

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 April 2025

DOCKET NUMBER: AR20240007052

APPLICANT REQUESTS: correction of his DD Form 214 (Report of Separation from Active Duty) for the period ending 30 November 1974 to show:

- he was inducted on 31 January 1972
- an upgrade of his general, under honorable conditions discharge to honorable

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 would like his DD Form 214 (Report of Separation From Active Duty) show an enlistment date as January 1972 versus November 1973. Further he would like his under honorable conditions discharge updated to reflect honorable conditions. Since leaving the military he has received treatment for his mental issues and has been very successful with no further issues as a productive member of society.
3. A review of the applicant's service record shows:
 - a. He was inducted into the Army of the United States on 31 January 1972.
 - b. He served in Thailand from 24 August 1972 through 6 August 1973.
 - c. A Standard Form 88 (Report of Medical Examination), dated 20 November 1974, shows the applicant underwent an examination for the purpose of discharge. The applicant's clinical evaluation was marked normal with the exception of "situational depression and suicidal gestures," listed in the notes. Block 74a (Examinee/Applicant) shows he was marked qualified for discharge.

d. He was honorably discharged from active duty on 27 November 1973. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 1 year, 9 months, and 27 days of active service. He was assigned separation number 313 and the reason for discharge listed as "Convenience of the Government."

e. A DD Form 4 (Enlistment Contract) shows the applicant immediately reenlisted on 28 November 1973 for a period of four years with station of choice in the Continental United States (CONUS).

f. His DA Form 20 (Enlisted Qualification Record) shows the applicant served a second tour in Thailand from 1 October 1974 through 30 November 1974.

g. On 15 November 1974, his immediate commander notified him of his intent to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 13, for unsuitability. The reasons for his proposed action were his belief that the applicant was suffering from character and behavior disorders.

h. On 19 November 1974, after consulting with counsel, the applicant was advised of the basis for the contemplated action to separate him for unsuitability, the rights available to him, and the effect of waiving said rights. He understood that he may expect to encounter substantial prejudice in civilian life in the event a general, under honorable conditions discharge was issued to him.

i. The immediate commander-initiated separation action against the applicant under the provisions of AR 635-200, Chapter 13, for unsuitability. The commander indicated the applicant was being discharged for unfavorable character following inpatient treatment for attempted suicide.

j. The separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 13 for unsuitability. He would be issued a General Discharge Certificate.

k. On 30 November 1974, he was discharged from active duty with an under honorable conditions (General) characterization of service. His DD Form 214 shows he completed 1 year and 3 days of active service with 1 year, 9 months, and 27 days of prior active service and 2 months of foreign service. It also shows he was awarded or authorized:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal w/60 Device

4. By regulation (AR 672-5-1), the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active service, and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings and there must be no convictions by a court-martial. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 were not disqualifying

- he completed 2 years and 10 months of total active service
- he received all excellent conduct and efficiency ratings throughout his military service
- there is no record of a court-martial conviction

5. On 10 August 1982, the applicant was notified the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

6. 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.

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions discharge to an honorable discharge. He contends he experienced mental health conditions that mitigates his misconduct. 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: 1) The applicant was inducted into the Army of the United States on 31 January 1972; 2) He honorably completed 1 year, 9 months, and 27 days of active service prior to immediately reenlisting; 3) The applicant was discharged on 27 November 1973 due to unsuitability, Chapter 13-5b(2). He completed 1 year and 3 days of net active service. His service was characterized as under honorable conditions (general); 4) On 10 August 1982, the applicant applied to the ADRB, which found the applicant's discharge processing to be proper and equitable.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the applicant's available military service records and medical records. The VA's Joint Legacy Viewer (JLV) was also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts he experienced mental health issues that impacted his discharge. On 19 October 1974, the applicant was admitted to inpatient psychiatric care due to attempted suicide via cutting his arm(s). The active-duty provider noted that the applicant had self-inflicted injuries for the purpose of being returned CONUS, resulting in the recommendation for separation. He was noted to be exhibiting symptoms of unsuitable personality characteristics (a diagnosis of passive aggressive personality disorder). On 20 November 1974, the applicant underwent a medical examination for the purposes of discharge. The evaluation noted, "situational depression and suicidal gestures". During this encounter, he was not diagnosed with an official mental health condition and was found to have the capacity to understand and participate in discharge proceedings.

d. A review of JLV provided insufficient evidence that the applicant has been diagnosed with, or received treatment for, a service-connected mental health condition. In addition, there is insufficient information that the applicant receives any service-connected disability at this time. However, he has sought care at the VA for medical care beginning on 01 May 1995 and has attended the VA for these purposes intermittently since that time. There is insufficient information that the applicant receiving any VA or civilian mental health treatment or diagnoses post-discharge.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence to support the applicant had a service-connected condition or experience that impacted the nature of his discharge. There is no misconduct to mitigate regarding the applicant's discharge and there was sufficient evidence that the applicant was suffering from situational depression related to his current military service. Per Liberal Consideration this is worthy of the board's consideration.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced mental health conditions that impacted his discharge. The applicant was psychiatrically hospitalized for suicidal behaviors and "situational depression," that precipitated into his discharge from service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions that impacted his discharge while on active service. The applicant was hospitalized for suicidal behaviors that precipitated into his discharge from service.

