

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 August 2025

DOCKET NUMBER: AR20240007064

APPLICANT REQUESTS:

- An upgrade of characterization of service from under honorable conditions to honorable
- Change his narrative reason for separation to "other physical or mental conditions"

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

- DD Form 149 (Application for Correction of Military Record), 15 February 2024
- Statement in Support of Application, undated
- Exhibit A: DD Form 214 (Report of Separation from Active Duty), for the period ending 1 December 1971
- Exhibit B: Department of Veterans Affairs (VA) Form 21-0781a (Statement in support of Claim for Service Connection for Post Traumatic Stress Disorder (PTSD) Secondary to Personal Assault, 18 October 2016
- Exhibit C: Disability Benefits Questionnaire, 29 June 2017
- Exhibit D: VA medical record, 13 May 2013
- Exhibit E: Letter of Enrollment, 17 November 2016
- Exhibit F: Clinical Notes, 22 May 2017
- Exhibit G: Exhibit G: Medical assessment, 13 July 2013
- Exhibit H: Medical notes, 12 June 2012
- Exhibit I: Psychological evaluation, 17 June 2009
- Exhibit J: VA rating Decision, 3 July 2017
- Exhibit K: Psychologist Letter, 1 August 2017
- Exhibit L: Secretary of Defense Memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD), 3 September 2014
- Exhibit M: Office Under the Secretary of Defense Memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017

- Exhibit N: Office Under the Secretary of Defense Memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018
- Exhibit O: Google Books (Report of the Task Form), 30 November 1972

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 voluntarily joined the Army in 1970 during the Vietnam War and was deemed medically and psychologically fit for service at the time of enlistment. However, during training at Fort Ord, CA, he was exposed to tear gas, which triggered chronic respiratory issues and led to an asthma diagnosis. He was reassigned to light duty and later worked as a cook and truck driver because he could not keep up with regular military training.

a. While undergoing training, he witnessed a traumatic incident in which his close friend and squad leader had a grand mal seizure. The experience left him deeply shaken, depressed, and emotionally distressed. Despite the trauma, there was no counseling or meaningful support provided. He began suffering from nightmares and flashbacks, which he still experiences decades later. Struggling with unresolved emotional and physical health issues and feeling isolated after being separated from his training peers, he began to feel hopeless. He also believed that racial discrimination contributed to the lack of support and medical care he received.

b. By 1971, he was in a holdover unit and no longer participating in regular duties. A psychiatric evaluation noted symptoms of depression, sleep disturbances, and excessive worry. Although he was offered a medical discharge for his physical and psychological conditions, he declined, mistakenly believing it would permanently tarnish his record and reflect poorly on his honor.

c. After his discharge from the Army, his life was marked by addiction, joblessness, and periods of homelessness. He also experienced legal troubles, including incarceration. In later years, he was formally diagnosed with PTSD and substance use disorders, which have since entered remission. His PTSD was attributed to both the traumatic incident involving his friend and military sexual trauma, which he was too ashamed to disclose during service. A psychologist later confirmed that his PTSD was linked to events experienced during military service and that his behavior was

consistent with PTSD symptoms. He did not engage in misconduct out of malicious intent or substance-seeking behavior but rather as a result of untreated trauma.

d. Now, he seeks a discharge upgrade to gain access to VA benefits and treatment. He hopes that acknowledging the role of PTSD and military sexual trauma will allow him to heal, reclaim his self-worth, and move forward as a valued member of his family and community.

3. The applicant provided over 1500 pages of exhibits in support of his application. The exhibits include his VA medical record, clinical notes, records of treatment and disability rating decisions, which note his long history of medical issues dating back to his time in the Army. The full 1500 pages are available for the Board to review in the supporting documents.

4. He enlisted in the Regular Army on 31 March 1970.

5. On 20 October 1970, he accepted nonjudicial punishment (NJP) under the provisions of Article 15, Uniform Code of Military Justice (UCMJ), for absencing himself from his unit on or about 5 October 1970 and did remain absent until on or about 9 October 1970. His punishment included forfeiture of \$32.00 per month for one month, 14 days restriction and 14 days extra duty.

