

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 December 2024

DOCKET NUMBER: AR20240004207

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his uncharacterized service as under honorable conditions (general) and an appearance before the Board via video or telephone.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, for the period ending 7 October 2008
- letter, [REDACTED], dated 5 January 2024

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 he wanted to be in the Army, but he had unknown mental health issues. As of this day, he is still struggling to hold a job. He had no incidents of misconduct during his service and was excited about joining. This correction should be made because it is the right thing to do. The applicant notes post-traumatic stress disorder (PTSD) and other mental health as conditions related to his request.

3. Prior to his enlistment, the applicant underwent a medical examination on 2 June 2008. 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 with no noted medical history. The examining provider determined he was medically qualified for enlistment.

4. The applicant enlisted in the Regular Army on 11 June 2008 for a 3-year period. He reported to Fort Knox, KY, for initial entry training. His service record indicates he did not complete initial entry training prior to discharge.

5. The applicant underwent a mental status evaluation on 12 August 2008. He was diagnosed with generalized anxiety disorder. The evaluating provider remarked that the applicant withheld a pre-existing medical condition from Army recruiters and was illegally allowed to enlist in the military. The provider further stated the applicant was not fit for duty and recommended he be administratively separated under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 5-17, due to his diagnosis.
6. The applicant was formally counseled by his immediate commander on 1 September 2008. Areas of emphasis covered in the counseling included his evaluation and diagnosis at the Behavioral Health Clinic; his capacity to adapt and function in the military training environment; and the recommendation for his discharge due to his maladjustment to military service.
7. The applicant was notified on 5 September 2008 of his commander's intent to initiate separation action against him under the provisions of Army Regulation 635-200, paragraph 5-17, by reason of other designated physical or mental condition. As the specific reason for the action, the commander noted the applicant's diagnosis of generalized anxiety disorder which would preclude him from further military service. On that same date, the applicant acknowledged receipt of the notification.
8. On 9 September 2008, the applicant was advised by consulting counsel of the basis for the contemplated separation action, and its effects; of the rights available to him; and the effect of waiving his rights. He elected not to submit a statement in his own behalf and waived a separation medical examination.
9. The applicant's immediate and intermediate commanders formally recommended the applicant's separation, prior to the expiration of his term of service, under the provisions of Army Regulation 635-200, paragraph 5-17, and further recommended an entry level separation (uncharacterized).
10. On 25 September 2008, the separation authority approved the recommended entry level separation under the provisions of Army Regulation 635-200, paragraph 5-17.
11. The applicant was discharged on 7 October 2008, under the provisions of Army Regulation 635-200, paragraph 5-17, by reason of condition, not a disability. His DD Form 214 shows his service was uncharacterized. He completed 3 months and 27 days of net active service. He was not awarded a military occupational specialty.
12. The Army Discharge Review Board considered the applicant's request for correction of his character of service to honorable conditions on 28 October 2009. After careful consideration, the Board determined the applicant's discharge was both proper and equitable. The Board denied his request for relief.

13. The applicant provides a letter from a Counseling and Wellness Center, dated 5 January 2024, wherein his mental health therapist states the applicant has been diagnosed with PTSD.

14. 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.

15. Regulatory guidance states commanders who are special court-martial convening authorities may approve separations under the provisions of Army Regulation 635-200, paragraph 5-17 based upon other physical or mental conditions, not amounting to disability, that potentially interfere with assignment to or performance of duty.

16. The Board should consider the applicant's overall record in accordance with the published equity, injustice, or clemency determination guidance.

17. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a change to his uncharacterized discharge. He contends he experienced mental health conditions including PTSD that mitigate his discharge. 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 11 June 2008; 2) The applicant was discharged on 7 October 2008, Chapter 5-17, by reason of condition, not a disability. His service was uncharacterized. He completed 3 months and 27 days of net active service. He was not awarded a military occupational specialty.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military and medical records. The VA's Joint Legacy Viewer (JLV) and hardcopy medical documentation provided by the applicant were also examined.

c. The applicant asserts he was experienced mental health conditions including PTSD while on active service, which mitigates his discharge. The applicant began to engage in medical and mental health care within one week of starting his initial basic training on 17 June 2008. He was seen for extensive back pain, which he reported having prior to his military enlistment and asked to be referred to behavioral health services as well. He was seen by behavioral health services the same day and reported significant difficulty adjusting to the military and no longer wanting to be in the military. Despite initially denying a history of mental health symptoms prior to his enlistment, he