(3) Does the condition or experience actually excuse or mitigate the misconduct? Yes, the applicant's mental health conditions impacted the applicant's discharge. The

applicant did experience suicidal behaviors while stationed OCONUS which resulted in his eventual discharge due to his unsuitability for continued service. This was after successfully completing one prior term of service. Therefore, the applicant's mental health conditions impacted the nature of the applicant's discharge in such a manner that it would be mitigatable per the Liberal Consideration Policy.

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 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. One possible outcome was to deny the applicant's request based upon the applicant's statement "it was the only way back to the Continental United States." Upon review of the applicant's petition, available military record and medical review, the Board majority concurred with the advisory opinion of the Agency Medical Advisor that there is sufficient evidence to support the applicant had a service-connected condition or experience that impacted the nature of his discharge. There is no misconduct to mitigate regarding the applicant's discharge and there was sufficient evidence that the applicant was suffering from situational depression related to his current military service. The Board majority found that partial relief was warranted based upon guidance for consideration of discharge upgrade requests.

2. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced mental health conditions that impacted his discharge. The applicant was psychiatrically hospitalized for suicidal behaviors and "situational depression," that precipitated into his discharge from service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions that impacted his discharge while on active service. The applicant was hospitalized for suicidal behaviors that precipitated into his discharge from service.

(3) Does the condition or experience actually excuse or mitigate the misconduct? Yes, the applicant's mental health conditions impacted the applicant's discharge. The applicant did experience suicidal behaviors while stationed OCONUS which resulted in his eventual discharge due to his unsuitability for continued service. This was after successfully completing one prior term of service. Therefore, the applicant's mental

health conditions impacted the nature of the applicant’s discharge in such a manner that it would be mitigatable per the Liberal Consideration Policy.

3. At the time on the applicant’s first reenlistment, the policy was to issue a DD Form 214 for each enlistment/reenlistment period that covered only that enlistment period. The applicant received a DD Form 214 for the service period of 31 January 1972 through 27 November 1973. This policy changed effective 15 August 1979 and DD Forms 214 were not issued to enlisted service members who were discharged for immediate reenlistment. However, the applicant’s DD Form 214 for the service period ending 30 November 1974 accurately reflects the total prior active service of 1 year, 2 months, and 27 days. For that reason, the Board recommended that denying this portion of the requested relief was appropriate.

4. The Board further determined the evidence presented is sufficient to warrant a correction the record not otherwise requested. The Board noted that the applicant served for over two years and received an honorable discharge. As his record is void of derogatory information, the Board agreed that he met the criteria for award of the Army Good Conduct Medal (1st Award).

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant's DD Form 214 for the period ending 30 November 1974 showing

- character of service as honorable and
- awarding him the Army Good Conduct Medal (1st Award) for exemplary service from 31 January 1972 to 30 November 1974 and adding the medal to his DD Form 214 for the period ending 30 November 1974.

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 a change in his date of induction.

X 

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.

ADMINISTRATIVE NOTES:

A review of the applicant's records shows he is authorized additional awards not annotated on his DD Form 214 for the period ending 30 November 1974. As a result, amend his DD Form 214 by adding the Republic of Vietnam Gallantry Cross with Palm Unit Citation

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 600-8-22 (Military Awards) prescribes Department of the Army policy, criteria, and procedures for individual and unit military awards and foreign decorations and badges.

Paragraph 2–13 (Vietnam Service Medal) provides that:

a. The Vietnam Service Medal was awarded to all service members of the Armed Forces of the United States serving in Vietnam and its contiguous waters or airspace there over after 3 July 1965 through 28 March 1973. Service members of the Armed Forces of the United States in Thailand, Laos, or Cambodia, or the airspace there over, during the same period and serving in direct support of operations in Vietnam are also eligible for this award.

b. An individual must meet one of the following criteria to qualify for award of the Vietnam Service Medal:

(1) be attached to or regularly serve for 1 or more days with an organization participating in or directly supporting military operations;

(2) be attached to or regularly serve for 1 or more days aboard a U.S. naval vessel directly supporting military operations;

(3) participate as a crewmember in one or more aerial flights into airspace above Vietnam and contiguous waters directly supporting military operations; or

(4) serve on temporary duty for 30 consecutive or 60 nonconsecutive days in Vietnam or contiguous areas, except that time limit may be waived for personnel participating in actual combat operations.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), then in effect, provided the criteria governing the issuance of honorable, general, and undesirable discharge certificates.

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

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

4. Army Regulation 635-212, then in effect, provided the policy and procedures for administrative separation of enlisted personnel for unfitness and unsuitability. It provided that individuals would be discharged by reason of unfitness when their records were characterized by one or more of the following: frequent incidents of a discreditable nature with civil or military authorities, sexual perversion, drug addiction, an established pattern of shirking, and/or an established pattern showing dishonorable failure to pay just debts. This regulation also prescribed that an undesirable discharge was normally issued.

5. Army Regulation 672-5-1 (Awards), in effect at the time, stated the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

6. Army Regulation 635-5 (Separation Documents – Personnel Separations) 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.

7. 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.

8. 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.

9. 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.

10. 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//