medal (4th Award).

7. Based on the foregoing, amend the applicant's DD Form 214 for the period ending 7 July 2006 by:

a. adding to Block 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized):

- Army Achievement Medal (4th Award)
- NCO Professional Development Ribbon with Numeral 2
- Global War on Terrorism Service Medal

c. adding to Block 14 (Military Education)

- Primary Leadership Development CRS, 4 weeks, June, 1994
- Basic Noncommissioned Officer Development CRS, December, 1997
- Army Recruiter CRS, 5 Weeks, April, 1999

d. deleting from Block 18 (Remarks)

e. adding to Block 18 the entries:

- "IMMEDIATE REENLISTMENTS THIS PERIOD FROM 19890117 UNTIL 19921014, FROM 19921015 UNTIL 19950419, FROM 19950420 UNTIL 20000611, FROM 20000620 UNTIL 20060707"
- "CONTINUOUS HONORABLE ACTIVE SERVICE FROM 19980917 UNTIL 20000611"

REFERENCES:

1. Title 10, 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 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, USC, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. Title 10, USC, Section 1552, the authority under which this Board acts, the ABCMR is not empowered to set aside a conviction. Court-martial convictions stand as adjudged or modified by appeal through the judicial process, it is only empowered to change the severity of the sentence imposed in the court-martial process and then only if clemency is determined to be appropriate. Clemency is an act of mercy or instance of leniency to moderate the severity of the punishment imposed.

4. 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. prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that 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. It is not an investigative body.

5. 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. An honorable discharge was separation with honor. Issuance of an honorable discharge certificate was appropriate when the quality of the Soldier's service generally met the standards of acceptable conduct and performance of duty or was otherwise so meritorious that any other characterization would clearly be inappropriate. Where there were infractions of discipline, commanders were to consider the extent thereof, as well as the seriousness of the offense. Separation authorities could furnish an honorable discharge when subsequent honest and faithful service over a greater period outweighed disqualifying entries in the Soldier's military record. It was the pattern of behavior, and not the isolated instance, which commanders should consider as the governing factor.

b. A general discharge was a separation from the Army under honorable conditions. When authorized, separation authorities could issue a general discharge to Soldiers whose military record was satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. A discharge under other than honorable conditions (UOTHC) is an administrative separation from the Service under conditions other than honorable. It may be issued for

misconduct, fraudulent entry, homosexual conduct, security reasons, or in lieu of trial by court martial in the following circumstances.

(1) An under-other-than-honorable-conditions discharge will be directed only by a commander exercising general court-martial authority, a general officer in command who has a judge advocate or legal advisor available to his/her command, higher authority, or the commander exercising special court-martial convening authority over the Soldier who submitted a request for discharge in lieu of court-martial (see chapter 10) when delegated authority to approve such requests.

(2) When the reason for separation is based upon one or more acts or omissions that constitutes a significant departure from the conduct expected of Soldiers of the Army. Examples of factors that may be considered include the following:

- Use of force or violence to produce bodily injury or death
- Abuse of a position of trust
- Disregard by a superior of customary superior-subordinate relationships
- Acts or omissions that endanger the security of the United States or the health and welfare of other Soldiers of the Army
- Deliberate acts or omissions that seriously endanger the health and safety of other persons

d. A bad conduct discharge will be given to a Soldier pursuant only to an approved sentence of a general or special court-martial. The appellate review had to have been completed and the affirmed sentence then ordered duly executed. Questions concerning the finality of appellate review should be referred to the servicing staff judge advocate.

e. A dishonorable discharge will be given to a Soldier pursuant only to an approved sentence of a general court-martial. The appellate review must be completed, and the affirmed sentence ordered duly executed. Questions concerning the finality of appellate review should be referred to the servicing staff judge advocate.

f. Chapter 5, paragraph 5-3 states separation under this paragraph is the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the best interest of the Army. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memorandums.

6. Army Regulation 600-8-22 (Military Awards) provides the following guidance.

a. The Army Achievement Medal is awarded to members of the Armed Forces of the United States, who while serving in a noncombat area on or after 1 August 1981, distinguished themselves by meritorious service or achievement. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

b. The NCO Professional Development Ribbon was established by the Secretary of the Army on 10 April 1981. It is awarded to Active Army, Army National Guard, and U.S. Army Reserve Soldiers for successful completion of designated NCO professional development courses. Effective 30 March 1989, a service member will be awarded the NPDR with the numeral which identifies the highest level of NCOES successfully completed as follows:

- 1 = Bar Ribbon Device = Primary Level
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c. The Global War on Terrorism Service Medal is authorized for award to members of the Armed Forces of the United States who have participated in Global War on Terrorism operations outside of the areas of eligibility designated for award of the Global War on Terrorism Expeditionary Medal, Afghanistan Campaign Medal, or Iraq Campaign Medal. All Soldiers on active duty, including Reserve Component Soldiers mobilized or National Guard Soldiers activated, on or after 11 September 2001 to a date to be determined having served 30 consecutive days or 60 nonconsecutive days are authorized the Global War on Terrorism Service Medal.

7. Army Regulation 635-5 (Personnel Separations – Separation Documents), in effect at the time, prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for preparing and distributing the DD Form 214. It stated the DD Form 214 provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. Army Regulation 635-5 also stated to list awards and decorations for all periods of service in the priority sequence specified in Army Regulation 600-8-22. Army Regulation 600-8-22 gives the order of precedence for awards and decorations. Only decorations, medals, and ribbons are listed. Certificates of achievement, letters of appreciation, and similar documents are not listed.

a. Paragraph 1-4b(5) of the regulation in effect at the time stated that a DD Form 214 would not be prepared for enlisted Soldiers discharged for immediate reenlistment in the Regular Army.

b. Paragraph 2-4h(13) stated to list awards and decorations for all periods of service in Block 13.

c. Paragraph 2-4h(14) of the regulation in effect at the time stated from the ERB/ORB, list formal in-service (full-time attendance) training courses successfully completed during the period of service covered by the DD Form 214. Include title, length in weeks, and year completed.

d. Paragraph 2-4h(18) of the regulation currently in effect states that item 18 documents the remarks that are pertinent to the proper accounting of the separating Soldier's period of service. Subparagraph (c) states that for enlisted Soldiers with more than one enlistment period during the time covered by the DD Form 214, enter "IMMEDIATE REENLISTMENTS THIS PERIOD" and specify the appropriate dates. For Soldiers who have previously reenlisted without being issued a DD Form 214 and who are later separated with any characterization of service except "honorable," enter "CONTINUOUS HONORABLE ACTIVE SERVICE FROM" (first day of service which DD Form 214 was issued) UNTIL (date before commencement of current enlistment)." Then, enter the specific periods of reenlistments as prescribed above.

8. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) to carefully consider the revised post-traumatic stress disorder (PTSD) criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC 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.

9. 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 DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to 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.

10. 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, BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//