

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 December 2024

DOCKET NUMBER: AR20240004462

APPLICANT REQUESTS:

- upgrade of his undesirable discharge to under honorable conditions (general) or honorable
- disability separation retirement
- a video or telephone hearing with the Board

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

- DD Form 149 (Application for Correction of Military Record), 12 February 2024
- 18 pages of service records
- memorandum, U.S. Army Personnel Control Facility, dated 2 June 1972 subject: Request for Discharge for the Good of the Service
- memorandum, Headquarters (HQ), Fort Meade, Office of the Staff Judge Advocate, dated 9 June 1972 subject: Request for Discharge
- memorandum, U.S. Army Personnel Control Facility, undated, subject: Recommendation for Discharge Under Provisions of Chapter 10, Army Regulation 635-200
- Undesirable Discharge Certificate, 14 July 1972
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), 14 July 1972
- letter, U.S. Department of Justice (DOJ), Office of the Pardon Attorney, 24 November 1975
- alternative service information letter, DOJ, undated
- Reconciliation Service Statement of Intention, 30 July 1976
- memorandum, Department of Defense (DOD), DOD Special Discharge Review Program (SDRB), dated 18 May 1977, subject: Instruction Sheet-DOD SDRP
- self-authored statement, undated
- Presidential Clemency Board Case Summary, Case Number 6825, undated
- letter, DOD SDRP, 11 August 1977

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 indicates on his application that post-traumatic stress disorder (PTSD) and other mental health issues are related to his request. He states:
 - a. While serving his country in both Germany and Vietnam as a powerman and door gunner, he was promoted to specialist 4/E-4 and received two sets of excellent conduct and efficiency ratings at a young age.
 - b. While he was performing his duties a door gunner, he was shot and still has shrapnel in his leg. These actions caused him drug addiction, PTSD, and mental health issues. Other unstable family situations, such as his mother's health condition, led to his drug addictions.
3. The applicant provides copies of his service records which outline his separation and attempts to upgrade his discharge under the DOD SDRP in the mid to late 1970s.
 - a. A U.S. DOJ letter, dated 24 November 1975, shows that under the President Ford Administration, he was offered conditional clemency in 1975 for his absence during service if he would perform three months of alternative service. He was provided an instruction sheet on how to apply for alternative service.
 - b. A Selective Service Statement of Intention, shows that on 30 July 1976, he declined the option to perform alternative service because of his long distance truck driving employment.
 - c. On 13 May 1977, he applied for a review of his discharge and provided a copy of his DD Form 214 and a letter from his counsel.
 - d. He provided an undated copy of a letter he provided to the Selective Service, Statement of Intention, which reflects he was required to make up 480 hours in a volunteer status of his choosing. He joined his local volunteer fire department, of which he was still a member, but he was unable to complete the minimum of 20 hours a week because of his truck driving employment and his need to make a living to support his wife and child. He described an unstable home life in which he moved frequently because of difficulties in family life. Since his discharge, he straightened his life out and was able to accept responsibility. He remained a volunteer of the fire department.

e. An undated Presidential Clemency Board Case Summary, summarizing his service in Vietnam and his overall service records.

f. A letter for the Adjutant General, notifying him that his request for an upgrade of his discharge under the DOD SDRP was denied in 1977.

4. A review of the applicant's service records reflect:

a. On 27 February 1970, he enlisted in the Regular Army for 3 years.

b. Following Basic Combat Training and Advance Individual Training, he was awarded military occupational specialty 52B (Powerman). He was promoted to specialist 4/E-4 on 15 September 1971.

c. He served in Germany from 28 November 1970 to 11 February 1971.

d. On 1 July 1971, he deployed to Vietnam, and he was assigned to Headquarters and Headquarters Company (HHC), 11th Combat Aviation Group (CAG), 1st Aviation Brigade (AB), DaNang, Vietnam.

e. On 28 September 1971, he accepted company grade nonjudicial punishment (NJP) under the provisions of Article 15 of the Uniform Code of Military Justice (UCMJ) for absenting himself from his place of duty from 0700 hours to 1100 hours on 20 September 1971, Motor Pool, HHC, 11th CAG, 1st AB, DaNang, Vietnam. His punishment consisted of reduction to private first class, forfeiture of \$25.00 pay for a month, and 7 days of extra duty. He did not appeal this punishment; however, he provided a statement for his commander's consideration. He stated, on 15 September 1971, he was ill from painting and was given quarters for 24 hours. He was ill again on 17 September 1971 and was given quarters for 24 hours. On 20 September 1971, he still felt ill, but failed to get a sick slip from the orderly room. He went to quarters first and laid down, not returning to work until 1300 hours.

