

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 September 2025

DOCKET NUMBER: AR20240007023

APPLICANT REQUESTS:

- Reconsideration of his previous request for an upgrade of his bad-conduct discharge
- Correction of the DD Form 214 (Certificate of Release or Discharge from Active Duty) to show the Purple Heart
- A 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 for period ending 22 July 2014
- DA Form 4187 (Personnel Action), 12 October 2003, showing award of the Purple Heart by Brigadier General M.D. because of improvised explosive device attack injuries
- Memorandum for Record, subject: Proof of Service, 24 July 2004
- Field Grade Record of Proceedings under Article 15, Uniform Code of Military Justice, 14 April 2005
- Two Enlisted Record Briefs (ERBs), 25 October 2005 and 19 January 2006
- Court-Martial documents
- Department of Veterans Affairs (VA) letter, 12 January 2012, showing the applicant's service information, but the VA did not have a copy of the applicant's DD Form 214
- Army Installation Command, Fort Sill, OK, Orders 203-1324, 22 July 2014, for discharge
- U.S. Army Human Resources Command letter to Honorable P. M., 14 August 2014
- Command Sergeant Major (Retired) D.P. statement, 28 June 2024, supporting the applicant's statement of an IED attack, good service, and medical issues

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 AR20160016602 on 15 July 2019.

2. The applicant states, in effect, he continued to suffer severe post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI) symptoms after being wounded in combat on 22 October 2003 from an improvised explosive device (IED) attack. The applicant made a poor decision and chose to self-medicate after numerous medical treatments and counseling failed to provide the relief and the appropriate diagnosis. He is requesting that his Purple Heart be included on his DD Form 214. On 22 October 2003, he was attacked by an improvised explosive device (IED) in Baghdad, Iraq, during Operation Iraqi Freedom. Despite a major TBI, post-attack concussion symptoms, and PTSD, the applicant refused to be evacuated from the theater and stayed with his Soldiers and platoon. He hid his nightmares, headaches, dizziness, and other symptoms from leadership because he did not want to let his teammates and the country down. After redeployment and numerous medical treatment attempts, the applicant chose self-medication to treat his symptoms and lessen the pain he was feeling. This resulted in another than honorable discharge and a lack of veteran assistance benefits for himself.

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

a. The applicant enlisted in the Regular Army on 8 July 2002 for four years.

b. He served overseas in Germany from 14 January 2003 to 8 February 2005 and deployed to Iraq while he was in Germany.

c. He received nonjudicial punishment on 15 April 2005 for wrongfully using marijuana between 15 February and 15 March 2005 (continuation sheet is unavailable for review); he was reduced to private/E-2.

d. On 20 January 2006, at Fort Lewis, WA, the applicant was found guilty, consistent with his pleas, by general court-martial (GCM) of:

- Charge I (Failure to Obey an Order or Regulation), and its specification of violating a lawful general regulation by wrongfully having E.R. in his barracks room after visitation hours between 1 and 20 March 2005
- Charge II (Wrongful Use of a Controlled Substance) and its specifications 1 through 5, by wrongfully using marijuana between 24 May and 18 August 2005.

- The Additional Charge (Wrongful Use of a Controlled Substance) and its specification wrongfully using marijuana between 25 August and 15 September 2005
- He was sentenced to a reduction to pay grade private (E-1), forfeiture of all pay and allowances, and a bad conduct discharge (BCD).

e. On 10 May 2006, the convening authority approved the sentence, and except for that part of the sentence extending to a BCD, ordered the sentence executed.

f. The Record of Trial was forwarded to The Judge Advocate General of the Army for appellate review.

g. General Court-Martial Order Number 344, issued on 20 December 2007, shows the sentence was finally affirmed, with the exception of excessive forfeitures, and Article 71(c) having been complied with; the BCD would be executed.

