

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 December 2024

DOCKET NUMBER: AR20240004214

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his characterization of service as either "Honorable" or "Under Honorable Conditions (General)" rather than "Uncharacterized."

APPLICANT'S SUPPORTING DOCUMENT 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 (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 he has a Department of Veterans Affairs (VA) rating for service-connected post-traumatic stress disorder (PTSD). He indicates on his application that he has a VA rating decision; however, it was not provided with his request.
3. On 6 February 2008, the applicant enlisted in the Regular Army in the rank/pay grade of private/E-1 for a period of 4 years and 23 months. He was assigned to a unit at Fort Jackson, SC for completion of Basic Combat Training. He was advanced to private first class (PFC)/E-3 on 7 February 2008, the highest rank he held.
4. On 9 March 2008, the applicant was counseled regarding his platoon sergeant's recommendation for him to the new start due to the following infractions: The applicant had missed too much training in basic training to be caught up with the remainder of the company. His actions showed he had not achieved the soldierization process for the first two weeks of the phase. He was a training distractor and had become a cancer in his platoon. The platoon sergeant stated he would not let the applicant continue to destroy the good order and discipline of his platoon. The applicant was advised that if his performance and behavior did not improve, he could be processed for administrative separation and of the potential consequences of such a separation.

5. On 21 March 2008, the applicant was counseled regarding his possible separation under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 11, for entry level status performance and conduct for the following:

- lack of motivation
- failure to adapt
- failure to follow instructions
- not adhering to the army's seven core values
- not grasping the soldierization process

6. The applicant's duty status was changed from Present for Duty (PDY) to Absent Without Leave (AWOL) effective 9 April 2008. As a result, he missed the end of cycle record Army Physical Fitness Test (APFT) that was scheduled for that day as a requirement for completion of his current phase of training.

7. On 10 April 2008, an administrative flag was imposed upon the applicant to prevent him from receiving any favorable personnel actions while he was pending adverse action.

8. The applicant's duty status was changed from AWOL to PDY when he returned to military control on 29 April 2008.

9. On 30 April 2008, the applicant's immediate commander counseled the applicant regarding his intent to recommend him for administrative separation due to his lack of motivation and failure to adapt. The applicant disagreed with the counseling and stated he did not lack motivation and did adapt to the company environment.

10. On 16 May 2008, the applicant had four counseling sessions for the following reasons:

- forgery of a military document
- disrespect toward a superior commissioned officer
- failure to obey an order or regulation
- provoking speeches or gestures
- AWOL
- proceeding with the recommendation for his administrative separation

11. On 17 May 2008, the applicant completed a DD Form 2697 (Report of Medical Assessment) wherein he self-reported that his overall health was worse compared to his last medical assessment/physical examination conducted on 7 February 2008. He indicated having issues with his hip, mouth, and sleep apnea.

12. The applicant's immediate commander notified him that actions were being initiated to separate him under the provisions of Army Regulation 635-200, Chapter 11, for entry level status conduct and/or performance. As the specific reasons, the commander cited the applicant's failure to adapt to the military environment, his period of AWOL, his communication of threats toward his company commander and first sergeant, and his disrespect toward commissioned and noncommissioned officers. The applicant was advised that he was being recommended for an entry level separation with an uncharacterized discharge. The applicant was further advised that he had the right to consult with consulting counsel and to submit statements in his own behalf.

13. The applicant acknowledged receipt of the separation notification and rendered his election of rights wherein he stated he had been advised of the basis for the contemplated action to separate him for Entry Level Conduct and/or Performance that disqualify Soldiers for retention under the provisions of Army Regulation 635-200, Chapter 11, and its effects; of the rights available to him; and the effect of any action taken by him in waiving his rights. He elected to provide statements in his own behalf; however, a statement is not available for review.

14. The applicant's immediate commander formally recommended his separation under the provisions of Army Regulation 635-200, Chapter 11, with an uncharacterized (entry level separation). The applicant's intermediate commander concurred with the recommendation.

