

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 January 2025

DOCKET NUMBER: AR20240004277

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his:

- characterization of service as "Honorable" rather than "Uncharacterized"
- narrative reason for separation as the result of a medical condition rather than "Entry Level Performance and Conduct"
- to appear before the Board via video/telephone

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) website screenshot

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 post-traumatic stress disorder (PTSD) has been bothering him and he has difficulty controlling his anger at times. He is taking medication to help, but it still gets difficult to cope sometimes and he has to get away from everyone and everything, so it does not get worse. The VA has stated that his discharge is honorable.
3. On 4 November 2004, the applicant enlisted in the Regular Army in the rank/pay grade of private first class (PFC)/E-3 for a period of 3 years and 28 weeks.
4. DA Forms 4856 (Developmental Counseling Form) show the applicant was counseled on the following dates for the indicated reasons. He was repeatedly advised that failure to meet the standards set by the Army could and would result in administrative action being taken against him that could result in him being discharged from the Army.

a. On 25 January 2005, his drill sergeant counseled him regarding:

- (1). Failure to obey an order or regulation by possessing contraband.
- (2). Failure to adhere to the Army Core Values of "Duty" and "Integrity"
- (3). Lack of discipline.

b. On 24 February 2005, his company commander counseled him regarding his failure to pass the End of Cycle Physical Training (PT) test. He noted the applicant was given five additional opportunities to pass the test but had failed. The applicant was not even close to passing the PT test and his drill sergeant and commander felt that he would never be able to meet the standard for the Army Physical Fitness Test (APFT). Therefore, he was recommending the applicant be administratively separated from the Army.

5. On 25 February 2005, the applicant's immediate commander notified him that he was initiating actions to separate him under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 11, for entry level status performance and conduct. As the specific reason, the commander cited the applicant's failure to adapt to the military environment. He further advised the applicant that if his separation was approved, he would receive an entry level separation with an uncharacterized discharge. He advised the applicant that he had the right to consult with consulting counsel and to submit statements in his own behalf. The applicant acknowledged receipt of the separation notification on the same date.

6. On 25 February 2005, the applicant rendered his election of rights wherein he stated he had been advised of the basis for the contemplated action to separate him for the Entry Level Status Performance and Conduct 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 indicated he did not desire to consult with counsel, and he would provide statements in his own behalf. The applicant rendered a statement wherein he stated he understood he was being separated for failure of the APFT.

7. On 25 February 2005, the applicant's immediate commander formally recommended his separation under the provisions of Army Regulation 635-200, Chapter 11. The applicant had no record of disciplinary action.

8. On 25 February 2005, the separation authority approved the separation with the issuance of an uncharacterized entry level discharge.

9. Orders and the applicant's DD Form 214 show he was discharged from the Regular Army in the rank/pay grade of PFC/E-3 on 15 March 2005 under the provisions of Army Regulation 635-200, Chapter 11. His narrative reason for separation was "Entry Level Performance and Conduct." He was credited with completion of 4 months and 12 days of net active service this period. He did not complete his first full term of service.

10. In addition the previously discussed evidence, the applicant provides a VA internet webpage screenshot which shows the VA considers his active duty service as honorable for VA purposes.

11. 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 her or her character of service to be rated.

12. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance. By regulation, an applicant is not entitled to a hearing before the Board.

13. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting his characterization of service be changed from uncharacterized to honorable and update the narrative reason for separation as the result of a medical condition rather than "Entry Level Performance and Conduct." On his DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD) is related to his request. 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 04 November 2004, 2) the applicant was counseled on 25 January 2005 by his drill sergeant for failure to obey an order or regulation by possessing contraband, failure to adhere to the Army Core Values of "Duty" and "Integrity," and lack of discipline. He was subsequently counseled on 24 February 2005 by his company commander regarding his failure to pass the End of Cycle Physical Training (PT) test. It was noted that he had been given five additional opportunities to pass the test but had failed and that his drill sergeant and commander felt he would never be able to meet the standards for the PT

test and thus was recommending he be administratively separated, 3) On 25 February 2005, the applicant's commander notified him that he was initiating actions to separate him under the provisions of Army Regulation 635-200, Chapter 11, for entry level status performance and conduct. As the specific reason, the commander cited the applicant's failure to adapt to the military environment, 4) the applicant was discharged on 15 March 2005 under the provisions of Army Regulation (AR) 635-200, Chapter 11, with the narrative reason for separation noted as "Entry Level Performance and Conduct." He was credited with 4 months and 12 days of net active service.

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. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. In-service medical records were available for review via JLV from 10 February 2005 through 07 March 2025. During a medical visit for his elbow on 10 February 2005, the provider noted the applicant reported increased stress due to issues at home and requested a mental health consult. The provider noted the diagnosis as Acute Stress Disorder referred him to BH for a consult [*Advisor's Note*: this diagnosis is typically rendered by specialty BH]. It is of note that the stressor associated with this diagnosis and associated symptomatology were not documented. There was no documentation available indicating that the applicant was evaluated by BH in-service.

d. A review of JLV shows the applicant is not service-connected through the VA for any conditions. His VA records are void of any BH diagnosis or treatment history.

e. 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 discharge. However, he contends that 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? No. A review of his in-service medical records shows a medical provider referred the

applicant for a BH evaluation due to increased stress, noting the diagnosis as Acute Stress Disorder. It is of note that this is a diagnosis typically rendered by specialty behavioral health and there is no documentation specifying a qualifying stressor nor symptomatology associated with the diagnosis. Furthermore, there is no indication that he had a BH diagnosis in-service that fell below medical retention standards in accordance with (IAW) AR 40-501. He is not service-connected through the VA for any conditions and the available documentation is void of any diagnosis or treatment history for PTSD. In absence of documentation supporting his assertion there is insufficient evidence to establish his discharge was related to or mitigated by PTSD and insufficient evidence to support an upgrade for BH purposes. However, he contends that 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 and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was/was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the regulatory guidance related to administrative separations initiated within the first 180 days of military service and the following findings outlined in the medical review:

(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? No.

the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

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

:	:	:	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. 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.

2. 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.

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 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. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing 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 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.

d. 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.

e. 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.

5. The Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR), on 3 September 2014 [Hagel Memorandum], to carefully consider the revised PTSD criteria, detailed medical considerations, and mitigating factors when taking action on applications from former service members administratively discharged under UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

6. The Under Secretary of Defense for Personnel and Readiness provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017 [Kurta Memorandum]. The memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, traumatic brain injury (TBI), 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 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.

a. Guidance documents are not limited to UOTHC discharge characterizations but rather apply to any petition seeking discharge relief including requests to change the narrative reason, re-enlistment codes, and upgrades from general to honorable characterizations.

b. An honorable discharge characterization does not require flawless military service. Many veterans are separated with an honorable characterization despite some relatively minor or infrequent misconduct.

c. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with mental health conditions, including PTSD; TBI; or behaviors commonly associated with sexual assault or sexual harassment; and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

7. The Under Secretary of Defense for Personnel and Readiness issued guidance to Service DRBs and Service BCM/NRs on 25 July 2018 [Wilkie Memorandum], 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 court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

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//