

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 June 2025

DOCKET NUMBER: AR20240003857

APPLICANT REQUESTS: reconsideration of his previous request for upgrade of his character of service from under conditions other than honorable to honorable.

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

- DD Form 149 (Application for Correction of Military Record), 13 December 2023
- DA Form 2627-1 (Record of Proceedings under Article 15, Uniform Code of Military Justice), 30 March 1966
- DA Form 664 (Serviceman's Statement Concerning Application for Compensation from the Veterans Administration) 17 May 1967
- Department of Veterans Affairs claim
- Social Security Administration benefit verification letter
- self-authored statement
- Department of Veterans Affairs administrative decision letter
- medical documentation

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20120009321 on 15 November 2012.

2. The applicant states he was coerced to agree to untrue incidents under threat of bodily harm. He was unable to speak his truth and clarify the charges brought upon him, which he was charged with making an obscene phone call to a white female. He was rushed through everything, he was penalized and racially discriminated against, stating he remembers a noose hanging in a tree visible upon arrival to the base in the 60's. Had he known he could fight the charges, he would have and has suffered with his decision to not fight for many years. Additionally, he was being treated by the Department of Veterans Affairs for health issues and he was told due to the under conditions other than honorable discharge he was unable to continue treatment.

3. In a self-authored statement, he annotates other mental health is related to this request.

4. A review of the applicant's service record shows the following:

a. He was inducted into the Army of the United States on 25 August 1965.

b. He received non-judicial punishment on 30 March 1966, for on or about 27 March 1966, being derelict in his performance of his duties.

c. His record is void of the facts and circumstances pertaining to his discharge; however, he was discharged with an under conditions other than honorable characterization of service on 19 May 1967. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he was discharged in the grade of E-1, with separation program number 246 (Discharge for the good of the service). He served 1 year, 8 months, 25 days of net service this period.

5. He additionally provides:

a. A DA Form 664 (Serviceman's Statement Concerning Application for Compensation from the Veterans Administration) dated 17 May 1967 wherein he specifically writes the signature shown is not his signature.

b. Medical documentation which includes but is not limited to medical records for treatment at the Department of Veterans Affairs, disabilities claimed, and history of his conditions stating he is a veteran with history of major depressive disorder, anxiety, post-traumatic stress disorder (PTSD), with various medical procedures for pain in his legs and hips.

c. A letter from the Department of Veterans Affairs showing his denial of benefits due to his discharge and his social security administration benefit verification letter. Additionally, a written letter addressing multiple examples of racism and discrimination in the Army and his discharge described as racial and discriminatory because he was a black male who contacted a white female.

6. In his previous request (AR20120009321) on 15 November 2012, after reviewing the application and all supporting documents, the Board determined the overall merits of the case were insufficient as a basis for correction of the records of the individual concerned. The application submitted was denied by the ABCMR.

7. In reaching its determination, the Board can consider the applicant's petition and service record in accordance with the published equity, injustice, or clemency determination guidance.

8. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting reconsideration of his previous request to upgrade his characterization of service from under conditions other than honorable (UOTHC) to honorable. On his DD Form 149, the applicant indicated that, in effect, he was coerced into agreeing to certain incidents that were untrue under threat of bodily harm and that he experienced discrimination in-service. He did not specify any particular BH-related concern as being related to his request on his application, thus, his request will be considered as Other Mental Health Issues. 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 was inducted into the Army of the United States on 25 August 1965, 2) he received non-judicial punishment (NJP) on 30 March 1966 for being derelict in his performance of his duties on or about 27 March 1966, 3) his record is void of the facts and circumstances pertaining to his discharge. His DD Form 214 shows he was discharged on 19 May 1967 under the provisions of AR 635-200, Chapter 10, with a separation program number 246. He served 1 year, 8 months, and 25 days of net service this period, 4) the applicant's previous petition to the ABCMR was denied as summarized in Docket Number AR20120009321 dated 15 November 2012.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. A DD Form 47 (Record of Induction) dated 26 July 1965 shows his PULHES as 111111, indicative that there were no BH concerns identified at the time of his induction into the military. There were no in-service medical records available for review.