15. The separation authority approved the recommended separation with the issuance of an uncharacterized entry level discharge.

16. Orders and the applicant's DD Form 214 show he was discharged on 10 June 2008 under the provisions of Army Regulation 635-200, Chapter 11, for Entry Level Performance and Conduct with Separation code "JGA" and Reentry code "3." His service was "Uncharacterized." He was credited with completion of 3 months and 14 days of net active service this period. He had time lost due to AWOL from 9 April 2008 to 29 April 2008. He was not awarded a military occupational specialty.

17. 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 merely means the Soldier did not serve on active duty long enough for his or her character of service to be rated.

18. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his uncharacterized discharge to either honorable or under honorable conditions (general). He asserts PTSD as related to his request.

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:

- Applicant enlisted in the Regular Army on 6 February 2008.
- On 21 March 2008, the applicant was counseled regarding his possible separation under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 11, for entry level status performance and conduct for the following:
 - lack of motivation
 - failure to adapt
 - failure to follow instructions
 - not adhering to the army's seven core values
 - not grasping the soldierization process
- Applicant's duty status was changed from Present for Duty (PDY) to Absent Without Leave (AWOL) effective 9 April 2008. As a result, he missed the end of cycle record Army Physical Fitness Test (APFT) that was scheduled for that day as a requirement for completion of his current phase of training.
- On 10 April 2008, an administrative flag was imposed upon the applicant to prevent him from receiving any favorable personnel actions while he was pending adverse action.
- On 30 April 2008, the applicant's immediate commander counseled the applicant regarding his intent to recommend him for administrative separation due to his lack of motivation and failure to adapt. The applicant disagreed with the counseling and stated he did not lack motivation and did adapt to the company environment.
- On 16 May 2008, the applicant had four counseling sessions for the following reasons:
 - forgery of a military document
 - disrespect toward a superior commissioned officer
 - failure to obey an order or regulation
 - provoking speeches of gestures
 - AWOL
- proceeding with the recommendation for his administrative separation
- The applicant's immediate commander notified him that actions were being initiated to separate him under the provisions of Army Regulation 635-200,

Chapter 11, for entry level status conduct and/or performance. As the specific reasons, the commander cited the applicant's failure to adapt to the military environment, his period of AWOL, his communication of threats toward his company commander and first sergeant, and his disrespect toward commissioned and noncommissioned officers.

- Orders and the applicant's DD Form 214 show he was discharged on 10 June 2008 under the provisions of Army Regulation 635-200, Chapter 11, for Entry Level Performance and Conduct with Separation code "JGA" and Reentry code "3." His service was "Uncharacterized." He was credited with completion of 3 months and 14 days of net active service this period. He had time lost due to AWOL from 9 April 2008 to 29 April 2008. He was not awarded a military occupational specialty.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states he has a Department of Veterans Affairs (VA) rating for service-connected post-traumatic stress disorder (PTSD).

d. Active-duty electronic medical records available for review show on 25 March 2008 the applicant presented to mental health services as a walk-in due to homicidal ideation towards his drill instructor since he was informed, he would not be graduating and would lose his enlistment bonus. He verbalized a pre-meditated plan to "murder" his drill instructor by way of "buying a weapon with a scope, and shooting him in the head - one shot, it's done". The clinician was sufficiently concerned and under the provision of "duty to warn" informed the drill instructor of the potential threat made against him. The applicant was diagnosed with Adjustment Disorder with Disturbance of Conduct. The applicant was also evaluated by psychiatry and the plan was to admit him into the inpatient psychiatric unit due to homicidal ideation. There is evidence in the record the applicant was psychiatrically hospitalized, but the discharge summary was unavailable in the electronic medical record. On 12 May 2008, the applicant presented as a walk-in requesting to be psychiatrically hospitalized, he was upset about being "recycled" and was having issues with his new unit. He was diagnosed with Adjustment Disorder. On 16 May 2008, the applicant once again presented as a walk-in demanding to be psychiatrically hospitalized, he was upset regarding a possible discharge due to being AWOL from 9 April - 29 April 2008. He stated he did not want to get out of the Army because he had nowhere to go. The applicant was diagnosed with Adjustment Disorder with Disturbance of Conduct.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 100% service connected for PTSD. A hospital discharge summary dated 11 January 2016, indicates the applicant was brought to the emergency room on 8 January 2016 due to extreme frustration directed towards the unemployment office where he made

