

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2025

DOCKET NUMBER: AR20240005180

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from active Duty) for the period ending 10 September 2004 by:

- Changing the narrative reason for separation to "bipolar disorder" vice personality disorder or
- Changing the narrative reason for separation to "permanent disability - retired"
- Consider changing his discharge to a medical discharge
- Changing his separation code to mirror the decision of the Board
- 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)
- Letter and rating decision from the Department of Veterans Affairs (VA)

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:

a. The narrative reason for his separation is listed as "personality disorder." While he was hospitalized, in the Army, he never received a diagnosis for personality disorder. In fact, he was told he had bipolar disorder by a psychiatrist. At the time, in 2004, his attending psychiatrist also told his parents he had bipolar disorder. He respectfully asks the Board to change his narrative reason for separation to bipolar disorder or permanent disability - retired, and that a medical discharge be considered, along with a separation code, which mirrors this change.

b. A clinical psychologist from the VA has documented that a review of his military separation exam notes that it: "supports...depression, anxiety, and mania were experienced, during service." Document symptoms of mania, especially coinciding with depression, exclude everything but bipolar disorder.

c. For the last 20 years, since leaving the Army in 2004, he has been treated for bipolar disorder and this diagnosis has been confirmed by multiple physicians and psychologists. He has taken medication specifically for bipolar disorder for the last 20 years. He has received social security disability benefits (2009-2012) for bipolar disorder.

d. There is no evidence he has ever had a personality disorder, as noted by VA. He left the Army with an honorable discharge and a stellar record, which does not support a personality disorder diagnosis. He asks that this correction be made based on a clear and documented injustice of fairness, which impacted health care benefits and overall care.

e. This application to the Board is being submitted after 20 years of treatment for bipolar disorder and after receiving VA benefits for bipolar disorder. Specifically, the injustice of the separation lacked fairness based on the medical evidence, but it also prevented possible outpatient treatment, while serving on active duty, which could have provided beneficial medical intervention, supportive clinical and financial benefits, and resources for care, after leaving the service. None of this occurred. It can be argued that this lack of continuum care is a direct reason he is now 100 percent permanently and totally disabled, because of bipolar disorder, as documented by the VA. It is his family's hope that this documented injustice is corrected.

3. The applicant provides a letter from the VA, 17 July 2023, and a VA rating decision, which shows his service connected bipolar I disorder with panic disorder is granted with an evaluation of 100 percent effective 8 May 2023.

4. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 17 September 2003.

b. Permanent Orders 29-2930, published by Headquarters, United States Army Infantry Center, 29 January 2004 awarded him the Parachutist Badge on 6 February 2004 or upon completion of Airborne Training.

c. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged from the Army on 10 September 2004. He had completed 11

months and 24 days of active duty service. He received the military occupational specialty of 11B (Infantryman). He was discharged for personality disorder and his separation code was JFX.

d. On 27 May 2009, the Army Discharge Review Board (ADRB) responded to the applicant's request to change his reentry code from "N/A" to include a reentry code that would allow him to reenter the military. The ADRB states after review of his application, military records, and all other available evidence, the ADRB determined he was properly and equitably discharged. Accordingly, his request for a change in the character and/or reason of his discharge is denied.

e. On 2 July 2009, the ADRB responded to the applicant's request to change his narrative reason for separation stating, after careful review of his application, military records, and all other available evidence, the ADRB determined he was properly and equitably discharged. Accordingly, his request for a change in the character and/or reason of his discharge is denied.

f. The applicant's service record is void of documentation showing the circumstances under which he was discharged and medical documentation showing he was diagnosed with bipolar disorder.

5. Based on the applicant's assertion he was diagnosed with bipolar disorder, the Army Review Boards Agency Medical Section provided a medical review for the Board's consideration.

6. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of a change to his narrative reason for separation from Personality Disorder to Bipolar Disorder, changing also to permanent disability and a medical discharge under current honorable discharge. He contends he experienced an undiagnosed mental health condition, Bipolar Disorder, that 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:

- The applicant enlisted into the Regular Army on 17 Sep 2003.
- According to his DD Form 214, the applicant was honorably discharged on 10 Sep 2004, and he was credited with 11 months and 24 days of net active service. He was discharged for personality disorder and his separation code was JFX.

c. Review of Available Records: The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents contained in the applicant's file. The

applicant asserts that he never received a diagnosis for personality disorder during his time in service or in the years following his discharge. He further maintained he has always been diagnosed with Bipolar Disorder, and therefore is in need of a change on his DD214 to reflect this. On 4 May 2009, an Army Discharge Review Board Hearing document indicated that applicant's record did not show any documentation of the facts and circumstances leading to his discharge aside from the DD Form 214.

A Veterans Affairs letter with a Rating Decision (14 July 2023) noted a service connection for Bipolar I Disorder with Panic Disorder (claimed as bipolar disorder and anxiety condition) was awarded at 100%. A Veterans Affairs letter, dated 17 Jul 2023, reiterated a VA benefits decision the same as the 14 Jul 2023 letter. There was insufficient evidence that the applicant was diagnosed with mental health conditions while on active service.

d. The VA's Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA was also reviewed and showed no history of mental health related treatment or diagnoses. However, DoD records showed there were several medications prescribed between Apr 2004 and Sep 2004 that are commonly used to treat symptoms of bipolar disorder, depression, insomnia, and anxiety. VA records showed scheduling attempts by mental health staff in Sep 2023, but there was no indication of any kept appointments.

