

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 March 2025

DOCKET NUMBER: AR20240004619

APPLICANT REQUESTS: an upgrade of his characterization of service from under other than honorable conditions to honorable and a personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 11 January 1991
- Applicant Business Card
- Department of Veterans Affairs (VA) Form 21-4138 (Statement in Support of Claim), 29 January 2024
- VA Priority Processing Request, 29 January 2024
- VA Appointment of Individual as Claimant's Representative, 29 January 2024
- Letter, Friendship Place, 29 January 2023
- Letter, McClendon Center, 20 November 2023
- Letter, MedStar Georgetown University Hospital, 29 January 2024
- VA Form 21-10210 (Lay/Witness Statement), 30 January 2024
- Certificate of Completion, 90-Day Low Intensity Treatment Program, 1 March 2023
- Certificate of Completion, Comprehensive Care Management Program, 8 September 2023
- Applicant's Military Service Record (146 pages)
- Medical Treatment Records (1009 pages)

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, in effect, his discharge was connected to a mental condition that was undiagnosed at the time of his service. Due to his housing instability and inability to access various records he was unable file an application for correction of his records. His previous alcohol issue also prevented him from being in the proper state to file the application. He has rehabilitated himself and he is in the proper state to file the application.

3. The applicant provides the following:

a. The applicant's business card which shows he is the Chief Executive Officer at The NorthBridge Group.

b. A VA Statement in Support of Claim, dated 29 January 2024, wherein the applicant states, in effect:

(1) Prior to service he was referred to by his family and community members as "hyper." Unbeknownst to him, his hyperactivity was actually mood fluctuations. These mood fluctuations were a result of his undiagnosed mental health condition, bipolar disorder. He noticed the symptoms of the disorder in his day-to-day behavior. This undiagnosed condition contributed to his manic actions, such as acting on impulse, careless spending, and much more. He began to resort to alcohol as a form of self-medication to resolve the issues with his behavior. After separating from the military, his undiagnosed and unmanaged mental health condition began to spiral. The manic moods and episodes of insomnia continued to rise and affected his quality of life. His mother noticed his erratic behavior and referred him to a psychiatrist.

(2) In 1994, he received treatment from Saint Mary's Hospital for alcoholism. In 1998 he was diagnosed with bipolar disorder and began receiving treatment. In 2022, he continued the journey of rehabilitation and began consistent treatment at McClendon Center. In 2010, he worked on obtaining an Information Technology (IT) Certificate. In 2022, he started his own IT company called "The NorthBridge Group." In 2023, he began working at the Department of Motor Vehicles. These are some of the different things he has been able to achieve since his discharge. He has successfully completed alcohol treatment, and he is committed to attending visits with his mental health provider so that he can successfully treat and manage the bipolar disorder.

(3) His undiagnosed mental health condition was the primary reason for his behavior during his time in the service. The behavior led to his discharge. Since then, he has taken active steps to manage his mental health. He is also taking active steps to give back to his community through his business. He is requesting that his past behavior be viewed from the sense of his undiagnosed mental health condition and that his discharge status be upgraded to honorable.

c. A letter from the Assistant Director, Friendship Center, dated 29 January 2023, which states the applicant is a participant in Friendship Place's Veterans First Program. The Friendship Place is the leading provider of rapid rehousing and homeless prevention services for veterans and their families in the Washington DC metropolitan area.

d. A letter from the Medical Director, McClendon Center, dated 20 November 2023, which states the applicant has been receiving services from the McClendon Center since December 2016. He receives treatment for bipolar disorder and alcohol use disorder, in sustaining remission. He is actively engaged in treatment.

e. A letter from MedStar Georgetown University Hospital, dated 29 January 2024, wherein the Intensive Outpatient Care Coordinator states she has worked with the applicant in weekly individual therapy from 14 October 2022 to 1 December 2023. In that time, he put in the work and attended every session excepting major emergencies. He made great strides in his sobriety and his mental health.

f. A Lay/Witness Statement from the Clinical Director, McClendon Center, dated 30 January 2024, which states the applicant has demonstrated that he is of significant contribution to the community over the last 12 years. He is eager and motivated to reach his personal and professional goals, he is hard working, and consistent in attending all his obligations.

g. A certificate which shows the applicant completed the 90-Day Low Intensity Treatment Program at Regional Addiction Prevention on 1 March 2023.

h. A certificate which shows he completed the Comprehensive Care Management Program on 8 September 2023.

i. The applicant provides his complete military service record.

j. The applicant's medical treatment records, which show he was diagnosed and treated for bipolar disorder, depression, and alcohol use disorder.