f. On 15 November 1971, he was reported AWOL from his unit, HHC, 11th CAG, 1st AB, DaNang, Vietnam.

g. DA Form 3836 (Notice of Return of U.S. Army Member from Unauthorized Absence) shows he surrendered to military authorities on 17 May 1972.

h. On 25 May 1972, court-martial charges were preferred against him. A DD Form 458 (Charge Sheet) shows he was charged with three specifications of being Absent without leave (AWOL):

- without authority, absent himself from his unit, HHC, 11th CAG, 1st AB, DaNang, Vietnam, from on or about 15 November 1971 to 4 January 1972
- without authority, absent himself from his unit, Company A, Personnel Control Facility (PCF), Fort Meade from on or about 27 January 1972 to on or about 3 February 1972
- without authority absent himself from his unit, Company A, PCF, Fort Meade from on or about 4 February 1972 to on or about 17 May 1972

i. On 13 June 1972, he underwent a medical examination and gave a report of medical history. He indicated he had no health issues, he was in good health, and the examining physician noted he was qualified for separation.

j. After consulting with legal counsel on 2 June 1972, the applicant voluntarily requested discharge for the good of the service, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10. In doing so, he acknowledged that the charges preferred against him under the UCMJ, authorized the imposition of a bad conduct discharge or dishonorable discharge. He further acknowledged:

- he had not been subjected to coercion with respect to his request for discharge
- he had been advised of the implications that were attached to it
- by submitting the request, he was acknowledging he was guilty of the charge(s) against him or of (a) lesser included offense(s) therein contained which also authorized imposition of a bad conduct or dishonorable discharge
- he could be discharged under other than honorable conditions and he could be ineligible for many or all benefits administered by the Department of Veterans Affairs (VA)
- he could be deprived of many or all Army benefits and he could be ineligible for many or all benefits as a veteran under both Federal and State laws
- he would forfeit all accrued leave and be reduced to the lowest grade of E-1
- he could expect to encounter substantial prejudice in civilian life by reason of an under other than honorable conditions discharge
- he was advised he could submit any statements he desired in his own behalf, and he elected to do so

k. On 9 June 1972, he submitted a statement through counsel requesting a general, under honorable conditions discharge. He said he volunteered to be a door gunner on helicopters. Although wounded by shrapnel in August 1971, he never received a Purple Heart. His evaluations have been good. He began using drugs in Vietnam and he did not want to continue flying in helicopters since he could not trust himself and felt he was endangering the lives of others. Accordingly, he went AWOL.

l. On an unspecified date, the commanding officer, PCF, Fort Meade, recommended disapproval of his request for a general discharge, and approval of an undesirable discharge.

m. On 22 June 1972, his intermediate commander recommended disapproval of his request for a general discharge, and approval of an undesirable discharge.

n. On 14 July 1972, the separation authority approved his discharge under the provisions of Army Regulation 635-200, Chapter 10, with issuance an Undesirable Discharge Certificate. He further directed the applicant's reduction to private/E-1.

o. On 14 July 1972, the applicant was discharged. His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-200, Chapter 10, for the good of the service with a character of service of under other than honorable conditions, and a separation program number of 246. It further shows he had 160 total days' lost time from 15 November 1971 to 3 January 1972; 27 January 1972 to 2 February 1972; and from 4 February 1972 to 16 May 1972. He completed service in Vietnam from 1 July 1971 until his AWOL on 15 November 1971. His DD Form 214 further indicates in:

(1) Block 22a(1) (Statement of Service-Net Service This Period), he completed 1 year, 11 months, and 8 days of net active service this period;

(2) Block 26 (Non-Pay Periods) – 15 November 1971 to 3 January 1972; 27 January 1972 to 2 February 1972; and from 4 February 1972 to 16 May 1972;

(3) Item 24 (Decorations, Medal, Badges, Citations, and Campaign Ribbons Awarded or Authorized):

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
- two overseas bars
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)

5. On 24 June 1977, the SDRP considered the applicant's petition for an upgrade of his undesirable discharge and found he did not meet the primary criteria of the program for consideration under the clemency program by reason of AWOL from the combat area. Accordingly, the Army Discharge Review Board (ADRB) voted to deny relief.

