

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2025

DOCKET NUMBER: AR20240005833

APPLICANT REQUESTS: reconsideration of his prior request for an upgrade of his under other than honorable conditions discharge.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Armed Forces of the United States Report of Transfer of Discharge)
- Two Letters of Character
- Medical Records

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR2000040690 on 25 January 2001.

2. The applicant states he served boots on the ground in Vietnam and when he came home, he had Post Traumatic Stress Disorder (PTSD) with Alcoholism. He has been in and out of treatment facilities since he came home from the war.

3. The applicant provides:

a. His DD Form 214 dated 9 October 1970.

b. The applicant's daughter's states that their father, a Vietnam War veteran, has struggled with severe PTSD and alcoholism throughout his life as a result of his wartime experiences. Despite multiple attempts to seek help, his condition has not improved, and he has relied on alcohol as a coping mechanism. His PTSD manifests through recurring nightmares, flashbacks, and frequent distressing episodes, during which he calls his daughters for support.

- They describe his ongoing mental and physical health challenges, including skin cancer due to Agent Orange exposure, as well as repeated suicide attempts that

have led to multiple hospitalizations and psychiatric treatments, including shock therapy. However, none of these interventions have provided lasting relief. His family has witnessed his struggles firsthand and fears that one day he may succeed in taking his life.

- They assert that civilian facilities have been unable to address his condition effectively and requests the reinstatement of his military benefits so that he can receive the specialized care he needs. They emphasize that while he did not make the ultimate sacrifice, his service came at the cost of his mental well-being and the stability of their family.

c. Medical Records from Brooks Hospital dated 1 March 2024.

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

a. He enlisted in the Regular Army on 30 November 1967.

b. Unit Orders Number 1 dated 10 January 1968 show he accepted nonjudicial punishment for misconduct. His punishment was forfeiture of \$30.00 pay per month for one month.

c. On 11 September 1970, he was convicted by a special court-martial (SPCM) order number 110 for:

- one specification of being absent without leave (AWOL) on or about 15 June 1970 to 24 June 1970
- one specification of willfully disobeying a superior non-commission officer
- three specifications of committing an assault on three different occasions upon three Soldiers by striking one on the head and face with his fists, another in his chest with his fists, and by striking the third person on his shoulder with his fists.

He was sentenced to confinement at hard labor for 5 months, a forfeiture of \$80.00 per month for 6 months, and a reduction to the rank of private (E-1). The sentence was adjudged on 12 August 1970.

d. SPCM Order Number 118 dated 6 October 1970 shows the applicant was sentenced to confinement at hard labor for five months and forfeiture of \$80.00 per month for 6 months was remitted on 11 September 1970.

e. Special Orders Number 281, dated 8 October 1970, discharged the applicant from active duty with an effective date of 9 October 1970.

f. On 9 October 1970, he was discharged from active duty with a Under Other Than Honorable Conditions characterization of service. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 2 years, 5 months, and 28 days of active service with 133 days of lost time. He was assigned separation code 28B. It also shows he was awarded or authorized:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal
- Expert Marksmanship Qualification Badge with Rifle Bar

5. On 26 January 2001, the ABCMR rendered a decision in Docket Number AR20000040690. The Board found 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.

6. By regulation (AR 635-200), an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

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. Background: The applicant is requesting reconsideration of his prior request for an upgrade of his under other than honorable conditions discharge. He contends 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:

- The applicant enlisted in the Regular Army on 30 November 1967.
- On 11 September 1970, he was convicted by a special court-martial (SPCM) order number 110 for:
 - one specification of being absent without leave (AWOL) on or about 15 June 1970 to 24 June 1970
 - one specification of willfully disobeying a superior non-commission officer

- three specifications of committing an assault on three different occasions upon three Soldiers by striking one on the head and face with his fists, another in his chest with his fists, and by striking the third person on his shoulder with his fists
- SPCM order number 118, dated 6 October 1970 shows, the applicant was sentence to confinement at hard labor for five months and forfeiture of \$80.00 per month for 6 months was remitted on 11 September 1970.
- On 9 October 1970, he was discharged from active duty with a Under Other Than Honorable Conditions characterization of service. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 2 years, 5 months, and 28 days of active service with 133 days of lost time. He was awarded or authorized:
 - National Defense Service Ribbon
 - Vietnam Service Medal
 - Vietnam Campaign Medal
 - Expert Marksmanship Qualification Badge with Rifle Bar

c. Review of Available Records: The Army Review Boards Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states he served boots on ground in Vietnam and when he came home, he had Post Traumatic Stress Disorder (PTSD) with Alcoholism. He has been in and out of treatment facilities since he came home from the war. In addition, the applicant's daughters provided statements that their father, a Vietnam War veteran, has struggled with severe PTSD and alcoholism throughout his life as a result of his wartime experiences. Despite multiple attempts to seek help, his condition has not improved, and he has relied on alcohol as a coping mechanism. His PTSD manifests through recurring nightmares, flashbacks, and frequent distressing episodes, during which he calls his daughters for support.

