

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 October 2024

DOCKET NUMBER: AR20240007315

APPLICANT REQUESTS: his DD Form 214 (Certificate of Release or Discharge from Active Duty) be changed to reflect:

- Item 25 (Separation Authority): Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) chapter 5-17 vice chapter 5-13
- Item 28 (Narrative Reason for Separation): Other designated physical or mental conditions vice personality disorder

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

- DD Form 149 (Application for Correction of Military Record)
- Rating Decision, 6 February 2014
- Medical records (10 pages)

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 served honorably and faithfully for more than 8 years in the Army. He developed anxiety while on active duty after two combat deployments and depression when he discovered that his first wife was unfaithful during his first deployment. In July 2007, he had a major domestic crisis when his spouse decided to leave with their infant daughter. He essentially had a breakdown and was hospitalized, and he was diagnosed with a personality disorder. In September 2007, his psychologist said that he did not have a personality disorder and thought that 5-17 was a more appropriate description of his mental health issues. Despite the doctor's suggestion, block 28 of his DD Form 214, states "Personality Disorder" he respectfully request that his DD Form 214 be corrected to reflect AR 635-200, Chapter 5-17 as the basis for his chapter elimination. He believes the 5-13 (personality disorder) characterization was a mistake as he has outlined above. Moreover, the entry in Block 28 of his DD Form 214

has precluded him from obtaining gainful employment after service. He never agreed with the narrative reason for separation on his DD Form 214. It was not until recently that he learned the proper process to take to correct this error.

3. The applicant enlisted in the Regular Army on 21 July 1999. He held military occupational specialty 88H (Cargo Specialist). He had several periods of reenlistment prior to separation.

4. He served in Iraq from 24 March 2003 - 25 March 2004 and again from 10 December 2004 - 20 August 2005.

5. He was promoted to sergeant on 1 February 2006.

6. He underwent a separation physical on 5 April 2007, he was found qualified for service and separation.

7. On 13 July 2007, a US Navy psychiatrist recommended an expeditious administrative separation from the military on the basis of a personality disorder of such severity as to render the member incapable of serving adequately in military service as per MILPERSMAN Article 1910-122. The member is not considered mentally ill and returns to full duty. The member manifests a longstanding disorder of character that is so severe that the member's ability to function effectively in the Navy environment is significantly impaired and interferes with the member's performance of duty. Although not currently suicidal or homicidal, he is considered to be self-destructive and is a continuing danger to self or others as well as an impediment to good order and discipline. The member understood that separation was a command decision and was not promised by the psychiatrist. In the examiner's opinion, the member does not possess a severe mental disease or defect for purposes of R.C.M. (unknown) examinations and is considered competent for his actions.

8. On 7 September 2007, he underwent a mental evaluation at the command's request pertaining to separation under the provisions (UP) of AR 635-200, chapter 5-17. He was diagnosed with depressive disorder not otherwise specified.

9. On 25 September 2007, his commander notified him of his intent to separate him UP of AR 635-200, chapter 5-13. The reason for his proposed action was on 13 July 2007, an evaluation conducted at Naval Medical Center, Portsmouth, Virginia concluded that he had a longstanding disorder of character that significantly impaired and interfered with his ability to function effectively in the Army. On 7 September 2007, he was diagnosed with having a depressive disorder. The applicant acknowledged on the same day.

10. On 27 September 2007, after having received notification from his commander of the basis for the contemplated action to separate him UP of AR 635-200, chapter 5-13, its potential effects, and the rights available to him. He had the opportunity to consult with counsel and he conditionally waived his right to an administrative separation board if his service is characterized as honorable. He acknowledged/understood he may expect to encounter substantial prejudice in civilian life if a discharge/character of service that is less than honorable is issued to him.

11. On or about 1 October 2007, his chain of command recommended he be separated UP of AR 635-200, chapter 5-13, for personality disorder and his service be characterized as honorable.

