

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

Brandon BOARD DATE: 25 March 2025

DOCKET NUMBER: AR20240007267

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:

- item 4a (Grade, Rate, or Rank): Private First Class/PFC
- item 4b (Pay Grade): E-3
- item 25 (Separation Authority) a more favorable reason
- item 28 (Narrative Reason for Separation) a more favorable reason

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- Department of Veterans Affairs (VA) Letter
- Screenshot Service-Connected Ratings (undated and no name on form)

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 was diagnosed with a personality disorder while serving overseas in 2006. Upon returning home, VA re-diagnosed him with post-traumatic stress disorder (PTSD) rather than the personality disorder. He was diagnosed with PTSD, burn scarring, for shrapnel in his body as well as tinnitus with an effective date of 12 October 2006. He was a private first class (PFC)/E3 at time of discharge, but the Army put Private/E1 as his rank due to his not having an identification that said he was a PFC. There was a class action lawsuit filed by Vietnam Veterans of America that found 31,000 Soldiers were illegally discharged between 2001 and 2008. His attached VA supporting documents, which do not show a diagnosis of a personality disorder.
3. The applicant provides:

a. VA letter, 5 May 2024 shows the applicant's honorable service and that he has service-connected disabilities with a combined evaluation of 100%.

b. Screenshot Service-Connected Ratings (undated and no name on form) shows service-connected ratings of 100% for PTSD with cannabis use disorder and 10% for residuals, shrapnel wound neck, 10% for tinnitus, and 10% residuals shrapnel wound, right shin.

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

a. On 15 July 2005, the applicant enlisted in the Regular Army.

b. On 15 July 2006, he received a mental health evaluation. He had the overall capacity to understand and participate in the evaluation and is mentally responsible. "He currently denies any suicidal ideation. He endorses homicidal ideation but contracts for safety at present. The applicant demonstrates a chronic and pervasive pattern of failure to conform to social norms with occasional reckless disregard for safety. It is highly recommended that the applicant be administratively separated for personality disorder under the provisions of Army regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 5-13."

c. On 5 August 2006, the applicant was notified by his commander that he was initiating action to separate him for a personality disorder and recommended he receive an honorable discharge:

- he acknowledged receipt of the notification on 5 August 2006
- he consulted with counsel on 10 August 2006 and waived consideration of and personal appearance before an administration separation board, he did not submit statements in his own behalf

d. His commander and chain of command recommended his separation, 5 August 2006, due to being unfit for military duty. The separation authority approved the separation and waived rehabilitative transfer and directed he receive an honorable discharge.

e. His Enlisted Record Brief (ERB), 23 July 2003 shows in Section III (Service Data) his date of rank as PFC/E3 as 15 July 2006.

f. The applicant was honorably discharged on 11 October 2006. His DD Form 214 shows he was discharged under the provisions of AR 635-200, Chapter 5-13 for personality disorder. He completed 1 year, 2 months and 25 days net active service. The applicant served in Kuwait/Iraq from 22 February 2006 through 23 September 2006. His DD Form 214 also shows:

- item 4a (Grade, Rate, or Rank) PVT
- item 4b (Pay Grade) E01
- item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized):
 - Purple Heart
 - National Defense Service Medal
 - Global War on Terrorism Service Medal
 - Iraq Campaign Medal
 - Army Service Ribbon
 - Combat Infantryman Badge
 - Overseas Service Bar (1)
- item 25 (Separation Authority) AR 635-200, Paragraph 5-13
- item 28 (Narrative Reason for Separation) Personality Disorder

5. MEDICAL REVIEW:

a. Background: The applicant is requesting correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show a more favorable separation code and narrative reason for separation. The applicant further requests a restoration of rank. He asserts PTSD as related to his request. This opine will narrowly focus on the applicant's request for a more favorable separation code and narrative reason for separation.

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:

- Applicant enlisted in the Regular Army on 15 July 2005.
- On 5 August 2006, the applicant was notified by his commander that he was initiating action to separate him for a personality disorder and recommended he receive an honorable discharge.
- Applicant was honorably discharged on 11 October 2006. His DD Form 214 shows he was discharged under the provisions of AR 635-200, Chapter 5-13 for personality disorder. He was assigned separation code "JFX" and reentry code "3". He completed 1 year, 2 months and 25 days net active service. The applicant served in Kuwait/Iraq from 22 February 2006 through 23 September 2006.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states, he was diagnosed with a personality disorder while serving overseas in 2006. Upon returning home, the VA re-diagnosed him with post-traumatic stress disorder (PTSD) rather than personality disorder. He was diagnosed with PTSD, burn scarring, for shrapnel in his body as well as tinnitus with an effective date of 12 October 2006. He was a private first class (PFC)/E3 at time of discharge, but the Army put Private/E1 as his rank due to his not having an identification that said he

was a PFC. There was a class action lawsuit filed by Vietnam Veterans of America that found 31,000 Soldiers were illegally discharged between 2001 and 2008.