h. Accordingly, the applicant was discharged with a BCD on 22 July 2014; his DD Form 214 shows he was discharged in the rank/grade of private/E-1 as a result of court-martial conviction in accordance with Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), chapter 3; and he completed 12 years and 21 days of active service. His DD Form 214 also shows:

- He was on excess leave for 3074 days (8 years, 5 months, 2 days) from 21 February 2006 to 22 July 2014
- He was awarded the National Defense Service Medal and Global War on Terrorism Service Medal

i. The applicant's ERBs show the applicant was awarded the:

- Purple Heart
- National Defense Service Medal
- Army Service Ribbon
- Global War on Terrorism Expeditionary Medal
- Global War on Terrorism Service Medal

4. The request for correction of the DD Form 214 to show the Purple Heart will not be considered. There is no evidence that the applicant first applied to the Army Human Resources Command (AHRC) for their action. Army Regulation 15-185 (ABCMR), the regulation under which this Board operates, stipulates that the Board will not consider an application until the applicant has exhausted all available administrative remedies to correct the alleged error or injustice.

5. In his previous request (AR20160016602) on 15 July 2019, after reviewing the application and all supporting documents, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. The application submitted was denied by the ABCMR.

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

7. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting reconsideration of an upgrade to his bad conduct discharge (BCD) characterization of service and a correction to his DD214 to show the Purple Heart. He contends he experienced an undiagnosed mental health condition, including PTSD, and a traumatic brain injury (TBI) 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 8 July 2002.
- The applicant served overseas in Germany from 14 January 2003 to 8 February 2005 and deployed to Iraq while he was in Germany. A memorandum for record dated 24 July 2004 showed the applicant deployed in support of OIF from 12 May 2003 to 20 July 2004.
- He received NJP on 15 April 2005 for wrongfully using marijuana between 15 February and 15 March 2005.
- On 20 January 2006, the applicant was found guilty by a general court-martial of failure to obey an order and two specifications of wrongfully using marijuana between 24 May and 18 August 2005 and between 25 August and 15 September 2005.
- On 10 May 2006, the convening authority approved the sentence and except for that part of the sentence extending to a BCD, ordered the sentence executed.
- General Court-Martial Order Number 344, issued on 20 December 2007, shows the sentence was finally affirmed, with the exception of excessive forfeitures, and Article 71(c) having been complied with; the BCD would be executed.
- The applicant was discharged on with a BCD on 22 July 2014, and he completed 12 years and 21 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 was suffering from PTSD and TBI after being wounded in combat from an IED attack, and he made a poor decision to self-medicate after numerous medical treatments and counseling failed to provide relief and an appropriate diagnosis.

He indicated TBI, PTSD, and “other mental health” as issues or conditions related to his request. The application was void of any medical or mental health records. 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 (MH) records from DoD and VA, was also reviewed and showed DoD records from October 2004, which included CT scans, noting the applicant’s report of worsening headaches, including nausea and photophobia, secondary to an IED explosion on 22 October 2003. There was indication he was referred to neurology, but documentation is sparse. On 13 April 2007, the applicant was seen in the ER at the VA and reported several physical symptoms (pain; numbness) as well as anxiety. Documentation from his MH assessment showed he reported low mood, irritability, trouble sleeping, and homelessness. He was provided with an antidepressant and a sleep medication. His next encounter with MH was on 5 November 2007, and the applicant reported a 15 month deployment as a calvary scout that started in May 2003, and he described several traumatic experiences, including the IED explosion. His diagnosis was Adjustment Disorder, not otherwise specified (NOS), and he was referred for a neuropsychological evaluation due to his report of cognitive difficulties. Extensive, comprehensive neuropsychological testing was conducted, and a report on 29 February 2008 showed a pattern of cognitive difficulties that is “consistent with the type of difficulties that can linger after traumatic brain injury, even in mild cases.” The applicant also endorsed “a moderate level of emotional distress, including symptoms of both depression and PTSD, as well as chronic pain.” The diagnosis listed on the encounter was “Head Injury.” The applicant followed up with his MH provider, who also assisted with connecting him to the homeless program, and the applicant received polytrauma services, including speech and physical therapy, before being denied VA services in June 2008 because of his discharge characterization. On 31 July 2018 he contacted VA about homeless services and was provided with information about community organizations and programs, and on 21 April 2025 he contacted the Veterans Crisis Line requesting help with managing multiple medical and mental health issues and being unable to afford to purchase his insulin to treat diabetes. He did not respond to attempted return phone calls.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient 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, including PTSD, and TBI at the time of the misconduct. DoD medical records from October 2004 showed the applicant reported headaches with nausea and photophobia