6. On 12 December 1978, the Office of the Adjutant General, Reserve Components Personnel and Administration Center, notified him of his right to request a new hearing

based upon a Court Order, dated 23 August 1978. There is no evidence of record showing he applied for a new review of his discharge.

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. Background: The applicant is requesting an upgrade of his undesirable discharge to under honorable conditions (general) or honorable, as well as disability separation retirement. He contends PTSD and OMH mitigates his discharge.

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 27 February 1970.
- He served in Germany from 28 November 1970 to 11 February 1971.
- On 1 July 1971, he deployed to Vietnam, and he was assigned to Headquarters and Headquarters Company (HHC), 11th Combat Aviation Group (CAG), 1st Aviation Brigade (AB), DaNang, Vietnam.
- On 15 November 1971, he was reported AWOL from his unit, HHC, 11th CAG, 1st AB, DaNang, Vietnam.
- On 25 May 1972, court-martial charges were preferred against him. A DD Form 458 (Charge Sheet) shows he was charged with three specifications of being Absent without leave (AWOL):
 - without authority, absent himself from his unit, HHC, 11th CAG, 1st AB, DaNang, Vietnam, from on or about 15 November 1971 to 4 January 1972
 - without authority, absent himself from his unit, Company A, Personnel Control Facility (PCF), Fort Meade from on or about 27 January 1972 to on or about 3 February 1972
 - without authority absent himself from his unit, Company A, PCF, Fort Meade from on or about 4 February 1972 to on or about 17 May 1972
- After consulting with legal counsel on 2 June 1972, the applicant voluntarily requested discharge for the good of the service, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10.
- On 14 July 1972, the applicant was discharged. His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-200, Chapter 10, for the good of the service with a character of service of under other than honorable conditions, and a separation program number of 246. It further shows he had 160 total days' lost time from 15 November 1971 to 3 January 1972; 27 January

1972 to 2 February 1972; and from 4 February 1972 to 16 May 1972. He completed service in Vietnam from 1 July 1971 until his AWOL on 15 November 1971.

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, while serving his country in both Germany and Vietnam as a powerman and door gunner, he was promoted to specialist 4/E-4 and received two sets of excellent conduct and efficiency ratings at a young age. While he was performing his duties as a door gunner, he was shot and still has shrapnel in his leg. These actions caused him drug addiction, PTSD, and mental health issues. Other unstable family situations, such as his mother's health condition, led to his drug addictions.

d. Due to the period of service, no active-duty electronic medical records were available for review. Hardcopy documentation shows the applicant submitted a statement via counsel requesting a general, under honorable conditions discharge on 9 June 1972. He stated he volunteered to be a door gunner on helicopters. Although wounded by shrapnel in August 1971, he never received a Purple Heart. His evaluations have been good. He began using drugs in Vietnam and he did not want to continue flying in helicopters since he could not trust himself and felt he was endangering the lives of others. Accordingly, he went AWOL. Hardcopy medical documentation submitted by the applicant for review indicate on 13 June 1972, he underwent a medical examination for the purpose of separation. He indicated no health issues, reported being in good health, made no indication of the shrapnel in his leg nor of being wounded, and the examining physician noted he was qualified for separation. In addition, the applicant did not endorse any mental health concerns including anxiety, depression, or sleep concerns. A Presidential Clemency Board Case Summary, dated 8 August 1975, lists his three time periods of being AWOL and indicates he received two sets of excellent conduct and efficiency ratings. In addition, it indicates the applicant underwent a detox program for heroin addiction from 5 to 19 January 1972 and from 17 to 22 May 1972 for methadone addiction.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected, likely due to the characterization of his service. No VA electronic medical records were available for review. The applicant provided no medical documentation post-military service substantiating his assertion of PTSD or OMH.