statements that he would plant bombs, "if it's useless then it should be blown up". He was admitted for psychiatric stabilization as there was concern of acute mania and bipolar illness. He was diagnosed with Unspecified Bipolar Disorder with Cluster B traits. Applicant disclosed a significant psychiatric history prior to service that he did not disclose during his enlistment. He recounted being psychiatrically hospitalized 20 years prior at a facility in Maryland, when he was experiencing stress due to loss of employment. On 24 May 2017, the applicant participated in a C and P examination and was diagnosed with PTSD based on his self-report of MST. The applicant reported he was sexually assaulted by 3 individuals during his initial enlistment. The examiner noted a DD 214 showing an initial separation from military service after 2 months due to entry-level performance, with the applicant re-enlisting 18 years later due to "desperation." He reported being homeless at the time of his second re-enlistment, which is referenced in this opine, and having no place to go. After 4 months he was once again discharged due to adjustment related issues and having difficulty being in the Army. Overall, the applicant has an extensive psychiatric history, a discharge summary dated 19 July 2024 shows he was psychiatrically hospitalized following a manic episode where he verbally threatened Department of Motor Vehicle staff with explosives, he later denied intent or access to explosives.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a behavioral health condition during military service that mitigates his discharge. However, the condition existed prior to service and the applicant did not disclose it during his enlistment.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant selected PTSD on his application as related to his request.

(2) Did the condition exist or experience occur during military service? Yes. The applicant was psychiatrically hospitalized during his time in service and was diagnosed with Adjustment Disorder with Disturbance of Conduct. However, he concealed his psychiatric history and prior psychiatric hospitalization.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged due to failure to adapt to the military environment, his period of AWOL, his communication of threats toward his company commander and first sergeant, and his disrespect toward commissioned and noncommissioned officers. The medical record indicates the applicant has been diagnosed with Bipolar Disorder and is service connected for MST-related PTSD. The applicant had a pre-existing psychiatric

history with hospitalization that he withheld during his enlistment. During his time in service the applicant likely experienced mood instability, as a result of his pre-existing behavioral health condition. Given that there is an association between mood instability and the dysregulated behaviors that led to his discharge, the applicant's misconduct would be mitigated by his BH condition.

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. 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. Soldiers are authorized and honorable discharge while in entry-level status only if they complete their active-duty schooling and earn their MOS. Upon review of the applicant's petition, available military record and medical review, the Board considered the advising official finding sufficient evidence to support the applicant had a behavioral health condition during military service that mitigates his discharge. However, the condition existed prior to service and the applicant did not disclose it during his enlistment.
2. The Board determined there is insufficient evidence of in-service mitigating factors to overcome the misconduct. The applicant served 3 months and 14 days of net active service this period. He had time lost due to AWOL from 9 April 2008 to 29 April 2008., and did not complete training and was released from active duty for Entry Level Performance and Conduct. As such, his DD Form 214 properly shows the appropriate characterization of service as uncharacterized, there is no basis for granting the applicant's request to show his characterization of service as either "Honorable" or "Under Honorable Conditions (General)". Therefore, the Board denied relief.
3. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for his or her character of service to be rated as honorable or otherwise.

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.

REFERENCES:

1. 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.
2. 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 has occurred by a preponderance of the evidence. It is not an investigative body.

3. 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. 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.

d. 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 was 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.

e. Chapter 11 provides for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. When separation of a Soldier in an entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, he or she will normally be separated per this chapter. Service will be uncharacterized for entry-level separation under the provisions of this chapter.

f. 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. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

4. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. At the time, this regulation prescribed the separation code "JGA" as the appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200, based on entry level performance and conduct.

//NOTHING FOLLOWS//