12. On 16 October 2007, the separation authority approved separation UP of AR 635-200 chapter 5-13. He directed that his character of service be characterized as honorable.

13. Accordingly, he was honorably discharged on 2 November 2007. His DD Form 214 shows he completed 8 years, 3 months and 12 days net active service this period. It also shows:

- Item 25: AR 635-200, paragraph 5-13
- Item 26 (Separation Code): JFX
- Item 27 (Reentry Code): 3
- Item 28: Personality Disorder

14. There is no evidence the applicant applied to the Army Discharge Review Board within the Board's 15-year statute of limitations.

15. The applicant provides:

a. Rating decision, 6 February 2014, showing he was rated 70% for mental condition to include major depressive disorder recurrent and generalized anxiety disorder.

b. Medical records from July and September 2007 in support of his claim.

16. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

17. Title 38, USC, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

18. Title 38, CFR, Part IV is the VA's schedule for rating disabilities. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

19. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of a change to the narrative reason for separation. He contends a mental health condition vice a personality disorder.

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 21 July 1999.
- The applicant served in Iraq from March 2003 to March 2004 and again from December 2004 to August 2005.
- The applicant was honorably separated under AR 635-200, chapter 5-13, due to a personality disorder.
- The applicant was discharged on 2 November 2007 and completed 8 years, 3 months, and 12 days of active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts he developed anxiety after two combat deployments and depression due to his wife's adultery. He explains he was hospitalized and misdiagnosed with a personality disorder, and he indicated PTSD as the appropriate diagnosis. The application included a VA Rating Decision notification dated 6 February 2014 showing that the applicant is 70% service connected for Major Depressive Disorder and Generalized Anxiety Disorder. Documentation dated 10 July 2007 showed that the applicant was admitted for psychiatric hospitalization after he had run into traffic twice secondary to relationship and financial problems, mood dysregulation, and lack of coping skills. Documentation alluded to potential separation from the military because of his financial irresponsibility, and he was diagnosed with Partner Relational Problems, Occupational Problems, and Major Depressive Disorder. On 10 September 2007 he presented for a "chapter" and reported that his medication, risperidone, was making him

sleepy. Symptoms of anxiety and depression were noted, and he was diagnosed with Atypical Depressive Disorder. Notably, the evaluating psychologist conducted a thorough evaluation to determine if the applicant's deployment history was creating his current problems, and the applicant reported a long history of depressive symptoms in the context of relationship stressors. It was documented that he is "very vulnerable to rejection or loss of support from core relationships and tends to overreact. SM denied that his deployment affected him emotionally." The psychologist also recommended a Chapter 5-17 separation (Other Psychological Factors) and stated, "in light of eight years of active duty service, personality disorder should have caused problems a long time ago." A Report of Medical History and a Report of Medical Examination dated 5 April 2007, which indicated the purpose of examination as "separation," showed no psychiatric symptoms noted. A memorandum dated 13 July 2007 recommended the applicant's discharge as related to a personality disorder, and a Developmental Counseling Form dated 23 August 2007 notified the applicant that the command was seeking a medical chapter with a change from "indebtedness to medical." A Report of Mental Status Evaluation dated 7 September 2007 showed a diagnosis of Depressive Disorder Not Otherwise Specified (NOS) and indicated the applicant had capacity to understand and participate in the proceedings and met retention standards. There was sufficient evidence that the applicant was diagnosed with a 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 underwent a separation physical on 13 April 2007 and there was no indication of any psychiatric symptoms. In addition to the documentation included in the application, there was notation dated 12 July 2007, which showed the applicant met with a social worker while inpatient, and he explained that he was being discharged from the Army due to financial hardship and that he had taken a loan from the Army to help pay off some of his financial debt. The note discussed his wife's departure to Texas and his plans to join her there once he was discharged. He also explained that when he ran into traffic, his intent was not to kill himself but to get his wife's attention and make her stay in Virginia. He was diagnosed with Acute Stress Disorder and offered resources for services upon discharge from the military.

