

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 November 2024

DOCKET NUMBER: AR20240003898

APPLICANT REQUESTS: an upgrade of his under honorable conditions (General) discharge.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states like so many others back then he had bouts of mental illness. He spent 2 months in military mental wards, the Air Force hospital in Landstuhl in Germany, and Letterman hospital at the Presidio in San Francisco during his short period of service. He had recently heard that the military was willing to look at cases where mental stress was involved. After all these decades, he does not have any copies of records from the two mentioned hospitals.
3. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 30 June 1971.
 - b. His DA Form 20 (Enlisted Qualification Record) shows he was hospitalized in the mental health department (MHD) at Landstuhl in Germany and Letterman General hospital (LGH) in San Francisco, California from 10 February to 18 February 1972.
 - c. On 29 February 1972, the applicant underwent a psychiatric evaluation at the Letterman General Hospital at the Presidio in San Francisco, CA. The findings indicate inadequate personality. This pattern of behavior is characterized by ineffectual responses to emotional, social, intellectual, and physical demands. These patients lack physical and emotional stamina, reacts immaturely to stress, judgement is poor, and they are socially unstable and inadaptable. Attempts to change their behavior results in

an increase in symptomatology although seemingly neither physically nor mentally deficient. The psychiatrist strongly recommend separation from military service under provisions of Army Regulation 635-212 (Personnel Separations – Discharge – Unfitness and Unsuitability) for individuals who fall into this category.

d. On 6 April 1972, it was recommended the applicant be required to appear before a board of officers convened for the purpose of determining whether he should be discharged before the expiration of his term of service.

e. On 7 April 1972, after consulting with legal counsel, the applicant waived consideration of his case by a board of officers. And was advised by counsel of the basis for the contemplated action to accomplish his separation for Unsuitability under the provisions of Army Regulation 635-212, Chapter 6, he acknowledged:

- the rights available to him and the effect of waiving said rights
- for many or all benefits as a veteran under both Federal and State laws
- expect to encounter substantial prejudice in civilian life

f. On 20 April 1972, the immediate commander referred the applicant for a psychiatric evaluation for purpose of consideration for elimination from the service. The comments indicate the applicant displays unusual actions and has the tendency to fantasize and dream.

g. On 21 April 1972, the report of mental status evaluation indicates inadequate personality; cleared for any appropriate administrative action.

h. On 24 April 1972, the immediate commander initiated a request for the applicant to be eliminated from the service for unsuitability under the provisions of paragraph 6b (2), chapter 6. The commander indicated that this action is based upon his pattern of behavior is characterized by ineffectual responses to emotional, social, intellectual, and physical demands.

i. Consistent with the chain of command recommendations, the separation authority approved the applicant's elimination from the service under the provisions of paragraph 6b(2), chapter 6, AR 635-212. He would be issued an General Discharge Certificate.

j. On 1 May 1972, he was discharged from active duty with an under honorable conditions (General) characterization of service. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 11 months and 2 days of active service. It also shows he was awarded or authorized:

- National Defense Service Medal
- Marksman Marksmanship Qualification Badge with Rifle Bar

4. There is no evidence the applicant has applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.
5. In reaching its determination, the Board can consider the applicants petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

6. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions discharge to honorable. On his DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD) is related to his request. More specifically, he indicated that while on active duty he spent two months in 'military mental wards.' 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 (RA) on 30 June 1971, 2) his DA Form 20 shows he was hospitalized in the mental health department at Landstuhl in Germany and Letterman General Hospital (LGH) from 10-18 February 1972, 3) on 29 February 1972, the applicant underwent a psychiatric evaluation at the LGH wherein he was diagnosed with 'Inadequate Personality' and the psychiatrist recommended separation from military service under the provisions of AR 635-212, 4) on 01 May 1972, the applicant was discharged from active duty under the provisions of AR 635-212, Chapter 6, paragraph 6b(2), by reason of Unsuitability. He completed 11 months and 2 days of active service with no lost time.