4. A review of the applicant's service record shows:

a. He enlisted in the Regular Army on 14 February 1989. The highest grade he held was private (PV2)/E-2.

b. On 21 February 1990, he accepted nonjudicial punishment, under the provisions of Article 15, Uniform Code of Military Justice, for the following misconduct:

- on or about 19 December 1989, willfully disobeyed a lawful order from a noncommissioned officer (NCO)
- on or about 5 February 1990, disrespectful in language toward a senior NCO by saying to him, "This situation is f__ up," or words to that effect.
- on or about 19 December 1989, disrespectful in language and deportment toward an NCO, by raising his hand and saying, "I'll slap the s__ out of you" and "F__ no, log me in the CQ log, I don't give a f__."
- on or about 5 February 1990, operating a vehicle while drunk.
- on or about 19 December 1989, disorderly, which conduct was of a nature to bring discredit upon the Armed Forces.
- on or about 19 December 1989, wrongfully communicated a threat to kill staff sergeant R__.
- on or about 5 February 1990, wrongfully having an open container of beer; conduct being a violation of Kansas State.

c. His punishment included reduction to the grade of PVT/E-1, forfeiture of \$362.00 pay per month for a period of two months, that portion of the forfeiture in excess of \$362.00 pay per month for a period of one month suspended to be automatically remitted if not vacated before 20 August 1990, 45 days extra duty, and 30 days restriction.

d. On 24 April 1990, the suspension of the punishment of forfeiture of \$362.00 pay per month for a period of one month imposed on 21 February 1990 was vacated. The unexcused portion of the punishment was duly executed. Vacation was based on the following offense: on or about 19 April 1990, the applicant wrongfully operated a privately owned vehicle while his state operator's license was suspended.

e. Court-martial charges were preferred against the applicant on 12 June 1990. His DD Form 458 (Charge Sheet) shows he was charged with:

- Charge I, one specification of on or about 11 May 1990, failing to go at the time prescribed to his appointed place of duty, to wit: 0630 formation.
- Charge I, one specification of on or about 11 May 1990, failing to go at the time prescribed to his appointed place of duty, to wit: 0840 formation.
- Charge II, one specification of on or about 15 March 1990, willfully disobeying a lawful order from an NCO.
- Charge II, one specification of on or about 15 March 1990, disrespectful in language toward an NCO.
- Charge III, one specification of on or about 14 November 1989, unlawfully striking specialist (SPC) S__ on the stomach with his hand.
- Charge III, one specification of on or about 6 April 1990, unlawfully striking SPC S__ on the chin with his hand.

- Charge III, one specification of on or about 6 April 1990, unlawfully striking SPC S__ on the side with his hand.
- Charge III, one specification of on or about 19 February 1990, committing an assault upon private first class (PFC) C__ by kicking a door shut at her with a force likely to produce bodily harm.
- Charge IV, one specification of on or about 14 April 1990, uttering a bad check to Domino's Pizza in the amount of \$10.50, for the purchase of unknown item, thereafter, dishonorably failing to maintain sufficient funds in his bank for payment of such check.
- Charge IV, one specification of on or about 11 March 1990, wrongfully and willfully impersonating a commissioned officer of the Army.
- Charge IV, one specification of on or about 21 November 1989, willfully and wrongfully exposing in an indecent matter to the view of PFC C__ his p__s.
- Charge IV, one specification of on or about 19 February 1990, wrongfully communicating to PFC K__ a threat to kick her a__.

f. DD Form 2329 (Record of Trial by Summary Court-Martial) shows at a trial proceeding held on 25 June 1990 the applicant was found guilty of:

- Charge I, one specification of absent from place of duty on 11 May 1990
- Charge I, one specification of absent from place of duty on 11 May 1990
- Charge II, one specification of disobeyed NCO on 15 March 1990
- Charge II, one specification of disrespect to NCO on 15 March 1990
- Charge III, one specification of committed an assault on 14 November 1989
- Charge III, one specification of committed an assault on 6 April 1990
- Charge III, one specification of committed an assault on 6 April 1990
- Charge III, one specification of committed an assault on 19 February 1990
- Charge IV, one specification of uttering a bad check on 14 April 1990
- Charge IV, one specification of impersonating an officer on 11 March 1990
- Charge IV, one specification of indecent exposure on 21 November 1989
- Charge IV, one specification of wrongfully communicating a threat on 19 February 1990

g. The court sentenced the applicant to confinement for 30 days and forfeiture of \$482.00. The sentence was adjudged on 25 June 1990.

h. The applicant's duty status changed on the following dates:

- Present for Duty (PDY) to Confined Military Authority (CMA) – 25 June 1990
- CMA to PDY – 19 July 1990

i. The applicant was discharged on 11 January 1991. His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12c, by reason of misconduct – commission of a serious offense, in the rank of private (PV1)/E-1. His service was characterized as under other than honorable conditions. He completed 1 year, 10 months, and 4 days of net active service this period. This form also shows in:

- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): Army Service Ribbon and the Expert Marksmanship Qualification Badge (hand grenade)
- Item 26 (Separation Code): JKQ
- Item 27 (Reentry Code): 3
- Item 29 (Dates of Time Lost During This Period): 25 June 1990 – 18 July 1990

5. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding the processing of his discharge.

6. There is no indication the applicant applied to the Army Discharge Review Board for review of his discharge processing within the Board's 15-year statute of limitations.

7. In reaching its determination, the Board can consider the applicant's petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

8. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his characterization of service from under other than honorable conditions (UOTHC) to honorable. On his DD Form 149, the applicant indicated Other Mental Health Issues are 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 14 February 1989, 2) he accepted nonjudicial punishment (NJP) on 21 February 1990 for disobeying a lawful order, being disrespectful in language toward a senior noncommissioned officer (NCO), being disrespectful in language and deportment toward an NCO, operating a vehicle while drunk, for being disorderly to which the conduct was of a nature to bring discredit upon the Armed Forces, wrongfully communicating a threat to kill a Staff Sergeant (SSG), and for wrongfully having an open container of beer, conduct being a violation of Kansas State, 3) DD Form 2329 shows at a trial proceeding held on 25 June 1990 the applicant was found guilty of: being absent from his place of duty on 11 May 1990; disobeying an NCO on 15 March 1990; Charge III, assault on 14 November 1989; assault on 6 April 1990; assault on 6 April 1990; assault on 19 February 1990; uttering a

bad check on 14 April 1990; impersonating an officer on 11 March 1990; indecent exposure on 21 November 1989; wrongfully communicating a threat on 19 February 1990, 4) the applicant was discharged on 11 January 1991 under the provisions of Army Regulation 635-200, paragraph 14-12c, by reason of misconduct-commission of a serious offense, with a separation code of JKQ and reentry code of '3.' 5) The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding the processing of his discharge.

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. An in-service Report of Medical examination dated 30 November 1989 for the purposes of enlistment shows item number 42, psychiatric, as 'normal.' The associated Report of Medical History shows he marked 'no' to all BH-related items. A Personnel Qualification Record dated 13 July 1990 shows his PULHES as 111111, indicative that he was not on a BH profile at the time of the report. There were no in-service BH records available for review.

d. A review of JLV shows the applicant is not service-connected through the VA for any conditions. It is of note that the applicant's UOTHC discharge renders him ineligible for clinical services. Review of a VA Health Care for Homeless Veterans (HCHV) note dated 19 July 2022 shows a request for housing assistance. There were no BH records available for review through the VA.

e. The applicant included a VA Form 21-4138 (Statement in Support of Claim) dated 29 January 2024 as part of his application. Review of the applicant's statement shows that he reported receiving treatment from Saint Mary's Hospital for problems related to alcohol use in 1994. He also stated that he was diagnosed with Bipolar Disorder in 1998 and began receiving treatment at River Park Hospital and [illegible word] Center.