e. The applicant initiated a mental health evaluation through the VA on 27 August 2008 in hopes of getting back into the military, and he recounted the events resulting in his hospitalization. He expressed a history of anxiety and anger problems, but he reported this has resolved. He denied symptoms of depression or PTSD and was given no diagnosis, and he was directed to see an Army psychiatrist for psychiatric fitness for duty. His next encounter with VA was on 27 November 2012, and he presented due to anger problems that were impacting his marriage (4th wife) and several psychosocial stressors (i.e. financial difficulty). He reported a childhood history of trauma exposure, including witnessing domestic violence, and symptoms of anxiety, and he was started

on an antidepressant and a medication for sleep. At follow up his mood and emotion regulation were responsive to medication and therapy, but in February 2013 he was admitted due to suicidal ideation with a plan to shoot himself secondary to marital conflict and his emotional volatility. He was hospitalized for five days, started on a mood stabilizer, and diagnosed with Anxiety Disorder NOS and Intermittent Explosive Disorder. He continued in individual, marital, and group therapy (for anger management) as well as medication management, but he was hospitalized again in May 2013 following an anger outburst and his wife calling the police. His medications were changed, and he discharged four days later resuming outpatient treatment.

f. A Mental Disorders Compensation and Pension (C&P) exam was conducted on 23 December 2013, and he reported anxiety symptoms, anger problems, and financial stress due to unemployment and child support for his six children. He reported nightmares and flashbacks of "our convoy was attacked," but his primary trauma-related symptoms were attributed to his childhood experiences. It was noted that he was prescribed five medications to manage his explosive behavior, mood and anxiety symptoms, and nightmares, and the evaluator concluded that his current psychiatric diagnoses were at least as likely as not the ongoing manifestations of symptoms first shown during his time in service.

g. The applicant was hospitalized again in March 2014 following a suicide attempt by overdose, which was precipitated by an argument with his wife, and in June 2014 he was admitted to a six-week residential PTSD treatment program. He reengaged with outpatient treatment, which included marital therapy. In February 2015, the applicant completed another C&P examination and was diagnosed with Major Depressive Disorder, and it was noted that he had not worked since 2012 and was on SSDI. Documentation through 2020 showed stability in mood, anger, and interpersonal relationships with individual and couples therapy and medication management. However, in March 2021 he presented to the ER reporting an anger outburst that was spurred by "road rage" and resulted in him hitting his wife and getting arrested. He was admitted to the inpatient psychiatric unit and later transferred to a residential program. He has consistently required medication management and therapy, and his most recent encounter was on 11 September 2024 where he reported utilizing the Vet Center for individual and couples therapy and benefiting from non-VA equine therapy.

h. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support a change to the narrative reason for separation. The applicant was in the process of being separated from the military related to financial mismanagement and indebtedness, and a separation physical was conducted in April 2007 where he reported no psychiatric symptoms at that time. In July 2007, while under stress related to his financial situation and a pending separation from the military, the applicant engaged in suicidal behavior following abandonment by his second wife, and he was admitted to an inpatient unit where he

was diagnosed with Partner Relational Problems, Occupational Problems, and Major Depressive Disorder. While on active service, the applicant also received diagnoses of Acute Stress Disorder and Atypical Depressive Disorder. Notably, the psychologist who evaluated him as part of the separation process, gave him a diagnosis of Depressive Disorder NOS and documented that a separation under chapter 5-17 was more applicable. While the applicant does display behaviors characteristic of a personality disorder, there is insufficient evidence to fully support that diagnosis. However, despite his clinical diagnoses related to depression and acute stress reaction, there is insufficient evidence to support that he had a medically disabling condition that would warrant disposition through medical channels or IDES.

i. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had a mental health condition, including PTSD, at the time of the discharge. Mental health documentation from his time in service showed diagnoses of Depressive Disorder(s) and Acute Stress Disorder. He has had extensive mental health treatment through the VA and is 70% service connected for Major Depressive Disorder and Generalized Anxiety Disorder.