6. On 14 April 1971, he accepted NJP under the provisions of Article 15, UCMJ, for absencing himself from his unit on two separate occasions from on or about 1 March 1971 to on or about 6 March 1971, and from on or about 16 March 1971 to on or about 7 April 1971. His punishment included forfeiture of \$31.00 per month for one month, 14 days restriction and 14 days extra duty.

7. On 21 August 1971, the applicant's commander notified the applicant he was being considered for discharge from the Army, under the provisions of Army Regulation (AR) 635-212 (Personnel Separations – Discharge – Unfitness and Unsuitability), section 6. He advised the applicant of his rights.

8. The applicant consulted with legal counsel and affirmed he had been advised of the basis for the contemplated action to separate him for conviction of civil court-martial. Following his consultation, he waived his right to personally appear before, and to have his case considered by a board of officers. He elected not to submit a statement on his own behalf and waived his right to further representation by military counsel. He acknowledged he could expect to encounter substantial prejudice in civilian life, if given a general discharge under honorable conditions.

9. The applicant's DA Form 20b (Record of Court-Conviction) shows he was convicted by a special court-martial on 2 September 1971 for violation of Article 86 (Absent

without Leave), from 7 June 1971 to 6 August 1971. His punishment, adjudged on 2 September 1971, included reduction to the rank of private/E-1 and forfeiture of \$20.00 per month for one month.

10. On 24 September 1971, the applicant's battalion level commander recommended he be eliminated from service under the provisions of AR 635-212, with the issuance of an undesirable discharge. He noted, he did not believe the applicant would function in a satisfactory manner over a protracted period of time.

11. On 1 October 1971, his brigade level commander recommended he be eliminated from service under the provisions of AR 635-212, with the issuance of an undesirable discharge. He noted the applicant's civilian and military records do not indicate a likelihood that he will be an effective soldier and a credit to the military.

12. On 23 November 1971, the separation authority approved the recommended discharge, under the provisions of AR 635-206, section 6, and directed the applicant be reduced to the lowest enlisted grade and be issued an undesirable discharge certificate.

13. The applicant was discharged on 1 December 1971. His DD Form 214 (Armed Forces of the United States Report or Transfer of Discharge) shows he was discharged under the provisions of AR 635-206 in the rank/grade of private/ E-1. His service was characterized as under conditions other than honorable. He received a Separation Program Number of 284, and a Reentry Code of RE-3B. He completed 1 year, 5 months, and 16 days of net active service with lost from 5 October 1970 to 8 October 1970, from 9 November 1970 to 15 November 1970, from 10 May 1971 to 6 April 1971, from 14 May 1971 to 18 May 1971, and from 4 June 1971 to 9 August 1971. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) shows he was awarded the following:

- National Defense Service Medal
- Marksman Marksmanship Qualification Badge (Rifle)

14. On 18 April 1978, the President, Army Discharge Review Board, notified the applicant, that after review of his case under the provisions of Public Law 95-126, the Adjutant General affirmed his discharge upgrade.

15. On 23 May 1978 he was issued a DD Form 215 (Correction to DD Form 214), showing a correction was made in item 27 (XXX) of his DD Form 214 to read: Discharge reviewed under the provisions of Public Law 95-126 and a determination made that change in characterization of service is warranted by Department of Defense Directive. As a result, he was issued an updated DD Form 214, for the period ending 1 December 1971, showing his service was characterized as Under Honorable Conditions and his separation program number as "JKB".

16. Regulatory guidance, in effect at the time, establishes policy and prescribes procedures for the elimination of enlisted personnel for misconduct by reason of fraudulent entry into the service, conviction by civil court, and absence without leave or desertion.

a. Section VI. Conviction by Civil Court prescribes procedures for processing cases of individual who, during their current term of active military service, have been initially convicted or adjudged juvenile offenders.

b. Section VI, paragraph 36, states an individual discharged for conviction by civil court normally be furnished an undesirable discharge certificate except that an honorable or general discharge certificate may be furnished if the individual being discharged has been awarded a person decoration, or if the warranted by the particular circumstance in a given case.