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 an experience, serving in a combat zone, that more likely than not contributed to a behavioral health condition during military service that mitigates his discharge. However, there is insufficient evidence to support a referral to the IDES process, at this

time. Although the applicant asserts PTSD and OMH, there is no evidence supporting any diagnosis. The available medical record shows that upon medical examination at the time of discharge, the applicant did not endorse any medical or mental health concerns. In addition, there is no evidence he failed Army retention criteria or had a ratable condition during the period of service. In fact, a Presidential Clemency Board Case Summary dated 8 August 1975, indicates the applicant received two sets of excellent conduct and efficiency ratings. Furthermore, even if he had been diagnosed with PTSD, an in-service diagnosis of PTSD is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. Based on the documentation available for review, there is no indication that an omission or error occurred that would warrant a referral to the IDES process at this time.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts the mitigating condition of PTSD and OMH.

(2) Did the condition exist or experience occur during military service? Yes. The applicant served in a combat zone, the Republic of Vietnam, from approximately 1 July 1971 until his AWOL on 15 November 1971.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged due to three specifications of being AWOL. The applicant reports being injured while serving in Vietnam and developing a serious addiction since he used substances to cope with his injury. A Presidential Clemency Board Case Summary, dated 8 August 1975, shows the applicant underwent two episodes of care for detoxification on 5 to 19 January 1972 and on 17 to 22 May 1972. Although there is insufficient medical documentation confirming the applicant's diagnosis of PTSD, his serving in a combat zone and later developing a serious addiction, despite no prior history of substance abuse, appears to support the applicant's contention of PTSD. Given the association between PTSD and avoidance, the applicant's misconduct of AWOL is mitigated by his BH condition.

h. Per Liberal Consideration guidelines, the applicant's assertion of PTSD and OMH is sufficient to warrant consideration by the Board.

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. One potential outcome was to grant partial relief with a discharge upgrade to under honorable (general) conditions based on the medical opine finding sufficient evidence that would mitigate his misconduct, but deny referral to DES. However, upon review of the applicant's petition, available military records and the medical review, the Board considered the advising opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had an experience, serving in a combat zone, that more likely than not contributed to a behavioral health condition during military service that mitigates his discharge. However, there is insufficient evidence to support a referral to the IDES process, at this time.

2. Although the applicant asserts PTSD and OMH, there is no evidence supporting any diagnosis. The available medical record shows that upon medical examination at the time of discharge, the applicant did not endorse any medical or mental health concerns. In addition, there is no evidence he failed Army retention criteria or had a ratable condition during the period of service. In fact, a Presidential Clemency Board Case Summary dated 8 August 1975, indicates the applicant received two sets of excellent conduct and efficiency ratings. Furthermore, even if he had been diagnosed with PTSD, an in-service diagnosis of PTSD is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. Based on the documentation available for review, there is no indication that an omission or error occurred that would warrant a referral to the IDES process at this time.

3. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts the mitigating condition of PTSD and OMH.

(2) Did the condition exist or experience occur during military service? Yes. The applicant served in a combat zone, the Republic of Vietnam, from approximately 1 July 1971 until his AWOL on 15 November 1971.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged due to three specifications of being AWOL. The applicant reports being injured while serving in Vietnam and developing a serious addiction since he used substances to cope with his injury. A Presidential Clemency Board Case

Summary, dated 8 August 1975, shows the applicant underwent two episodes of care for detoxification on 5 to 19 January 1972 and on 17 to 22 May 1972. Although there is insufficient medical documentation confirming the applicant's diagnosis of PTSD, his serving in a combat zone and later developing a serious addiction, despite no prior history of substance abuse, appears to support the applicant's contention of PTSD. Given the association between PTSD and avoidance, the applicant's misconduct of AWOL is mitigated by his BH condition.

4. Notwithstanding the medical opinion presented, the Board found insufficient justification or mitigating factors to overcome the applicant's pattern of misconduct that would support an upgrade of discharge to General (Under Honorable Conditions) or warrant separation through disability retirement. The applicant served in Vietnam as a powerman with Headquarters and Headquarters Company, 11th Combat Aviation Group. While he asserts, he was wounded by shrapnel and served as a door gunner, the record contains no official documentation verifying receipt of the Purple Heart or any service-connected medical condition that would qualify him for disability retirement under Army Regulation 635-40. The Board noted that the applicant's medical examination prior to discharge indicated no health concerns and affirmed his fitness for separation. His service record reflects a sustained pattern of serious misconduct, including multiple extended periods of unauthorized absence totaling 160 days, which ultimately led to court-martial charges.