e. An Initial Mental Disorders Disability Benefits Questionnaire (25 May 2023) showed the applicant endorsed the required number and severity of symptoms to warrant a diagnosis of Bipolar Disorder and Panic Disorder. During military service, applicant reportedly experienced mania, depression, and anxiety. The evaluation references a separation exam (24 Jul 2004) that identified depression, anxiety and a manic episode that called for an ER visit. It was noted he was taking medications at the time for depression and manic symptoms (these records are not available for review by this Advisor). His symptoms for Bipolar Disorder also include interpersonal problems and difficulty adapting to stress situations to include a work setting. Applicant reported that he had been hospitalized twice for mood struggles while on active duty and being informed by two psychiatrists he had a Bipolar Disorder, but there is no documentation of these hospitalizations.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a condition or experience, Bipolar Disorder, as opposed to a personality disorder during his time in service. A review of DoD available records indicated the applicant was prescribed several medications often used for treating Bipolar Disorder, but there is no available documentation supporting any mental health diagnoses. The lack of strong evidence in establishing a Bipolar Disorder during his time in service likewise negates any recommendation for a medical discharge and referral to IDES.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition, Bipolar Disorder, instead of a personality disorder during his time in service. He was prescribed a medication in May 2004 that is often used for Bipolar symptoms, but can treat for other conditions as well. DOD documents (i.e. DD 214) indicate he was diagnosed with a personality disorder during his time in service, but there are no mental health records or documentation available from his time in service to substantiate or unsubstantiate that diagnosis. VA records show a service-connected disability for Bipolar Disorder at 100%, and a Compensation and Pension exam (May 2023) concluded diagnoses of Bipolar Disorder and Panic Disorder.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition, Bipolar Disorder, while on active service.

(3) Does the condition or experience excuse or mitigate the discharge? Partial. A review of military records showed documentation of the applicant's mental health condition of a personality disorder, which generated his discharge. However, no mental health records from his time in service were available for review. In 2023 he was diagnosed with Bipolar Disorder by the VA and is service connected for this connection. There was some evidence that the applicant was prescribed medications between April and September 2004 that often are used in the treatment of Bipolar Disorder, but these medications can also be used for other BH conditions or symptoms as well. Still, there remains insufficient evidence, beyond self-report and VA findings nearly twenty years post-service, that the applicant experienced a mental health condition, Bipolar Disorder, instead of a personality disorder while on active service. In addition, there is a complete absence of separation documents to illuminate the facts and circumstances leading to his discharge. However, given the applicant's in-service diagnostic uncertainties, the 2021 revision to AR 635-200, and per Liberal Consideration, a change to the narrative reason for discharge to Chapter 5-14, "other designated physical or mental condition" should be considered.

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 review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the medical review, the Board concurred with the advising official finding insufficient evidence to support that the applicant had a condition or experience, Bipolar Disorder, as opposed to a personality disorder during his time in service. The Board concluded referral to the DES was unwarranted as well as a medical retirement or discharge.
2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XX	:XX	:XX	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
Signed by:

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.

ADMINISTRATIVE NOTE(S):

Review of the applicant's service record shows he was awarded the Parachutist Badge by Permanent Orders 29-2930, 29 January 2004. This award is not included on his DD Form 214. Correct his DD Form 214, for the period ending 10 September 2004, by adding award of the Parachutist Badge.

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 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. 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.

3. Army Regulation 635-5 (Personnel Separation Separation Documents) prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army. It states when completing the DD Form 214 in block 28 (Narrative Reason for Separation) This is based on regulatory or other authority and can be checked against the cross reference in Army Regulation 635-5-1.

4. Army Regulation 635-5-1 (Personnel Separations – Separation Program Designator (SPD) Codes), in effect at the time, prescribes the specific authorities, reasons for separating Soldiers from active duty, and the SPD codes to be entered on DD Form 214. It shows the SPD for discharge for personality disorder is JFX. It does not provide a narrative reason for separation for bipolar disease.

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; 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 sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NRs) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, 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.

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. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) states:

a. The mere presence of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier reasonably may be expected to perform because of their office, grade, rank, or rating.

b. An enlisted Soldier may not be referred for, or continue, physical disability processing when action has been started under any regulatory provision which authorizes a characterization of service of under other than honorable conditions.

c. Exceptions to paragraph b above are if the case comes within the limitations above, the commander exercising general court-martial jurisdiction over the Soldier may abate the administrative separation. This authority may not be delegated. A copy of the decision, signed by the General Court Martial Convening Authority (GCMCA), must be forwarded with the disability case file to the PEB. A case file may be referred in this way if the GCMCA finds the following:

(1) The disability is the cause, or a substantial contributing cause, of the misconduct that might result in a discharge under other than honorable conditions.

(2) Other circumstances warrant disability processing instead of alternate administrative separation.

d. Paragraph 4-30 (Grade on Retirement or Separation for Physical Disability) provides that the grade at which a Soldier is retired or receives disability severance pay will be the highest of the options listed below in accordance with the provisions of Title 10, USC, sections 1212 and 1372, respectively, and as implemented by AR 15–80 (Army Grade Determination Review Board and Grade Determinations) for determinations of highest grade satisfactorily held. Grade to which the Soldier would have been promoted had it not been for the physical disability for which the Soldier was determined unfit - In general, this provision pertains to Soldiers on a promotion list. For Active Army and Reserve Component enlisted disability cases, this option is implemented under the provisions of AR 600–8–19 (Enlisted Promotions and Reductions). Promotion orders are not issued.

8. Title 38, USC, section 1110 (General - Basic Entitlement): For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

9. Title 38, USC, section 1131 (Peacetime Disability Compensation - Basic Entitlement): For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

10. Title 10, U.S. Code, section 1556 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.

//NOTHING FOLLOWS//