

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 December 2024

DOCKET NUMBER: AR20240003791

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 25 February 2003 to show his uncharacterized service as honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- letter, Department of Veterans Affairs (VA), dated 7 August 2023

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 discharge was due to anxiety (not otherwise specified) caused by his prior service in Operation Just Cause. He was not aware of the effects of Mefloquine toxicity "being an affinity to" post-traumatic stress disorder (PTSD). He was treated for PTSD after his first enlistment and was told by his VA therapist he would be okay to serve again. However, the Mefloquine toxicity affected his second period of service as well. A military medical board determined he should be discharged. In July 2023, the VA determined he was released from service due to a service connected disability and awarded him Post 9/11 GI Bill benefits.
3. The applicant enlisted in the Regular Army on 20 September 1988 for a 4-year period. Upon completion of initial entry training, he was awarded military occupational specialty 74C (Automatic Data Telecommunications Center Operator). The highest rank he attained was specialist/E-4.
4. A memorandum from 7th Special Forces Group (Airborne), 1st Special Forces, Fort Bragg, NC, dated 14 March 1990, authorized the applicant to wear the Armed Forces Expeditionary Medal and the wartime Shoulder Sleeve Insignia for his participation in Operation Just Cause from 20 December 1989 to 31 January 1990.

5. The applicant was discharged and transferred to the Inactive Ready Reserve on 19 September 1992 under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 4, by reason of expiration term of service. His DD Form 214 shows his character of service was honorable, with separation code LBK and reentry code 1. He completed 4 years of active service and was awarded or authorized:

- Army Service Ribbon
- Army Lapel Button
- National Defense Service Medal
- Army Achievement Medal
- Army Good Conduct Medal
- Armed Forces Expeditionary Medal (Panama)
- Parachute Badge
- Honduran Military Airborne Badge

6. The applicant enlisted in the Regular Army on 3 January 2003, in the rank/grade of specialist/E-4, for a 4-year period.

7. The applicant's service record is void of documentation containing the specific facts and circumstances surrounding his discharge processing. However, the applicant was discharged on 25 February 2003 under the provisions of Army Regulation 635-200, paragraph 5-11, by reason of failure to meet procurement medical fitness standards. His DD Form 214 shows his service was uncharacterized, with separation code JFW and reentry code RE-3. He completed 1 month and 22 days of active service.

8. The applicant provides a letter from the VA, dated 7 August 2023, which shows the VA determined the applicant was eligible for Post 9/11 GI Bill benefits due to being released from service for a service-connected disability.

9. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active-duty service. The evidence of record shows the applicant was in an entry-level status at the time of his separation. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

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

11. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of a change to his characterization of service from uncharacterized to honorable. He contends he experienced an undiagnosed mental health condition that mitigates his discharge.

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 20 September 1988 and was discharged and transferred to the Inactive Ready Reserve on 19 September 1992. He enlisted again into the Regular Army on 3 January 2003.
- The applicant's service record is void of documentation containing the specific facts and circumstances surrounding his discharge processing. However, the applicant was discharged on 25 February 2003 under the provisions of Army Regulation 635-200, paragraph 5-11, by reason of failure to meet procurement medical fitness standards. His DD Form 214 shows his service was uncharacterized, with separation code JFW and reentry code RE-3. He completed 1 month 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 his discharge was due to Anxiety not otherwise specified (NOS) due to his prior service experience in Operation Just Cause, and he believes he was affected by Mefloquine toxicity and resultant PTSD. A VA Board of Veteran Appeals letter dated 7 August 2023 showed that the applicant was determined to be eligible for the Post-911 GI Bill because of his service connected disability. There was insufficient 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 an initial mental health related contact with VA on 31 March 2003, which showed that a paper record kept in the clinic documented a history of evaluation and referral to the PTSD clinic in 1996-1997, but the applicant was determined to be inappropriate for that treatment due to his paranoid and delusional thinking. Documentation also noted that the applicant reported he reenlisted in the Army in January 2003 so he could assuage his ill feelings about the war by "shooting as many people as I could, but I got chaptered out in basic training," and he reported that he got into a physical altercation as well. He was admitted to inpatient psychiatry due to mood swings, racing thoughts, and delusions, and he was diagnosed with Mood Disorder with Psychotic Features and PTSD. The applicant attributed his beliefs that his phone was tapped and that he was being followed to his combat experience in Panama. He was started on an antipsychotic medication and discharged five days later with a diagnosis of Schizophrenia versus Bipolar I Disorder versus Psychotic Disorder NOS. He received outpatient treatment for medication management,