f. The applicant provided numerous civilian/non-VA BH records as part of his application. Review of records shows that he received BH treatment through Providence Hospital/Anchor Mental Health from November 2010 through approximately November 2013. He was Diagnosed with Bipolar Disorder, Bipolar II Disorder, and Alcohol Dependence and was consistently prescribed Depakote (Mood Stabilizer) and Seroquel (antipsychotic). During a period of treatment in 2011, records also show he was prescribed Acamprosate (alcohol use) and in 2014 was prescribed Risperdal (antipsychotic). The applicant also sought BH treatment and community resources through Catholic Charities from March 2014 through January 2016. Consistent with his previous treatment records, records show a history of diagnoses for Bipolar II Disorder, Bipolar Disorder, and Alcohol Dependence. He was consistently prescribed Depakote

and Seroquel though records also show he was trialed on Trazodone (antidepressant/sleep) and Campral (also known as Acamprosate). A treatment summary from the McClendon Center dated 20 November 2023 shows the applicant had received BH services through their treatment facility since December 2016 for Bipolar Disorder and Alcohol Use Disorder, In Sustained Remission, and had been engaged in treatment as of the date of the letter. Review of records also show continued medication management of his symptoms with Depakote and Seroquel. He had also been prescribed Naltrexone (alcohol use), Folic Acid, Nicotine Transdermal Patch, and Thiamine during his course of treatment. A note dated 07 September 2022 from the McClendon Center shows that the applicant reported a history of suicide attempt in his 20's when he was leaving the military and going through a divorce [*Advisor's Note:* There were no in-service or post-discharge BH records from this time period available for review]. A letter from MedStar Georgetown University Hospital dated 29 January 2024 shows the applicant underwent individual psychotherapy with the author from 14 October 2022 to 1 December 2023 noting improvements in his sobriety and mental health.

g. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a BH condition or experience in-service that mitigated his misconduct. However, he contends that his misconduct was related to Other Mental Health Issues, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his misconduct was related to Other Mental Health Issues.

(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 applicant's military records were void of any BH diagnosis or treatment history and he is not service-connected through the VA for any conditions. Although the applicant's civilian BH records show has been diagnosed and treated for Bipolar Disorder and Alcohol Dependence, In Sustained Full Remission since being discharged from the military, the earliest available BH records provided for review are from 2010, approximately 19 years after the applicant's discharge. Furthermore, review of the available records did not specify the date(s) of onset of his condition(s) nor associate his condition(s) with military service. In absence of documentation supporting his assertion there is insufficient evidence to establish his misconduct was related to or

mitigated by Other Mental Health Issues and insufficient evidence to support an upgrade based on BH mitigation. As such, BH mitigation is not supported. However, he contends that his misconduct was related to Other Mental Health Issues, 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 not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the lengthy pattern of misconduct leading to the applicant's separation, some of a violent nature against others, as well as the following findings and recommendations outlined in the medical review:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes

(2) Did the condition exist or experience occur during military service? Yes

(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.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	: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.

//SIGNED//

X

CHAIRPERSON

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

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel.
 - a. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, or absences without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally considered appropriate. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.
 - b. 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.

c. A general discharge is a separation from the Army under honorable conditions. When authorized, it is used for a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

d. A discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, homosexuality, security reasons, and for the good of the service.

3. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provide the specific authorities (statutory or other directives), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. In effect at the time, the regulation showed Soldiers separated under the provisions of AR 635-200, paragraph 14-12c, with a narrative reason of misconduct – commission of a serious offense, would receive SPD code "JKQ."

4. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-1 provides a list of RE codes.

- RE code "1" applies to Soldiers completing their term of active service, who are considered qualified for enlistment if all other criteria are met.
- RE code "2" is no longer in use but applied to Soldiers separated for the convenience of the government, when reenlistment is not contemplated, who are fully qualified for enlistment/reenlistment.
- RE code "3" applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, whose disqualification is waivable; they are ineligible unless a waiver is granted.
- RE code "4" applies to Soldiers separated from last period of service with a non-waivable disqualification

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 DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole, or in part, to: mental health conditions, including PTSD; TBI; sexual assault; sexual harassment. Boards were directed to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to 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 that misconduct which led to the discharge.

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records 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. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. 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.

7. Section 1556 of Title 10, United States Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

8. 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 begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent

evidence submitted with the application. 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 or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

//NOTHING FOLLOWS//