d. A review of JLV shows the applicant is service-connected through the VA for treatment purposes only (0%) for Limited Motion of Ankle. He is not service-connected for any BH conditions. A VA treatment note dated 25 January 2010 shows the applicant presented to the VA upon referral from his primary care doctor due to experiencing depression and anxiety for the past 2-3 years, noting he had been prescribed Citalopram (antidepressant) by his doctor. The provider noted that the applicant did not have any prior psychiatric history. He was diagnosed with Major Depressive Disorder with Psychotic Features. His treatment records show he was treated for MDD and Anxiety Disorder through the VA. It was also documented in 2011 that he was diagnosed with PTSD.

e. A VA Regional Office Administrative Decision Letter dated 06 June 1975 included as part of his application addressed the applicant's character of discharge. In the facts section, it is documented that the applicant was charged with making three obscene telephone calls to the same person.

f. The applicant included a civilian medical record as part of his application. A Progress Note from JPS Health Network dated 06 November 2019 documented the applicant had a history of Major Depressive Disorder (MDD), anxiety, and Posttraumatic Stress Disorder (PTSD). It was noted that Prazosin (nightmares) and Trazodone were discontinued due to inefficacy for insomnia, and he was started on Doxepin.

g. A VA Form 21-526EZ (undated) included as part of his application shows he submitted claims to the VA for the following conditions: right ankle, PTSD, back injuries, hip, and shoulder. It was further documented that he said his PTSD and anxiety had worsened over the years "from the court-martial, flashbacks of thinking that I would be hurt, beaten, or killed because of prejudices and the discrimination at Fort Bragg. I was coerced and threatened with so many injustices."

h. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a condition or experience during his time in service that mitigated his misconduct. However, he contends that his misconduct was related to Other Mental Health Issues, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration.

i. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his misconduct was related to Other Mental Health Issues.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There were no in-service medical records available for review and the applicant is not service-connected through the VA for any BH conditions. VA and civilian medical records show a history of MDD, Anxiety Disorder, and PTSD; however, his treating providers documented the onset of his anxiety and depression as 2-3 years prior to initiating treatment in 2010, and the onset of PTSD was not specified. In absence of documentation supporting his assertion, there is insufficient evidence to establish his misconduct was related to or mitigated by Other Mental Health Issues and insufficient evidence to support an upgrade based on BH mitigation. Furthermore, it is of note that even if presumed to have been relevant at the time of discharge, as the specific facts

and circumstances surrounding his discharge are unavailable for review, it would not be possible to establish a nexus between the conduct that led to his discharge and a potentially mitigating BH condition. However, he contends that his misconduct was related to Other Mental Health Issues, and, per liberal guidance, his assertion is sufficient to warrant 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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. The applicant's record does not contain documentation of the circumstances surrounding his separation. His DD Form 214 reflects that he was discharged under the provisions of Army Regulation 635-200, chapter 10 (discharge in lieu of trial by court-martial).
2. The Board reviewed the medical advisory opinion, which assessed whether any medical condition or experience during service mitigated the applicant's misconduct. Chapter 10 of AR 635-200 permits a Soldier to request discharge in lieu of trial by court-martial when charged with an offense punishable by a punitive discharge. The applicant's DD Form 214 confirms separation under this provision. The medical advisory concluded there is insufficient evidence that the applicant had a medical condition or service-related experience that would mitigate his misconduct. The Board concurred with this assessment. Therefore, the Board denied relief.
3. The Board considered the following Kurta questions under liberal consideration:
 - a. Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his misconduct was related to Other Mental Health Issues.
 - b. Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.
 - c. Does the condition or experience actually excuse or mitigate the discharge? No. There were no in-service medical records available for review and the applicant is not service connected through the VA for any BH conditions. VA and civilian medical records show a history of MDD, Anxiety Disorder, and PTSD; however, his treating providers documented the onset of his anxiety and depression as 2-3 years prior to

initiating treatment in 2010, and the onset of PTSD was not specified. In absence of documentation supporting his assertion, there is insufficient evidence to establish his misconduct was related to or mitigated by Other Mental Health Issues and insufficient evidence to support an upgrade based on BH mitigation. Furthermore, it is of note that even if presumed to have been relevant at the time of discharge, as the specific facts and circumstances surrounding his discharge are unavailable for review, it would not be possible to establish a nexus between the conduct that led to his discharge and a potentially mitigating BH condition

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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 amendment of the ABCMR decision rendered in Docket Number AR20120009321 on 15 November 2012.

X //SIGNED//

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. Section 1556 of Title 10, USC, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.

2. Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), 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 conditions other than honorable is normally considered appropriate.

b. 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. 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.

3. 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.

4. 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.

//NOTHING FOLLOWS//