

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 January 2025

DOCKET NUMBER: AR20240007241

APPLICANT REQUESTS:

- an upgrade of his uncharacterized character of service to honorable
- a change in the narrative reason for separation

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

DD Form 293 (Application for the Review of Discharge)

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 an upgrade of his uncharacterized discharge to honorable and a change in the narrative reason for separation due to family hardship. His father was terminally ill with lung cancer which made it difficult for him to concentrate during training. He separated from active duty on 2 September 1990 and his father passed away on 25 October 1990. He is in the process of gathering his medical records for the purpose of submitting a claim as he is currently being evaluated for psychological and mental issues.
3. A review of the applicant's service record shows
 - a. He enlisted in the Regular Army on 31 July 1990 for 4 years.
 - b. Optional Form 275 (Medical Record Report) shows the applicant was admitted through the emergency room to Moncrief Army Health Clinic, Fort Jackson, South Carolina on 10 August 1990 for suicidal ideation. He was given a final diagnosis of personality disorder. He was released from the hospital on 28 August 1990 with the understanding that he would wait in his unit for his out-processing paperwork.

c. A DA Form 3822-R (Report of Mental Status Evaluation), dated 15 August 1990, shows the applicant was being considered for discharge because of a personality disorder. Although his symptoms were being addressed, it was unlikely that further rehabilitative efforts, counseling, or punishments will have a beneficial effect upon him. It was determined he had the mental capacity to participate in the proceedings and he was mentally responsible. He was diagnosed with personality disorder, not otherwise specified, with antisocial and manipulative traits.

d. On 17 August 1990, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 5-13, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), for personality disorder. He acknowledged receipt of the notification of separation action on the same day and indicated he did not desire a separation medical examination.

e. On 17 August 1990, after consultation with legal counsel, he acknowledged:

- the rights available to him and the effect of waiving said rights
- he may encounter substantial prejudice in civilian life if a general, under honorable conditions discharge was issued to him
- he may be ineligible for many or all benefits as a Veteran under both Federal and State laws
- he may expect to encounter substantial prejudice in civilian life
- he may apply to the Army Discharge Review Board or the ABCMR for an upgrade
- he is ineligible to apply for enlistment in the U.S. Army for a period of 2 years after discharge
- he elected not to submit matters

f. The immediate commander initiated separation action against the applicant for personality disorder. The commander the applicant demonstrated he was completely unsuitable to be a Soldier and had no motivation to continue training. The intermediate commander recommended approval.

g. On 27 August 1990, the separation authority approved the discharge recommendation for immediate separation under the provisions of Chapter 5-13, AR 635-200 (Personnel Separations – Enlisted Personnel), for personality disorder. He would be issued an uncharacterized discharge.

h. On 2 September 1990, he was discharged from active duty with an uncharacterized characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 1 month and 2 days of active service with no lost time. He was assigned separation code JFX and the narrative reason for separation listed as "Personality Disorder."

4. There is no evidence the applicant has applied to the Army Discharge Review Board for review of her discharge within that board's 15-year statute of limitations.
5. By regulation (AR 635-200), action will be taken to separate a Soldier for personality disorder (not amounting to disability) when it is determined that it interferes with assignment or performance of military duties. The service of a member separated per this paragraph will be characterized as honorable unless an entry level separation is required under chapter 3, section III.
6. 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. Block 28 (Narrative Reason for Separation) is based on regulatory or other authority and can be checked against the cross reference in AR 635-5-1 (Separation Program Designator (SPD) Codes).
7. By regulation (AR 635-5-1), in effect at the time, enlisted Soldiers receive separation codes in accordance with the guidelines published for separations per Army Regulation 635-200. The narrative reason for the separation will be entered in block 28 of the DD Form 214 exactly as listed in the regulation. SPD code JFX is listed with the narrative reason for separation, "personality disorder" per AR 635-200, paragraph 5-13.
8. 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.
9. MEDICAL REVIEW:

- a. The applicant is applying to the ABCMR requesting an upgrade of his characterization of service from uncharacterized to honorable and a change in the narrative reason for separation. More specifically, the applicant indicated that his father was terminally ill with lung cancer and he had difficulties concentrating. In effect, the applicant contends that Other Mental Health Issues are related to his request. 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 enlisted in the Regular Army (RA) on 31 July 1990, 2) Optional Form 275 shows the applicant was admitted to Moncrief Army Health Clinic on 10 August 1990 for suicidal ideation and was released on 28 August 1990. He was given a final diagnosis of Personality Disorder, 3) The applicant underwent a Report of Mental Status Evaluation (MSE) dated 15 August 1990 due to Personality Disorder. It was determined he had the mental capacity to participate in the proceedings and he was mentally responsible. He was diagnosed with Personality Disorder, Not Otherwise Specified (NOS), with antisocial

and manipulative traits, 4) the applicant was discharged on 02 September 1990 under the provisions of Army Regulation (AR) 635-200, Chapter 5-13, with a separation code of JFX and the narrative reason for separation listed as "Personality Disorder." He completed 1 month and 2 days of active service with no lost time.