5. Evidence in the record confirms the applicant voluntarily requested discharge under the provisions of Chapter 10, acknowledging guilt and accepting the consequences of an undesirable discharge. While the Board considered his statement attributing misconduct to drug use and psychological distress stemming from combat duty, these factors do not sufficiently mitigate the severity or duration of his absences, nor do they establish a qualifying disability for retirement purposes. The Board recognizes the applicant's service in Vietnam and his claim of emotional hardship; however, the record does not support a finding that his misconduct was substantially caused by a service-connected disability. Nor does it meet the threshold for reconsideration under disability retirement provisions. Based on the totality of the evidence and the regulatory framework in effect at the time, the Board determined the discharge was appropriate and denied relief.

6. 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	XXX	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
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 correction of the records of the individual concerned.

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. 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 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity.

a. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 1-9 provided:

(1) An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier'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. Only the honorable characterization may be awarded a member upon completion of his/her period of enlistment or period for which called or ordered to active duty or active duty training or where required under specific reasons for separation unless an entry level status separation (uncharacterized) is warranted.

(2) 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

b. Chapter 10 stated a member who has committed an offense or offenses, the punishment of which under the UCMJ and the Manual for Court Martial, 1969 (Revised Edition) includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The discharge request may be submitted after court-martial charges are preferred against the member, or, where required, after referral, until final actions by the court-martial convening authority.

(1) A medical examination is not required but may be requested by the member under Army Regulation 40-501 (Medical Services – Standards of Medical Fitness),

chapter 10. A member that requests a medical examination must also have a mental status evaluation before discharge.

(2) Commanders will insure that a member will not be coerced into submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 72 hours) to consult with consulting counsel and to consider the wisdom of submitting such a request for discharge. Consulting counsel will advise the member concerning:

- the elements of the offense or offenses charged
- burden of proof
- possible defenses
- possible punishments
- provisions of Chapter 10
- requirements of voluntariness
- type of discharge normally given under provisions of Chapter 10
- rights regarding the withdrawal of the member's request
- loss of Veterans Administration benefits
- prejudice in civilian life because of the characterization of the discharge

(3) The separation authority will be a commander exercising general court-martial jurisdiction or higher authority. However, authority to approve discharges in cases in which a member has been AWOL for more than 30 days and has been dropped from the rolls of his or her unit as absent in desertion, and has been returned to military control, may be delegated to the commander exercising special court-martial convening authority over the member.

(4) An under other than honorable discharge certificate normally is appropriate for a member who is discharged for the good of the service. However, the separation authority may direct a General Discharge Certificate if such is merited by the member's overall record during the current enlistment.

4. Army Regulation 635-5 (Separation Documents), then in effect, prescribed the separation documents that would be furnished each individual who was separated from the Army, including Active Duty Training (ACDUTRA) personnel, and established standardized procedures for the preparation and distribution of these documents.

a. A DD Form 214 will be issued at the time of separation to each member of the Regular Army and to each member of the Reserve Components, and the Army of the United States without component, call or ordered to active duty for ACDUTRA for a period of 90 days or more.

b. Appendix A. Separation Program Number and Authority Governing Separation. The separation program designator "246" corresponded to "For the Good of the Service" and the authority, Army Regulation 635-200, Chapter 10.

5. Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation), in effect at the time, established the Army Physical Disability Evaluation System according to the provisions of chapter 61 of Title 10 U.S. Code and Department of Defense Directive 1332.18. It set forth policies, responsibilities, and procedures that apply in determining whether a member was unfit because of physical disability to perform the duties of his office, grade, rank, or rating. If a member was found unfit because of physical disability, it provided for disposition of the member according to applicable laws and policies. Paragraph 4-24e(3) provided that Based upon the final decision of the Commanding General, U.S. Army Physical Disability Agency, or the Army Physical Disability Review Board, the Commanding General, Military Personnel Center would issue retirement orders or other disposition instruction separation for physical disability with severance pay.

6. On 3 September 2014 the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) 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 other than honorable conditions 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.

