

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 February 2025

DOCKET NUMBER: AR20240007011

APPLICANT REQUESTS:

- an upgrade of his general, under honorable conditions discharge to honorable.
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Letter
- Three-character letters

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 he is requesting his character of service to be upgraded from under honorable conditions to honorable. He did not fully understand his actions at the time, but over the years, he has come to recognize that his destructive behavior led to his separation. Because of this realization, he has worked diligently on self-improvement, upgrading his behavior, and making positive changes in his life.

a. As reflected in the character letters attached, he is not the same young man he once was. He hopes these letters will support his request for an upgrade to his military records. He would like this correction to be made in consideration of his eligibility for Veterans Affairs benefits.

b. He acknowledges that his past misconduct prevented him from reaching his full potential. However, he believes that time has allowed him to heal and grow. Through his fellowship with Narcotics Anonymous, he has evolved significantly and feels he has earned a reevaluation of his discharge status from under honorable conditions (general) to honorable.

c. He is submitting this request as evidence that he is now deserving of an honorable characterization of service. This upgrade would allow him to improve his quality of life, as he is no longer the person, he was 25 years ago.

d. The applicant checked "PTSD" on his DD Form 149 as a contributing factor; however, he did not provide any supporting medical documents.

3. The applicant provides three character which states, the applicant is highly recommended by multiple individuals who have known him for years and have observed his personal growth and positive transformation. Over the course of his life, the applicant has demonstrated qualities such as responsibility, integrity, humility, and a strong commitment to improving himself. Having overcome personal obstacles, including past behavior during his military tenure, he has worked diligently to turn his life around through involvement in a 12-step program, volunteer work, and religious engagement. His character is praised for his maturity, positive attitude, and deep faith, as well as his ability to form strong relationships with others. These character letters express unwavering confidence in his ability to make a positive impact and to contribute to society, underscoring his potential for a future of continued growth and success.

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

a. He enlisted in the Regular Army on 6 January 1983.

b. On 14 February 1984, he accepted nonjudicial punishment for on or about 3 February 1984, the applicant failed to go the time prescribed and place of duty. His punishment included reduction to private second class (PV2)/E-2 (suspended for 90 days) and forfeiture of \$156.00 pay per month for one month.

c. On 12 September 1984, he accepted nonjudicial punishment for specification 1, on or about 11 May 1984 wrongful distribute marijuana. Specification 2, on or about 30 March 1984 for wrongful use of marijuana His punishment included reduction to private (PVT)/E-1 and forfeiture of \$334.00 pay per month for two months.

d. The service record includes the applicant's medical examination and mental evaluation for the purpose of administrative separation which indicated he was generally in good health. The applicant was marked qualified for chapter on 13 September 1984.

- Standard Form (SF) 88 (Report of Medical Examination)
- SF 93 (Report of Medical History)
- DA Form 3822-R (Report of Mental Status Evaluation)

e. Orders 184-4, dated 14 September 1984, discharged the applicant from active duty with an effective date of 17 September 1984.

f. The available service record is void of the facts and circumstances surrounding the applicant's discharge.

g. On 17 September 1984, he was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 1 year, 8 months, and 12 days of active service with no lost time. He was assigned separation code JKM and the narrative reason for separation listed as "Misconduct Pattern of Misconduct." It also shows he was awarded or authorized:

- Army Service Ribbon
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)

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

6. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

7. 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.

8. By regulation (AR 635-200), action will be taken to separate a Soldier for misconduct, such as patterns of misconduct, when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

9. 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.

10. 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 PTSD 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 6 January 1983.
- On 14 February 1984, he accepted NJP for on 3 February 1984 for failing to go to his prescribed and place of duty.
- On 12 September 1984, he accepted NJP for two specifications of wrongful use of marijuana.
- Orders 184-4, dated 14 September 1984, discharged the applicant from active duty with an effective date of 17 September 1984, but the available service record is void of the facts and circumstances surrounding the applicant's discharge.
- The applicant was discharged on 17 September 1984 and completed 1 year, 8 months, and 12 days of 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 he did not fully understand his actions at the time of his misconduct, and he indicated PTSD as a mitigating factor. A Report of Medical Examination dated 13 September 1984 showed no indication of any psychiatric symptoms, and a Report of Medical History on the same date showed the applicant did not endorse any mental health related symptoms or problems. A Report of Mental Status Evaluation on 13 September 1984 indicated behavior, mood, thinking process, thought content, and memory all were within normal limits, and it was noted that the applicant had the mental capacity to understand and participate in the 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 initiated mental health services through the VA on 7 January 2025, and he reported a history of trauma exposure (childhood and military), substance abuse, and diagnosis of Bipolar Disorder. He endorsed symptoms of depression and anxiety, and he was diagnosed with Depression, Unspecified. He has an appointment with psychiatry scheduled for 14 April 2025. Specifics related to his assertion of military trauma were not provided.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to fully opine on the change of his characterization of discharge because of the absence of the specific facts and circumstances surrounding his discharge processing.

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 PTSD at the time of the misconduct. The available documentation from his time in service does not show any indication of mental health symptoms, but VA documentation from January 2025 showed a diagnosis of Depression Unspecified.

(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. There is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service. Without knowledge of the basis for separation, no opinion regarding mitigation under liberal consideration can be made. However, the applicant's assertion of an undiagnosed mental health condition as a mitigating factor, per Liberal Consideration, warrants consideration by the board.

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 relatively short term of honorable service completed prior to the misconduct leading to the applicant's separation, as well as the following findings 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

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 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.

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. Army Regulation 635-200 (Personnel Separation – 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 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. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

5. 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.

6. 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.

7. 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.

//NOTHING FOLLOWS//