

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 December 2024

DOCKET NUMBER: AR20240005705

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

- an upgrade of his uncharacterized discharge to honorable
- Item 5 (Date of Birth (DOB)) to show his DOB as "[REDACTED]" vice "[REDACTED]"
- a video/telephonic hearing before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- State of Texas Certificate of Birth

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, he is requesting correction of his characterization of separation and his DOB because they are incorrect. The applicant marked post-traumatic stress disorder (PTSD) on his DD Form 149 as a condition related to his request.
3. The applicant provides his State of Texas Certificate of Birth showing his DOB as [REDACTED] XXXX.
4. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 20 November 1985. Block 6 (DOB) of his DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States), shows his date of birth as [REDACTED] XXXX.

b. His DA Form 2-1 (Personnel Qualification Record) shows he was in training at Fort Dix, NJ. The applicant was assigned to Company B, 4th Battalion, 5th Training Brigade on 26 November 1985.

c. A letter from the applicant's immediate commander to the separation authority, dated 13 January 1986, shows the applicant was recommended for discharge for being an illegal drug user. His commander recommendation was based on a positive urinalysis test conducted on 7 January 1986 and his 12 January 1986 admissions to being a drug user prior to entering the military and smoking marijuana during Christmas break.

d. A DA Form 2496 (Disposition Form), dated 13 January 1986, shows the applicant elected not to undergo a medical examination for separation from active duty.

e. On the same date, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 11, Army Regulation (AR) 635-200 (Personnel Separations-Enlisted Personnel), for entry level performance and conduct. The reason for his proposed action was the applicant's abusive use of illegal drugs (marijuana).

f. On 15 January 1986, the applicant acknowledged receipt of the proposed separation notification and after declining consultation with legal counsel, he acknowledged:

- the basis for his contemplated separation
- the rights available to him and the effect of waiving said rights
- he elected not to submit a statement in his own behalf
- he elected not to undergo a separation physical

g. On 15 January 1986, the applicant's immediate commander-initiated separation action against the applicant for entry level status performance and conduct. He further noted the applicant had not successfully completed basic training.

h. On 16 January 1986, the separation authority waived the recycle requirements and approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 11, for entry level performance and conduct.

i. On 21 January 1986, he was discharged from active duty with an uncharacterized characterization of service. His DD Form 214 shows he completed 2 months and 2 days of active service with no lost time. He was assigned separation code JGA and the narrative reason for separation listed as "Entry Level Performance and Conduct," with reentry code 3. It also lists in Block 5 his DOB as "██████."

5. On 18 October 2024, the Case Management Division, Army Review Boards Agency (ARBA), sent an e-mail to the applicant requesting additional documentation related to the applicant's contention of PTSD. No additional documentation has been received from the applicant.

6. The documents in the applicant's service record consistently show his DOB as "[REDACTED]." Regulatory guidance states, for historical purposes, the Army has an interest in maintaining the integrity of its records. The data and information contained in those records should reflect the conditions and circumstances that existed at the time the records were created. In the absence of a material error or injustice, this Board is reluctant to recommend these records be changed.

7. On 18 October 2024, the applicant was notified by the Army Review Boards Agency that he was required to provide a copy of medical documentation to support his claim of PTSD. The applicant was provided 30 days to submit supporting documentation with a suspense of 18 November 2024. The applicant has not provided a response to date.

8. There is no evidence the applicant has applied to the Army Discharge Review Board for review of her discharge within that board's 15-year statute of limitations.

9. By regulation (AR 635-200), a separation is described as an entry-level separation if processing is initiated while a member is in an entry-level status. This separation policy applies to Soldiers who enlisted in the Regular Army, Army National Guard, or U.S. Army Reserve who are in entry level status and, before the date of initiation of separation action, have completed no more than 180 days of creditable continuous active duty or IADT (Initial Active Duty for Training) by the date of separation and have demonstrated they are not qualified for retention.

