

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 February 2025

DOCKET NUMBER: AR20240006254

APPLICANT REQUESTS: upgrade of his under honorable conditions (General) discharge.

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

- DD Form 293 (Application for the Review of Discharge)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 that correction is warranted due to the pressures of being a black male stationed in the south while serving in the Army.
3. On his DD Form 293, the applicant notes other mental health issues are related to his request.
4. Having previous honorable service in the Army National Guard, the applicant enlisted in the Regular Army, on 26 September 1979. He reenlisted on 12 July 1983, for 6 years. The highest grade he attained was E-5.
5. On 4 March 1986, the applicant received nonjudicial punishment (NJP) under Article 15 of the Uniform Code of Military Justice (UCMJ), for operating a vehicle while drunk, on or about 28 December 1985; and operating a vehicle in a reckless manner and injuring passengers in another vehicle, on or about 28 December 1985. His punishment included reduction to E-4, and 30 days extra duty and restriction.
6. By letter dated 4 June 1986, from a counselor and a Clinical Director to the applicant's commander provided a synopsis of the applicant's rehabilitation activities. The letter noted:

- a. The applicant was enrolled in the Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) on 5 March 1986 as a result of alcohol abuse.
  - b. The applicant was enrolled in Track II rehabilitation and participated in three individual counseling sessions. He was considered a no-show for one individual counseling session.
  - c. The applicant's progress during his first 90 days of treatment appeared poor as he continued to abuse alcohol, and he had been resistant to treatment. His potential for successful rehabilitation was poor, as evidenced by his behavior and attitude.
7. On 16 June 1986, the applicant underwent a medical examination. He was deemed medically qualified for administrative separation.
  8. On 27 June 1986, the applicant received NJP under Article 15 of the UCMJ, for absenting himself from his place of duty, on or about 25 June 1986. His punishment included 14 days extra duty and restriction.
  9. The applicant's commander notified the applicant on 4 August 1986, that he was being recommended for discharge under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 9, for alcohol rehabilitation failure. Specifically, the commander noted the applicant's chronic and diagnosed alcohol abuse and his inability or unwillingness to effectively participate in a rehabilitation program designed to improve his performance and correct his alcohol abuse.
  10. The applicant consulted with counsel and was advised of the basis for the contemplated actions to separate him, the rights available to him, and the effect of any action taken by him in waiving his rights. He indicated he understood he could expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions was issued to him. He declined to submit a statement in his own behalf.
  11. The applicant's commander formally recommended the applicant's separation from service under the provisions of Army Regulation 635-200, Chapter 9, on 12 August 1986.
  12. Consistent with the chain of command's recommendations, the separation authority directed the applicant's separation from the Army on 13 August 1986, and issuance of a DD Form 257A (General Discharge Certificate).
  13. The applicant was discharged on 8 September 1986. His DD Form 214 confirms he was discharged under the provisions of Army Regulation 635-200, Chapter 9, for alcohol abuse – rehabilitation failure. His service was characterized as under honorable

conditions (general). He was assigned Separation Code JPD and Reenlistment Codes 3, 3C. He completed 6 years, 11 months, and 13 days of active service this period.

14. The applicant's DD Form 214 does not show his continuous honorable active service period information that is required for members who honorably served their first term of enlistment [see Administrative Notes].

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

16. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under honorable conditions (general) to honorable. He contends he experienced an undiagnosed mental health condition that mitigates his misconduct.

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 26 September 1979 and reenlisted on 12 July 1983. He also had prior service through the Army National Guard.
- On 4 March 1986, the applicant received NJP for operating a vehicle while drunk, on 28 December 1985 and operating a vehicle in a reckless manner, injuring passengers in another vehicle, on 28 December 1985. The applicant was enrolled in the Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) on 5 March 1986 as a result of alcohol abuse.
- On 27 June 1986, the applicant received NJP for absenting himself from his place of duty on 25 June 1986.
- The applicant's commander notified him on 4 August 1986 that he was being recommended for discharge under the provisions of Army Regulation 635-200, Chapter 9, for alcohol rehabilitation failure. Specifically, the commander noted the applicant's chronic and diagnosed alcohol abuse and his inability or unwillingness to effectively participate in a rehabilitation program designed to improve his performance and correct his alcohol abuse.
- The applicant was discharged on 8 September 1986 and completed 6 years, 11 months, and 13 days of net active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts experiencing pressures of being a black male stationed in the south

while serving in the Army, and he indicated “other mental health” as a mitigating factor. A letter of synopsis of ADAPCP rehabilitation dated 4 June 1986 stated the applicant was command referred for treatment on 5 March 1986 and participated in three counseling sessions with one “no show.” Documentation indicated the applicant continued to abuse alcohol and was resistant to treatment. The evaluator opined that the applicant’s progress and potential for rehabilitation was considered “poor.” A Report of Mental Status Evaluation dated 16 June 1986 showed the applicant met retention standards and had the mental capacity to understand and participate in any proceedings. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed the applicant completed an intake for substance abuse treatment for alcohol abuse on 17 April 2024 and has engaged in individual therapy with his most recent visit on 31 January 2025. Documentation showed his drinking began during his time in the military and has worsened recently due to being unemployed. His diagnosis is Alcohol Use Disorder, Severe (Alcohol Dependence).