d. Due to the period of service no active-duty electronic medical records were available for review and no hardcopy medical documentation was submitted by the applicant of his time in service.

e. The VA's Joint Legacy Viewer (JLV) was reviewed, and no records were found for this applicant. However, he provided medical documentation of his most recent psychiatric hospitalization, indicating he was admitted on 25 February 2024 and discharged on 1 March 2024. The discharge summary states the applicant had been repeatedly admitted into this facility since he was in his twenties. This hospitalization was due to suicidal ideation with intent, plan, and rehearsal behavior. The applicant presented with depressed mood, racing thoughts, persistent paranoia, and auditory hallucinations. Upon discharge, he was diagnosed with Major Depression, recurrent, severe with psychotic features; Alcohol Use Disorder, in partial remission; and mild memory deficits secondary to alcoholism.

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 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 asserts the mitigating condition of PTSD.

(2) Did the condition exist or experience occur during military service? Yes. The applicant's service record indicates he deployed to a combat zone, the Republic of Vietnam.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was court-martialed due to being absent without leave (AWOL), willfully disobeying a superior non-commission officer, and assault on three different occasions upon three different Soldiers. Although, there are no service records showing the applicant was diagnosed with a behavioral health condition while in service, medical documentation indicates he has been repeatedly psychiatrically hospitalized since his twenties. The applicant was discharge from military service at age 21, indicating he experienced significant psychiatric episodes soon after his military discharge signaling the possibility that he was experiencing symptoms of his BH condition while in service. The medical documentation further indicates the applicant has been diagnosed with Major Depression, severe with psychotic features. Psychosis is a loss of contact with reality, that impacts one's thoughts and perceptions making it difficult to determine the difference between what is real from what is not. When experiencing psychosis, people may hear or believe things that are not real, and this can impair their ability to differentiate between right and wrong. Given the nexus between psychosis and dysregulated behaviors, it is likely that the applicant's psychosis contributed to the behaviors that led to his discharge.

BOARD DISCUSSION:

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 request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was charged with an offense punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted

with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board found no error or injustice in the separation proceedings and designated characterization of service. The Board reviewed the medical advisor's review finding sufficient evidence the applicant had a behavioral health condition during military service that mitigated his misconduct; however, determined the nature of the applicant's offenses, including assault on three Soldiers, did not warrant an upgrade of his under other than honorable conditions discharge.

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 amendment of the ABCMR decision rendered in Docket Number AR2000040690 on 25 January 2001.

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):

A review of the applicant's service records show he is authorized additional campaign credit not annotated on his DD Form 214. As a result, amend his DD Form 214 to show:

- one silver service star with his previously awarded Vietnam Service Medal
- Meritorious Unit Commendation
- Republic of Vietnam Civil Actions Honor Medal

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

a. Paragraph 3-7a (Honorable discharge) states an honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of the acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Paragraph 3-7b (General discharge) states 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. Paragraph 3-7c (Under Other Than Honorable Conditions) states a discharge under other than honorable conditions are an administrative separation from the service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, homosexuality, security reasons, or for the good of the service.

d. Paragraph 3-11 (DD Form 258A (Other Than Honorable Conditions Certificate) an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

3. Title 10, U.S. Code, section 1552, provides that the Secretary of a Military Department may correct any military record of the Secretary's Department when the Secretary considers it necessary to correct an error or remove an injustice. With

respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under the UCMJ, action to correct any military record of the Secretary's Department may extend only to correction of a record to reflect actions taken by reviewing authorities under the UCMJ or action on the sentence of a court-martial for purposes of clemency. Such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that Military Department.

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 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, 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 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.

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. Department of the Army Pamphlet 672-3 (Unit Citations and campaign Participation Credit Register) assist commanders and personnel officers in determining or establishing the eligibility of individual members for campaign participation credit, assault landing credit, and unit citation badges awarded during the Vietnam Conflict.

8. Department of the Army General Orders (DAGO) Number 17, dated 1969, awarded the Meritorious Unit Commendation to 595th Engineer Company, for service in Vietnam for the period of 1 May 1967 to 31 Jul 1968.

9. Department of the Army General Orders (DAGO) Number 43, dated 1970, awarded the Republic of Vietnam Actions Honor Medal to 595th Engineer Company, for service in Vietnam for the period of 3 August 1967 to 9 February 1970.

//NOTHING FOLLOWS//