17. 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 to honorable and a change to the narrative reason for separation to "other physical or mental conditions." He contends he experienced an undiagnosed mental health condition, including PTSD, TBI, and sexual assault/harassment (MST) 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 31 March 1970. The Enlistment Contract showed an AFQT score of 20 and that the applicant was considered a "Category IV." The Remarks section stated, "Lowered Enlistment Standards" and referenced a letter dated 28 June 1968.
- The applicant accepted NJP for being AWOL on the following occasions: 5 October 1970, from 1 to 6 March 1971, and from 16 March to 7 April 1971.
- On 21 August 1971, the applicant's commander notified the applicant he was being considered for discharge from the Army, under the provisions of Army Regulation (AR) 635-212 (Personnel Separations – Discharge – Unfitness and Unsuitability), section 6.
- The applicant's Record of Court-Conviction shows he was convicted by a special court-martial on 2 September 1971 for violation of Article 86 (Absent without Leave), from 7 June 1971 to 6 August 1971.
- On 1 October 1971, his brigade level commander recommended he be eliminated from service under the provisions of AR 635-212 with the issuance of an undesirable discharge.

- On 23 November 1971, the separation authority approved the recommended discharge under the provisions of AR 635-206, section 6.
- The applicant was discharged on 1 December 1971 and completed 1 year, 5 months, and 16 days of net active service. The applicant's discharge was characterized as under conditions other than honorable, but an Army Discharge Review Board document dated 18 April 1978 affirmed his request for an upgrade to under honorable conditions.

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 exposed to tear gas, which resulted in reassignment and difficulty keeping up with military training, and he witnessed a close friend have a grand mal seizure. He asserts that this experience was traumatic and caused nightmares, flashbacks, and emotional distress. He also asserts having experienced MST and racial discrimination, and he has PTSD associated with events experienced during his military service. He indicated PTSD, TBI, MST, and "other mental health" as issues or conditions related to his request. A Statement in Support of a Claim for Service Connection dated 18 October 2016 detailed the applicant's account of MST, which occurred on 18 May 1970, and an Initial PTSD Disability Benefits Questionnaire (DBQ) dated 29 June 2017 showed the applicant endorsed the required number and severity of symptoms to warrant a diagnosis of PTSD as well as Alcohol Use Disorder and Cannabis Use Disorder in sustained remission. The applicant reported stressors related to his friend's seizure, a sexual assault, and exposure to tear gas while in the military, and he related a long history of incarceration, polysubstance abuse, and mental health treatment. The application included hundreds of pages of VA records, including a psychological evaluation completed on 17 June 2009, which concluded "significant PTSD symptoms in addition to his depression." A VA Rating Decision letter dated 3 July 2017 showed the applicant is 70% service connected for PTSD, and a letter from a Postdoctoral Fellow dated 1 August 2017 provided an opinion that the applicant's PTSD due to MST has "contributed to his inability to maintain stable housing, develop interpersonal relationships, pursue education, and seek gainful employment."

DoD records showed a Report of Mental Status Evaluation dated 1 November 1971, which described the applicant's behavior as "passive" and mood as "depressed," and on the item "individual has psychological disease," the evaluator marked through the word "disease" and wrote in "problem" although it was noted as "no." The applicant was deemed to meet retention standards, have mental capacity to understand and participate in the proceedings, and was mentally responsible. A Report of Medical Examination dated 20 September 1971 showed the examiner denoted "abnormal" for psychiatric symptoms but was considered qualified for service. A Report of Medical History, completed by the applicant, showed he endorsed frequent trouble sleeping and depression or excessive worry. 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 is 70% service connected for PTSD, and VA records showed he initiated mental health services in August 1996 due to suicidal ideation secondary to homelessness and pending incarceration. He was diagnosed with Adjustment Disorder with depression and Marijuana Dependence. He was admitted to the inpatient unit and then transferred to a residential program until he self-discharged about three weeks later. The applicant has been a frequent utilizer of VA programs, including inpatient, residential, housing, vocational rehabilitation, and mental health, and he has been diagnosed with the following between 2012 and 2025: Polysubstance Dependence, PTSD, Major Depressive Disorder, Alcohol and Cannabis Dependence (in remission), and Opioid and Cocaine Abuse (in remission).

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. Additionally, in accordance with Liberal Consideration, a change to the narrative reason for discharge to something more favorable, such as AR 635-200, Chapter 5-14, "other designated physical or mental condition" could be considered by the board.