(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, and this is substantiated by the documentation from his time in service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records revealed sufficient documentation to support the presence of a mental health condition as opposed to purely a personality disorder. The applicant was diagnosed with Depressive Disorder NOS, and it was noted by the evaluator that his separation better fits criteria outlined in chapter 5-17, Other Psychological Factors.

j. Given the applicant's in-service diagnosis of Depressive Disorder NOS, the 2021 revision to AR 635-200, and per Liberal Consideration, a change to the narrative reason for discharge to Chapter 5-14, "other designated physical or mental condition" should be considered.

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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and

regulation. Upon review of the applicant's petition, available military records and medical review, the Board concurred with the advising official finding sufficient evidence to support a change to the narrative reason for separation. The opine noted there is insufficient evidence to support that he had a medically disabling condition that would warrant disposition through medical channels or IDES.

2. The Board determined based on the opine correction to the applicant's narrative reason is warranted. Evidence supports under liberal consideration and regulatory guidance the applicant's narrative reason, separation code and separation authority should reflect Chapter 5-14, "condition, not a disability and JFV. As such, the Board granted relief.

BOARD VOTE:

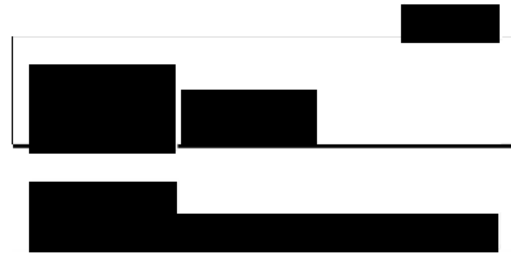
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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
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:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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 amending his DD Form 214

- Item 25 (Separation Authority): Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) chapter 5-14
- Item 26 (Separation Code): JFV
- in item 28 (Narrative Reason for Separation) to read - Condition, Not a Disability



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 (AR) 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the administrative separation of enlisted personnel.

a. Paragraph 5-13 (Separation because of personality disorder), in effect at the time, states a service member may be separated for personality disorder not amounting to disability that interferes with assignment to or performance of duty when so diagnosed by a psychiatrist. A personality disorder is a deeply-ingrained maladaptive pattern of behavior of long duration that interferes with the Soldier's ability to perform duty. Separation because of personality disorder is authorized only if the disorder is so severe that the Soldier's ability to function effectively in the military environment is

significantly impaired. Separation processing may not be initiated until the Soldier has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. A Soldier being separated under this section will be awarded a character of service of honorable unless an entry-level separation is required.

b. Paragraph 5-17, states commanders may approve separation under this paragraph based on other physical or mental conditions not amounting to disability (AR 635-40) and excluding conditions appropriate for separation processing under paragraph 5-11 or 5-13 that potentially interfere with assignment to or performance of duty. Such conditions may include but are not limited to—

- Chronic airsickness
- Chronic seasickness
- Enuresis
- Sleepwalking
- Dyslexia
- Severe nightmares
- Claustrophobia
- Transsexualism/gender transformation in accordance with AR 40-501 paragraph 3-35
- Other disorders manifesting disturbances of perception, thinking, emotional control or behavior sufficiently severe that the Soldier's ability to effectively perform military duties is significantly impaired

3. AR 635-5-1 (Separation Program Designator Codes) prescribes the specific authorities (regulatory, statutory, or other directives), the reasons for the separation of members from active military service, and the separation program designators to be used for these stated reasons:

- Separation Code JFV applies to enlisted Soldiers who were separated due to a condition, not a disability
- Separation Code JFX applies to enlisted Soldiers who were separated due to personality disorder

//NOTHING FOLLOWS//