10. By regulation (AR 635-5), the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

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

12. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his uncharacterized discharge to honorable and a correction of his date of birth. He selected PTSD as related to his request.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following:

- Applicant enlisted into the Regular Army on 20 November 1985.
- A letter from the applicant's immediate commander to the separation authority, dated 13 January 1986, shows the applicant was recommended for discharge for being an illegal drug user. His commander's recommendation was based on a positive urinalysis test conducted on 7 January 1986 and his 12 January 1986 admission to being a drug user prior to entering the military and smoking marijuana during Christmas break.
- On the same date, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 11, Army Regulation (AR) 635-200 (Personnel Separations-Enlisted Personnel), for entry level performance and conduct. The reason for his proposed action was the applicant's abusive use of illegal drugs (marijuana).
- On 21 January 1986, the applicant was discharged from active duty with an uncharacterized characterization of service. His DD Form 214 shows he completed 2 months and 2 days of active service with no lost time. He was assigned separation code JGA and the narrative reason for separation listed as "Entry Level Performance and Conduct," with reentry code 3.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states, he is requesting correction of his characterization of separation and his DOB because they are incorrect.

d. Due to the period of service, no active-duty electronic medical records were available for review. No hardcopy mental health documentation was submitted for review related to the applicant's time in service.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected and has not been treated by the VA for any behavioral health condition. There is evidence the applicant had contact with a Reentry Specialist on 13 June 2011 while incarcerated, he was requesting assistance with housing upon his release from prison. Upon discharge from prison, he was scheduled for an intake

appointment on 14 September 2016 but was found ineligible for services; the applicant had inaccurately reported 10 years of military service. Overall, the applicant did not submit any medical documentation post-military service substantiating his assertion of PTSD.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a behavioral health condition during military service that mitigates his discharge.

g. Kurta Questions:

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

(2) Did the condition exist or experience occur during military service? No. There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service or after his discharge.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. Although the applicant selected PTSD as related to his request, he did not provide a rationale or explanation for his assertion of PTSD. There is insufficient evidence of any mitigating BH condition. There is no evidence of any in-service BH diagnoses, the VA has not service-connected the applicant for any BH condition, and there is no VA electronic record indicating he has been treated for any mental health condition. And while the applicant self-asserted PTSD, he did not provide any medical documentation substantiating any BH diagnosis.

h. Per Liberal Consideration guidelines, his selection of PTSD on his application 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. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. Upon review of the applicant's request,

available military records and medical review, the Board concurred with the advising opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a behavioral health condition during military service that mitigates his discharge. The Board determined the applicant completed 2 months and 2 days of active service with no lost time, did not complete training and was released from active duty for entry level performance and conduct. As such, his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. Kurta Questions:

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

(2) Did the condition exist or experience occur during military service? No. There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service or after his discharge.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. Although the applicant selected PTSD as related to his request, he did not provide a rationale or explanation for his assertion of PTSD. There is insufficient evidence of any mitigating BH condition. There is no evidence of any in-service BH diagnoses, the VA has not service-connected the applicant for any BH condition, and there is no VA electronic record indicating he has been treated for any mental health condition. And while the applicant self-asserted PTSD, he did not provide any medical documentation substantiating any BH diagnosis.

3. The Board determined the evidence presented does not demonstrate the existence of a probable error or injustice. The applicant used the contested date of birth (DOB) during his entire period of service. The Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed. The applicant is advised that a copy of this decisional document, along with his application and the supporting evidence he provided, will be filed in his official military records. This should serve to clarify any questions or confusion regarding the difference in the DOB recorded in his military records and to satisfy his desire to have his legal date of birth documented in his military records.

4. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Through no fault of his own, he simply had a medical condition which was, unfortunately, not within enlistment standards. 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. Therefore, the Board denied relief.

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 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.

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 635-200 (Personnel Separations-Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

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

c. Chapter 11 sets policy and provides guidance for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. It states when separation of a member in entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, the member normally will be separated per this chapter. This separation policy applies to Soldiers who enlisted in the Regular Army, Army National Guard, or U.S. Army Reserve who are in entry level status and, before the date of initiation of separation action, have completed no more than 180 days of creditable continuous active duty or IADT (Initial Active Duty for Training) by the date of separation and have demonstrated they are not qualified for retention for one or more of the following reasons:

- cannot or will not adapt socially or emotionally to military life
- cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation or self-discipline
- have demonstrated character and behavior characteristics not compatible with satisfactory continued service
- failed to respond to counseling

3. Army Regulation 635-5 (Separation Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a

brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

4. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised post-traumatic stress disorder (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.

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 post-traumatic stress disorder (PTSD); Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are 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 misconduct that led to the discharge.

6. 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.

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.

6. 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.

//NOTHING FOLLOWS//