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. The applicant's DA Form 4 (Enlistment Contract) shows his PULHES as 111121, indicating there were no BH-related concerns identified at the time of enlistment. A psychiatric evaluation dated 29 February 1972 for the purposes of board proceedings was reviewed. It was documented that the applicant was mentally responsible, able to distinguish between right and wrong, and had the capacity to understand and participate in board proceedings. Furthermore, the provider documented the applicant met psychiatric retention standards and there were no 'mental defects' present sufficient to warrant disposition through medical channels. He was diagnosed with 'Inadequate Personality' and noted "This pattern of behavior is characterized by ineffectual responses to emotional, social, intellectual, and physical demands. These patients lack physical and emotional stamina, reacts immaturely to stress, judgment is poor, and they

are socially unstable and inadaptable. Attempts to change their behavior results in an increase in symptomatology although seemingly neither physically or mentally deficient. I strongly recommend separation from military service under provisions of AR 635-212 for individuals who fall into this category.” [Advisor’s Note: this diagnosis is outdated and no longer used]. A Request for Psychiatric Evaluation dated 20 April 1972 for the purposes of AR 635-212 was reviewed. The applicant’s commander rated his conduct and efficiency as ‘poor.’ He also rated how he gets along on the job, with others in the unit, and with his supervisor as ‘poor.’ The MSE dated 21 April 1972 shows all domains of his MSE were within normal limits (WNL). It was noted that he was diagnosed with Inadequate Personality and a psychiatric certificate from LGH cleared him for any appropriate administrative action. The provider also noted the applicant was able to distinguish right from wrong, was able to adhere to the right, had the mental capacity to understand and participate in board proceedings, and met retention standards IAW AR 40-501.

d. A review of JLV was void of medical information. The applicant is not service-connected through the VA for any conditions.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is evidence that the applicant was diagnosed with a BH condition in-service that contributed to his discharge. Review of in-service records shows that the applicant was diagnosed with ‘Inadequate Personality’ and was discharged due to Unsuitability. Additionally, records show that he was a patient at two military hospitals during this military service. The available MSE’s indicate the applicant met retention standards IAW AR 40-501, did not require disposition through medical channels, and was cleared for administrative separation. Although the diagnosis that led to the applicant’s discharge is outdated, under today’s standards, it would fall under the purview of AR 635-200, Chapter 5-14 Other Designated Physical or Mental Conditions. Regarding his assertion of PTSD, although there is insufficient evidence that the applicant was diagnosed with PTSD, he contends his discharge was related to PTSD, and, per liberal guidance, his assertion is sufficient to warrant the Board’s consideration.

f. Kurta Questions:

- (1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his discharge was related to PTSD.
- (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? Yes. The applicant’s medical records were void of any diagnosis or treatment history for PTSD. In-service BH records show the applicant was diagnosed with ‘Inadequate

Personality' and recommended for separation due to Unsuitability. Additionally, records indicate that he was treated in two psychiatric hospitals while in-service, though the records were unavailable for review. Under today's standards, the applicant's discharge based on his condition would fall under AR 635-200, Chapter 5-14 for Other Designated Physical or Mental Conditions. As there is no evidence of misconduct and the applicant was discharged due to a condition not amounting to disability, upgrading his characterization of service to 'Honorable Discharge' is consistent with current regulations (AR 635-200, paragraph 5-1). Furthermore, as there is no evidence of misconduct associated with his discharge, which occurred over 50 years ago, consistent with the Wilkie Memorandum, consideration of Clemency would also be appropriate. Although there is insufficient evidence that the applicant was diagnosed with PTSD, he contends his discharge was related to PTSD, and, per liberal guidance, his assertion is sufficient to warrant 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 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 separated for unfitness. The Board reviewed and concurred with the medical advisor's review finding evidence that the applicant was diagnosed with a behavioral health condition in service that contributed to his discharge

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 1 May 1972 to show an honorable characterization of service.

4/2/2025

X

CHAIRPERSON

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

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.
 - a. An honorable discharge is a separation with honor. 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.
 - b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.
3. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (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 based on 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.

4. Section 1556 of Title 10, United States Code, 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 Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//