d. Active-duty electronic medical records available for review show on 15 July 2006 the applicant was briefly hospitalized due to homicidal ideation. He stated a plan of burning the tent with his fellow soldiers and using a knife to cut their throats. The note indicates the applicant had been treated with psychotropic medication for over a month and was followed by mental health on a weekly basis. During the hospitalization, he was diagnosed with Adjustment Reaction with Brief Depressive Reaction, Adjustment Disorder, and Antisocial Personality Disorder. During the assessment, the applicant reported a history of numerous rule violations and legal troubles. He proudly shared having been charged with malicious harassment, destruction of property, assault, and possession of a controlled substance. He stated that he idolized serial killers and had studied them extensively. He further stated he was proud of being a racist, he "hated niggers and other coloreds...I feel the white race is superior and will always be". He denied being acutely suicidal but admitted having prior suicidal ideation. Following this incident, it was strongly recommended the applicant be administratively separated for personality disorder.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 100% service connected for PTSD.

f. After review of all available information, the applicant was diagnosed while in service with Adjustment Reaction with Brief Depressive Reaction, Adjustment Disorder, and Antisocial Personality Disorder. He is currently 100% service connected by the VA for PTSD. The applicant was honorably discharge and there is no misconduct associated with this discharge to potentially excuse or mitigate. The applicant was separated for a personality disorder in accordance with the regulations at the time. Due to a change in Army regulations, an administrative change to the narrative reason is recommended. Narrative reason should be changed to Condition, Not a Disability (JFV). However, his reentry code should remain unchanged given his 100% service connection.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? N/A.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition or experience actually excuse or mitigate the discharge? N/A.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the Board made the following findings and recommendations related to the requested relief:

- Change Rank/Grade: GRANT, based upon the rank reflected throughout the applicant’s separation packet reflecting the rank of Private First Class.
- Change Separation Authority and Narrative Reason for Separation: GRANT, based upon the potential prejudice one may face with the current narrative reason for separation. Additionally, based upon the change in narrative reason for separation being approved, the Board recommended changing the separation code to JFV, to correspond with the approved change.

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:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Rank/Grade: PFC/E3
- Characterization of Service: No change
- Separation Authority: AR 635-200
- Separation Code: JFV
- Reentry Code: No change
- Narrative Reason for Separation: Condition, Not a Disability

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.

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. 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.

3. Army Regulation 635-8 (Personnel Separations-Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for the preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. The information entered thereon reflects the conditions as they existed at the time of separation. It states for:

a. item 4a (Grade, Rate, or Rank)

b. item 4b (Pay Grade) enter the rank.

c. item 25 (Separation Authority) is based on regulatory or other authority and can be checked against the cross reference in Army Regulation 635-5-1. Army Regulation (Active Duty Enlisted Administrative Separations) 635-200, Paragraph 5-13.

d. item 28 (Narrative Reason for Separation) is based on regulatory or other authority and can be checked against the cross reference in Army Regulation 635-5-1. JFX is the separation code used for personality disorder.

4. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR). The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

5. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) 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 UOTHC 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 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 misconduct that led to the discharge.

7. The Under Secretary of Defense (Personnel and Readiness) issued guidance to Service DRBs and Service BCM/NRs on 25 July 2018 [Wilkie Memorandum], 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 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.

8. PTSD can occur after someone goes through a traumatic event like combat, assault, or disaster. The Diagnostic and Statistical Manual of Mental Disorders (DSM) is published by the American Psychiatric Association (APA) and provides standard criteria and common language for the classification of mental disorders. In 1980, the APA added PTSD to the third edition of its DSM nosologic classification scheme. Although controversial when first introduced, the PTSD diagnosis has filled an important gap in psychiatric theory and practice. From a historical perspective, the significant change ushered in by the PTSD concept was the stipulation that the etiological agent was outside the individual (i.e., a traumatic event) rather than an inherent individual weakness (i.e., a traumatic neurosis). The key to understanding the scientific basis and clinical expression of PTSD is the concept of "trauma."

9. PTSD is unique among psychiatric diagnoses because of the great importance placed upon the etiological agent, the traumatic stressor. In fact, one cannot make a PTSD diagnosis unless the patient has actually met the "stressor criterion," which means that he or she has been exposed to an event that is considered traumatic. Clinical experience with the PTSD diagnosis has shown, however, that there are

individual differences regarding the capacity to cope with catastrophic stress. Therefore, while most people exposed to traumatic events do not develop PTSD, others go on to develop the full-blown syndrome. Such observations have prompted the recognition that trauma, like pain, is not an external phenomenon that can be completely objectified. Like pain, the traumatic experience is filtered through cognitive and emotional processes before it can be appraised as an extreme threat. Because of individual differences in this appraisal process, different people appear to have different trauma thresholds, some more protected from and some more vulnerable to developing clinical symptoms after exposure to extremely stressful situations.

10. The fifth edition of the DSM was released in May 2013. This revision includes changes to the diagnostic criteria for PTSD and acute stress disorder. The PTSD diagnostic criteria were revised to take into account things that have been learned from scientific research and clinical experience. The revised diagnostic criteria for PTSD include a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity. The sixth criterion concerns duration of symptoms, the seventh criterion assesses functioning, and the eighth criterion clarifies symptoms as not attributable to a substance or co-occurring medical condition.

//NOTHING FOLLOWS//