7. The acting Under Secretary of Defense for Personnel and Readiness provided clarifying guidance on 25 August 2017, which expanded the 2014 Secretary of Defense memorandum, that directed the BCM/NRs and DRBs to give liberal consideration to veterans looking to upgrade their less-than-honorable discharges by expanding review of discharges involving diagnosed, undiagnosed, or misdiagnosed mental health conditions, including PTSD; traumatic brain injury; or who reported sexual assault or sexual harassment.

8. 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. 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. 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.

9. Presidential Proclamation 4313, issued on 16 September 1974, provided for the issuance of a clemency discharge to certain former Soldiers, who voluntarily entered into and completed an alternate public work program specifically designated for former Soldiers who received a less than honorable discharge for AWOL-related incidents between August 1964 and March 1973. Under this proclamation, eligible deserters were given the opportunity to request discharge for the good of the service with the understanding that they would receive an undesirable discharge. Upon successful completion of the specified alternative service, the deserter was issued a clemency discharge. The clemency discharge did not affect the individual's underlying discharge and did not entitle him to any VA benefits. Rather, it restored federal and, in most instances, state civil rights which may have been denied due to the less than honorable discharge. If a participant of the program failed to complete the period of alternative service the original undesirable characterization of service would be retained.

10. The Department of the Army Special Discharge Review Program (SDRP) was based on a memorandum from Secretary of Defense Brown and is often referred to as the "Carter Program." It mandated the upgrade of individual cases in which the applicant met one of several specified criteria and when the separation was not based on a specified compelling reason to the contrary. The ADRB had no discretion in such cases other than to decide whether re-characterization to fully honorable as opposed to a general discharge was warranted in a particular case. An individual who had received a punitive discharge was not eligible for consideration under the SDRP. Absentees who returned to military control under the program were eligible for consideration after they were processed for separation. Individuals could have their discharges upgraded if they met any one of the following criteria: wounded in action; received a military decoration other than a service medal; successfully completed an assignment in Southeast Asia; completed alternate service; received an honorable discharge from a previous tour of military service; or completed alternate service or were excused from completing alternate service in accordance with Presidential Proclamation 4313 of 16 September 1974. Compelling reasons to the contrary to deny discharge upgrade were desertion/AWOL in or from the combat area; discharge based on a violent act of misconduct; discharge based on cowardice or misbehavior before the enemy; or

discharge based on an act or misconduct that would be subject to criminal prosecution under civil law.

11. On 8 October 1977, Public Law (PL) 95-126 was passed which denied veterans benefits to service members AWOL for 180 consecutive days or more during the Vietnam era, 4 August 1964 to 28 March 1973, who were classified as deserters or who were classified as conscientious objectors regardless of discharge upgrade under previous programs. DOD was required to establish historically consistent, uniform standards by which to grant discharge upgrades. DOD was also required to review all discharges previously upgraded under the 5 April 1977 DOD SDRP, and certain other programs, utilizing these uniform standards to confirm or deny the previous upgrades. These reviews were conducted for Army service members by ADRB under authority of the Secretary of the Army.

12. Presidential Proclamation 4313, issued on 16 September 1974, provided for the issuance of a clemency discharge to certain former Soldiers, who voluntarily entered into and completed an alternate public work program specifically designated for former Soldiers who received a less than honorable discharge for AWOL-related incidents between August 1964 and March 1973. Under this proclamation, eligible deserters were given the opportunity to request discharge for the good of the service with the understanding that they would receive an undesirable discharge. Upon successful completion of the specified alternative service, the deserter was issued a clemency discharge. The clemency discharge did not affect the individual's underlying discharge and did not entitle him to any VA benefits. Rather, it restored federal and, in most instances, state civil rights which may have been denied due to the less than honorable discharge. If a participant of the program failed to complete the period of alternative service the original undesirable characterization of service would be retained.

13. A Presidential Memorandum was issued by President Ford on 19 January 1977 (sometimes referred to as PP 4313 Extension). This memorandum mandated the issuance of a general discharge to individuals who had: (1) applied for consideration under PP 4313; (2) been wounded in action or decorated for valor; and (3) records free of any compelling reason to deny relief. This was a mandate to the ADRB from the President and was to be applied by the ADRB without any applications from the affected individuals. Whether the individuals had performed alternate service was not an issue to be considered.

//NOTHING FOLLOWS//