e. 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 that mitigates his misconduct.

f. 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 at the time of the misconduct. Records from his time in service showed that he was referred for alcohol abuse treatment but was considered a rehabilitation failure, resulting in his discharge. VA documentation showed he initiated substance abuse treatment in 2024 and is currently in individual counseling for alcohol dependence.

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

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed the applicant had an alcohol related incident resulting in injury to a passenger in another vehicle and was command referred to ADAPCP. After three counseling sessions, he was determined to be a rehabilitation failure, resulting in his discharge. While alcohol use can be a natural sequela to traumatic or stressful events, there is insufficient evidence, beyond self-report, of any service-related trauma exposure. Additionally, the applicant was afforded mental health services to treat alcohol abuse during his time in service.

g. However, the applicant contends he was experiencing a mental health condition or an experience that mitigates his misconduct, and per Liberal Consideration his contention is sufficient for the board's consideration.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was 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 applicant was enrolled in the Army Substance Abuse Program. His commander declared him an alcohol rehabilitation failure and he was discharged from active duty due to alcohol rehabilitation failure with an under honorable conditions (General) discharge. The Board found no error or injustice in his separation processing. Based upon the misconduct leading to the applicant's separation and the following recommendation found in the medical review related to the liberal consideration, the Board determined relief was not warranted:

(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 at the time of the misconduct. Records from his time in service showed that he was referred for alcohol abuse treatment but was considered a rehabilitation failure, resulting in his discharge. VA documentation showed he initiated substance abuse treatment in 2024 and is currently in individual counseling for alcohol dependence.

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2. The Board determined the applicant's record should be corrected to show CONTINUOUS HONORABLE SERVICE FROM 790926 UNTIL 830711 and SOLDIER HAS COMPLETED FIRST FULL TERM OF SERVICE.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            GRANT FULL RELIEF

█           █           █           GRANT PARTIAL RELIEF

:            :            :            GRANT FORMAL HEARING

:            :            :            DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 8 September 1986, to show CONTINUOUS HONORABLE SERVICE FROM 790926 UNTIL 830711 and SOLDIER HAS COMPLETED FIRST FULL TERM OF SERVICE.

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to upgrading his characterization of service.

6/25/2025

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CHAIRPERSON  
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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. Title 10, U.S. Code, Section 1556, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.
3. Army Regulation 600-85 (Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) prescribes policies and procedures needed to implement, operate, and evaluate the ADAPCP. The version in effect at the time provided in Chapter 6:
  - a. The objective of the limited use policy is to facilitate the identification of alcohol and drug abusers through self-referral, and the treatment and rehabilitation of those abusers who desire to be rehabilitated and who demonstrate the potential for retention. It is not intended to protect a member who is attempting to avoid disciplinary or adverse administrative action.
  - b. The limited use policy prohibits the use of the following evidence against a soldier in the issuance of the characterization of service in the separation process: Mandatory urine or alcohol breath test results, ADAPCP monitoring tests, a soldier's self-referral to ADAPCP and or voluntary admissions made as part of the enrollment process.
  - c. A service member protected by the limited use policy may be recommended for administrative discharge on the basis of evidence other than information obtained directly or indirectly from the member's involvement in the ADAPCP. Such a member may receive a discharge characterized as honorable, general, or under other than honorable conditions.
4. Army Regulation 635-8 (Separation Processing and Documents) provides: for Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except "Honorable, enter Continuous

Honorable Active Service From" (first day of service for which DD Form 214 was not issued) until (date before commencement of current enlistment). Then, enter the specific periods of reenlistment as prescribed above.

5. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

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. Chapter 9 contained the authority and outlined the procedures for discharging Soldiers because of alcohol or other drug abuse. A member who had been referred to the Alcohol and Drug Abuse Prevention and Control Program for alcohol/drug abuse could be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there was a lack of potential for continued Army service and rehabilitation efforts were no longer practical. Nothing in this chapter prevented separation of a Soldier who had been referred to such a program under any other provisions of this regulation. Initiation of separation proceedings was required for Soldiers designated as alcohol/drug rehabilitation failures. The service of Soldiers discharged under this chapter would be characterized as honorable or under honorable conditions unless the Soldier was in an entry-level status.

6. The Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Navy Records (BCM/NR), on 3 September 2014, 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.

7. The Under Secretary of Defense for Personnel and Readiness provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017. The memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, traumatic brain injury, 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 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.

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

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, 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.

//NOTHING FOLLOWS//