and a PTSD review Compensation and Pension (C&P) evaluation was conducted on 12 February 2004, which noted a history of a C&P exam in 1994 and subsequent diagnosis of PTSD. The evaluator noted his tangential thought process, grandiosity, and persecutory delusions, and he was diagnosed with Bipolar I Disorder and PTSD. He continued with outpatient treatment until March 2006 when he was admitted again for suicidal ideation and delusional thinking. A C&P PTSD Review on 15 January 2015 noted the applicant was serving a 30-year prison sentence, and a diagnosis could not be rendered because of invalid psychological testing and his inconsistent report of history of symptoms and stressors. Another PTSD C&P exam was conducted on 29 April 2016 where he discussed his belief that a malaria medication had a causal impact on his mental health difficulties. However, the applicant's thought process was so disorganized that the evaluator concluded his condition was not suggestive of PTSD and was more suggestive of a psychotic spectrum or personality disorder. Finally, there was a social work note on 30 June 2019, which showed that the applicant was incarcerated and would follow up with the VA's Incarcerated Veterans Reentry Program upon release. That applicant's VA record shows that he is service connected for PTSD at 0%.

e. 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 had a mental health condition while on active service in 2003, but there is no indication that his characterization of discharge should be changed.

f. 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 at the time of his uncharacterized discharge. The applicant has a long history of mental health diagnoses, including PTSD, and based on the documentation, it appears he was diagnosed with PTSD prior to returning to active service in 2003.

(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.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There is VA documentation that showed that the applicant was diagnosed with PTSD prior to joining the military a second time, and he was diagnosed with a Mood Disorder with Psychotic Features and PTSD shortly after his discharge in March 2003. Separation code JFW refers to "erroneous enlistment medical condition disqualifying for military service with no medical waiver." In the absence of the facts and circumstances surrounding his discharge processing, there is no way of knowing which medical fitness standard the applicant failed to meet, but it is likely that his mental health condition was identified resulting in his discharge. Regardless, there is evidence of his mental health

condition existing prior to his second term in service, and insufficient evidence to support a change in the characterization of his discharge.

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

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The applicant did not complete training and was released from active duty due to failure to meet procurement medical fitness standards. The Board reviewed and concurred with the medical advisor's review finding no indication his characterization of service should be changed despite having sufficient evidence to support the existence of a mental health condition on active duty service. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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|---|---|---|----------------------|
| : | : | : | GRANT FULL RELIEF |
| : | : | : | GRANT PARTIAL RELIEF |
| : | : | : | GRANT FORMAL HEARING |
| ■ | ■ | ■ | DENY APPLICATION |

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

3/25/2025

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. Title 10, USC, 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 ABCMR applicants (and/or their counsel) prior to adjudication.

3. Title 38, USC, Sections 1110 and 1131, permit the Department of Veterans Affairs (VA) to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

a. The Army rates only conditions determined to be physically unfitting at the time of discharge which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career.

b. The VA does not have authority or responsibility for determining physical fitness for military service. The VA awards disability ratings to Veterans for service-connected conditions, including those conditions detected after discharge, to compensate the individual for loss of civilian employability. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a Veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

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. 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 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 3 provides that a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.

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 3-9, in effect at the time of the applicant's separation, provided that a separation would be described as entry level with uncharacterized service if processing were initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions was authorized, due to the reason for separation and was warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, determined a characterization of service as honorable was clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization was authorized when the Soldier was separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

d. Paragraph 5-11 provides that Soldiers who are not medically qualified under procurement medical fitness standards when accepted for enlistment or who become medically disqualified under these standards prior to entrance on active duty, active duty for training, or initial entry training will be separated. A medical proceeding, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within 6 months of the Soldier's initial entrance on active duty, that the condition would have permanently or temporarily disqualified the Soldier for entry into military service had it been detected at that time, and the medical condition did not disqualify the Soldier from retention in the service. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status.

6. 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 (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) 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.

7. 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//