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 associated with MST, at the time of the misconduct. DoD records showed the applicant reported mental health symptoms, including sleep difficulty, depressed mood, and excessive worry on separation examinations, and although he was found to be qualified for service, there was indication he was suffering from psychological distress. The applicant's VA records show a history of diagnoses including PTSD, Major Depressive Disorder, and polysubstance abuse/dependence, and the applicant is 70% service connected for PTSD related to MST and other traumatic experiences from his time in service. There were no records indicating a diagnosis of TBI, but the applicant's service records showed he was enlisted at a lowered standard as a "Category IV" with AFQT score of 20, which correlates with below average IQ.

(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. The applicant provides a detailed account of a sexual assault (MST) and two other traumatic experiences.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. While there is not an in-service mental health diagnosis, there is evidence that the

applicant reported mental health symptoms while on active service, and he has been service connected through the VA for PTSD due to MST and other traumatic experiences. Additionally, the applicant's history of substance use is a common self-medicating strategy for avoiding uncomfortable emotions and memories related to trauma exposure and can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. The applicant asserts a fully mitigating behavioral health experience, MST, and there is an association between MST and avoidance behaviors, such as being AWOL. Given the nexus between trauma exposure and the applicant's misconduct of being AWOL, 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, the Board found that 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 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 Board reviewed and concurred with the medical advisor's review finding sufficient evidence to support the applicant had a behavioral health condition during military service that mitigated his misconduct. The Board noted on 23 May 1978 he was issued a DD Form 215 (Correction to DD Form 214), showing a correction was made in item 27 of his DD Form 214 to read: Discharge reviewed under the provisions of Public Law 95-126 and a determination made that change in characterization of service is warranted by Department of Defense Directive. As a result, he was issued an updated DD Form 214, for the period ending 1 December 1971, showing his service was characterized as Under Honorable Conditions and his separation program number as "JKB." Therefore, the Board approved his request to change his narrative reason to AR 635-200, Chapter 5-14, "other designated physical or mental condition."

2. The Board considered the following Kurta questions:

a. 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 associated with MST, at the time of the misconduct. DoD records showed the applicant reported mental health symptoms, including sleep difficulty, depressed mood, and excessive worry on separation examinations, and although he was found to be qualified for service, there was indication he was suffering from psychological distress. The applicant's VA records show a history of diagnoses including PTSD, Major Depressive Disorder, and polysubstance abuse/dependence, and the applicant is 70% service connected for PTSD related to MST and other

traumatic experiences from his time in service. There were no records indicating a diagnosis of TBI, but the applicant's service records showed he was enlisted at a lowered standard as a "Category IV" with AFQT score of 20, which correlates with below average IQ.

b. 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. The applicant provides a detailed account of a sexual assault (MST) and two other traumatic experiences.

c. Does the condition or experience actually excuse or mitigate the discharge? Yes. While there is not an in-service mental health diagnosis, there is evidence that the applicant reported mental health symptoms while on active service, and he has been service connected through the VA for PTSD due to MST and other traumatic experiences. Additionally, the applicant's history of substance use is a common self-medicating strategy for avoiding uncomfortable emotions and memories related to trauma exposure and can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. The applicant asserts a fully mitigating behavioral health experience, MST, and there is an association between MST and avoidance behaviors, such as being AWOL. Given the nexus between trauma exposure and the applicant's misconduct of being AWOL, and in accordance with Liberal Consideration, the basis for separation is mitigated.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

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 amending the applicant's DD Form 214, for the period ending 1 December 1971 to show in:

- Item 25 (Separation Authority) AR 635-200, Chapter 5-14
- item 28 (Narrative Reason for Separation) other designated physical or mental condition

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. AR 635-200 (Personnel Separations – Enlisted Personnel), 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.

3. AR 635-206, in effect at the time, provided the authority for the administrative separation or retention of enlisted personnel who had committed an act and or acts of misconduct. Section VI of that regulation prescribed the standards and procedures for processing cases of individuals who, during their current term of active military service, had been convicted by a civil court. An undesirable (under other than honorable conditions) discharge was normally considered appropriate for members separating under this provision of the regulation; however, the separation authority could issue an honorable or a general discharge if warranted by the member's overall record of service.

4. 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; TBI; sexual assault; sexual harassment. Boards were directed to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to 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 that misconduct which led to the discharge.

5. 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 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. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. 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//