that started after an IED explosion on 22 October 2003, and there was indication he was referred to neurology. VA records from April 2007 showed he reported anxiety and other mental health symptoms, and a comprehensive neuropsychological evaluation completed in November 2007 provided objective evidence of cognitive difficulties consistent with lingering TBI.

(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. Documentation showed the applicant was deployed in support of OIF from May 2003 to July 2004. The applicant asserts he was involved in an IED explosion in October 2003.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records from 2004 revealed documentation of symptoms consistent with a TBI, and VA records from 2007 showed evidence of cognitive impairment due to a head injury as well as symptoms of depression and PTSD. The applicant's relatively minor misconduct related to marijuana use and disobeying an order could be evidence of poor decision-making secondary to a history of deployment-related trauma exposure resulting in some cognitive difficulties. Additionally, substance abuse is a common self-medicating strategy for avoiding uncomfortable emotions and memories related to trauma exposure, and substance use can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. Given the nexus between trauma exposure, avoidance of emotion, and substance use and in accordance with liberal consideration, the basis for separation is mitigated.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, a majority of the Board found relief was warranted pertaining to his discharge upgrade, while a minority of the Board found that partial relief was 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, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition, available military records and the medical review, the Board determined the applicant's punishment at the time was too harsh at the time.
2. Upon review of the applicant's petition, the Board reviewed the applicant's ERB and concurred that Army Regulation 635-8 considers the ERB an authoritative document. Therefore, the Board granted adding the Purple Heart to his DD Form 214.
3. 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	:	GRANT FULL RELIEF
:	:	XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant amendment of the ABCMR's decision in Docket Number AR20160016602 on 15 July 2019. 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 22 July 2014 to show his characterization of service as under honorable conditions (general).
2. As it pertains to the applicant's request to add the Purple Heart to his DD Form 214, the Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by adding the Purple Heart to his DD Form 214, ending on 22 July 2014.

X //Signed//

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. Army Regulation (AR) 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.
2. 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.
3. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) 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 Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.
 - c. An under other than honorable conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.
 - d. Paragraph 3-11 provides that a Soldier will be given a BCD pursuant only to an approved sentence of a general or special court-martial. The appellate review must be completed and the affirmed sentence duly executed.

4. Court-martial convictions stand as adjudged or modified by appeal through the judicial process. In accordance with Title 10, U.S. Code, section 1552, the authority under which this Board acts, the ABCMR is not empowered to set aside a conviction. Rather, it is only empowered to change the severity of the sentence imposed in the court-martial process and then only if clemency is determined to be appropriate. Clemency is an act of mercy or instance of leniency to moderate the severity of the punishment imposed.

5. The Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017 [Kurta Memorandum]. 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 (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.

a. Guidance documents are not limited to under other than honorable conditions discharge characterizations but rather apply to any petition seeking discharge relief including requests to change the narrative reason, re-enlistment codes, and upgrades from general to honorable characterizations.

b. An honorable discharge characterization does not require flawless military service. Many veterans are separated with an honorable characterization despite some relatively minor or infrequent misconduct.

c. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with mental health conditions, including PTSD; TBI; or behaviors commonly associated with sexual assault or sexual harassment; and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

6. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial

forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

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//