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

c. A Narrative Summary from Moncrief Army Community Hospital (MACH) dated 04 September 1990 shows the applicant was admitted to the hospital from 10-28 August 1990 due to suicidal ideation. It was noted that he was feeling depressed, hopeless, and suicidal due to concerns about the death of his father from cancer. The applicant reported experiencing depression for 3 to 4 years due to his father's struggle with lung cancer. He endorsed the following symptoms: insomnia, anorexia, decreased concentration, hopelessness, energy, anhedonia, and suicidal ideation. It was noted that although his symptoms did not interfere with his athletic performance in high school, it did impact his grades and job performance, noting he was repeatedly fired from fast food jobs. The provider documented he was counseled for depression during his senior year in high school. During his hospital admission, it was documented that he had gotten into several altercations with others. The provider also opined that the applicant's presentation of Dysthymia was "designed to manipulate a discharge." The final diagnosis was documented as Personality Disorder Not Otherwise Specified (NOS) with Antisocial and Manipulative Traits. An MSE was conducted on 15 August 1990 as he was being considered for discharge due to Personality Disorder. All domains of his MSE were within normal limits (WNL) with the exception of mood, which was marked as 'flat.' The evaluating provider diagnosed him with Personality Disorder, NOS, with Antisocial and Manipulative Traits. It was further noted that the applicant's psychiatric diagnosis did not warrant discharge through medical channels and supported discharge under the provisions of AR 635-200, Chapter 5, Paragraph 5-13. He was psychiatrically cleared for any administrative or judicial action as deemed appropriate by command.

d. A review of JLV shows the applicant is not service-connected through the VA for any conditions. An Initial Posttraumatic Stress Disorder (PTSD) Disability Benefits Questionnaire (DBQ) dated 22 April 2020 shows the applicant was not diagnosed with any BH conditions at the time of the evaluation. It was documented that he had not had any BH treatment since 2001. It was further noted that he did not report exposure to any events during his military service that were "capable [of] engendering PTSD symptoms." The provider documented that he was hospitalized on two occasions in the early 1990s for suicidal ideation and had met with psychiatrists periodically through the 1990s. He

reported he was treated for depression from 1998 to 2001 and was prescribed Prozac and it was noted that he reported experiencing significant marital discord during that time.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a mitigating BH condition or experience during his time in service that mitigated his discharge. Records indicate he was diagnosed with Personality Disorder NOS in-service and was discharged accordingly under the provisions of AR 635-200, Chapter 5-13. However, he contends that his discharge was related to Other Mental Health Issues, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his discharge was related to Other Mental Health Issues.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of records shows the applicant was diagnosed with Personality Disorder NOS in-service and subsequently discharged under the provisions of AR 635-200, Chapter 5-13. The applicant is not service-connected through the VA for any conditions and a C&P examination documented that he did not meet criteria for a psychiatric condition at the time of the evaluation in 2020. In absence of documentation supporting his assertion, there is insufficient evidence to establish his discharge was related to or mitigated by Other Mental Health Issues and insufficient evidence to support an upgrade based on BH mitigation. As such, his discharge under the provisions of AR 635-200, Chapter 5-13 due to a diagnosis of Personality Disorder NOS appears to be fair and equitable. As it pertains to his narrative reason for separation, while it is of note that the applicant was discharged through the appropriate administrative channels, under today's standards the applicant's discharge based on his condition would fall under the provisions of AR 635-200, Chapter 5-14 for Other Designated Physical or Mental Conditions. Based upon the potential prejudice one may face with the current narrative reason for separation (personality disorder), changing the narrative reason for separation to read, "Condition, Not a Disability," would be consistent with current regulatory guidelines.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant’s request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board reviewed and concurred with the medical advisor’s review finding under today’s standard, the applicant’s discharge based on his condition would fall under the provisions of Army Regulation 635-200, Chapter 5-14 for Other Designated Physical or Mental Conditions. Based upon the potential prejudice one may face with the current narrative reason for separation (Personality Disorder), changing the narrative reason for separation to read, “Condition, Not a Disability,” would be consistent with current regulatory guidelines.

2. The Board found no error or injustice in the designated characterization of service assigned by his commander during separation. The Board noted the applicant’s post-service health conditions; however, determined they were not enough to grant relief to the characterization of service. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant’s DD Form 214, for the period ending 2 September 1990, to show:

- item 25 (Separation Authority): AR 635-200

- item 26 (Separation Code): JFV
- item 27 (Reentry Code): No Change
- item 28 (Narrative Reason for Separation): Condition, Not a Disability

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

[REDACTED]

[REDACTED]

[REDACTED]

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 635-200 (Personnel Separations – 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 5-13 of the regulation states a Soldier may be separated for personality disorder (not amounting to disability (see AR 635-40), that interferes with assignment or with performance of duty. This condition is a deeply ingrained maladaptive pattern of behavior of long duration that interferes with the soldier's ability to perform duty. The service of a member separated per this paragraph will be characterized as honorable unless an entry level separation is required under chapter 3, section III. Characterization of service under honorable conditions may be awarded to a member who has been convicted of an offense by general court-martial or who has been convicted by more than one special court-martial in the current enlistment period of obligated service or any extension thereof.
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. Block 28 (Narrative Reason for Separation) is based on regulatory or other authority and can be checked against the cross reference in AR 635-5-1 (Separation Program Designator (SPD) Codes).

4. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), in effect at the time, provides separation program designator (SPD) codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The narrative reason for the separation will be entered in block 28 of the DD Form 214 exactly as listed in the regulation. SPD code JFX is listed with the narrative reason for separation, "personality disorder" per AR 635-200, paragraph 5-13.

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.

8. 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//