reported an extensive history of substance abuse prior to enlisting. He also described a history of being prescribed psychiatric medication for anxiety and depression. During his training, he reported a feeling at a constant state of a "panic attack." Lastly, he reported fleeing suicidal ideation. The applicant was diagnosed with an Adjustment Disorder with Anxious Mood, and he was recommended to follow-up with behavioral health. The applicant was seen again by medical services in the coming weeks for issues related to shin splints, back, and foot pain. He continued to report a history of substance abuse prior to the military. On 23 July 2008, the applicant was seen again by behavioral health services. He continued to describe difficulty adjusting to the military and ongoing anxiety and depression. The applicant reported his command was looking into an administrative separation for the applicant, and the applicant was happy with this decision, but he was interested in being prescribed medication to "calm down." Instead, the applicant was again encouraged to attend weekly therapy. He was again diagnosed with an Adjustment Disorder with Anxious Mood. The applicant reported to behavioral health services on 29 July 2008 reporting increased anxiety again, and he was admitted to a civilian inpatient psychiatric treatment program till 28 August 2008. On 12 August 2008, the applicant underwent a mental status evaluation (MSE). There was no corresponding medical note for this evaluation outside of the Report of the Mental Status Evaluation. The applicant underwent the MSE as part of a request for discharge for good of the service. He was identified as having a pre-existing mental health condition that he withheld from Army recruiters, and he was illegally allowed to enlist into the military despite not meeting medical recruitment standards. There were contradictory descriptions of the applicant's mood and thought content. He was diagnosed with Generalized Anxiety disorder, and he was determined not fit for duty and recommended for administrative separation for Generalized Anxiety Disorder IAV AR 635-200 Chapter 5-17. The applicant was counseled by his command that he was being separated for Adjustment Generalized Anxiety Disorder on 05 September 2008. However, this is not a formal mental health condition.

d. A review of JLV was void of any medical information regarding the applicant, and he currently does not receive any service-connected disability for a mental health condition. The applicant provided civilian medical documentation, dated 05 January 2024, from a Licensed Professional Counselor [REDACTED]. The applicant was seen on two appointments and was diagnosed with PTSD. There was insufficient evidence provided on the history of this condition for the applicant and if related is to his military service.

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 discharge.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant reported experiencing mental health conditions including PTSD. The applicant was diagnosed with an Adjustment disorder and Generalized Anxiety Disorder while on active service. He was also diagnosed by a civilian provider in 2024 with PTSD.

(2) Did the condition exist or experience occur during military service? Yes, the applicant reported experiencing mental health conditions including PTSD while on active service. The applicant was diagnosed with an Adjustment disorder and Generalized Anxiety Disorder while on active service

(3) Does the condition experience actually excuse or mitigate the discharge? No, there is sufficient evidence beyond self-report the applicant experienced significant difficulty adjusting to the military environment. There is also sufficient evidence the applicant did not report his history of mental health conditions and substance abuse prior to this enlistment. The applicant was identified early in his training experience as not suitable for continued military service, and he was administratively separated as a result of a condition, not a disability. He was most consistently and appropriately diagnosed with an Adjustment Disorder, which is one of the corresponding conditions for the Chapter for which he was administratively separated. Therefore, the overwhelming evidence is consistent with the applicant being identified early as not suitable for service and being appropriately administratively separated. Therefore, there is insufficient evidence of a mitigating mental health condition or experience warranting a change to the applicant's discharge, at this time.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, the evidence found within the military record, and published Department of Defense guidance for consideration of discharge upgrade requests, the Board found that relief was not warranted.

2. The Board carefully considered the applicant's contentions, the record and length of his service, the absence of an award of an MOS, the reason for his separation and his character of service at discharge. The Board considered the results of his in-service mental status evaluation that states his condition existed prior to service, his recent PTSD diagnosis and the review and conclusions of the Agency advising official. The Board found: (1) the applicant reported experiencing mental health conditions and he was diagnosed with an Adjustment disorder and Generalized Anxiety Disorder while on active service and PTSD in 2024; (2) the applicant reported experiencing mental health conditions and was diagnosed with an Adjustment disorder and Generalized Anxiety Disorder while on active service; (3) there is sufficient evidence beyond self-report the

applicant experienced significant difficulty adjusting to the military environment. There is also sufficient evidence the applicant did not report his history of mental health conditions and substance abuse prior to this enlistment and that would have likely precluded his entry on to active duty. The applicant did not complete sufficient service to be awarded an MOS. Based on a preponderance of evidence, the Board determined that the reason for and characterization of the applicant's separation was not in error or unjust and did not warrant a change as a matter of liberal consideration.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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.

X [Redacted Signature]

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 Corrections 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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR has the discretion to hold a hearing; applicants do not have a right to appear personally before the Board. The Director or the ABCMR may grant formal hearings whenever justice requires.
4. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) 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 5-17, states commanders who are special court-martial convening authorities may approve separation under this paragraph based on other physical or mental conditions not amounting to disability that potentially interfere with assignment to or performance of duty. A recommendation for separation must be supported by documentation confirming the existence of the physical or mental condition. Members may be separated for physical or mental conditions not amounting to disability, which is sufficiently severe that the Soldier's ability to effectively perform military duties is significantly impaired.

5. 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.

6. 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//