

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2025

DOCKET NUMBER: AR20240007383

APPLICANT REQUESTS: an upgrade of his general, under honorable conditions discharge to honorable

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Self-Authored Statement (available for the Board's review), in effect, he discusses his second deployment. The traumatic event resulting in the loss of his team leader and best friend that was killed in action (KIA). How the accumulative traumas over the course of his previous and current deployments defined the strong symptoms of post-traumatic stress disorder (PTSD). He sought out mental health treatment and was incorrectly diagnosed with "adjustment disorder with disturbance of emotions and conduct" and was treated with various medications typically seen in the treatment of PTSD. The leadership refused the option of medical discharge. It should be known that after separation, he was never and have never been diagnosed with any sort of "adjustment disorder with disturbance of emotions and conduct" by the VA and he has been able to control his "emotion and conduct" since. He is still in treatment for his chronic PTSD, and it has been under control ever since.
- Medical Records that show the applicant was being seen for various conditions to include behavioral health, anxiety, and insomnia but not limited to, prior to his separation.
- Department of Veterans Affairs (VA) letter that show a combined service-connected evaluation of 100 percent.
- VA disability rating list that shows the applicant was awarded a service-connected evaluation of 100 percent for PTSD
- Self-Authored Personal Achievements since discharge listing (available for the Board's review) that indicates the personal achievements, jobs, and the affects his service-connected disabilities has had since his discharge
- State Corporation License, which shows the applicant's business license in the Commonwealth of Virginia and North Carolina
- National Registry Emergency Medical Technicians Certificate, shows the applicant satisfied the prescribed national standards for certification

- Orders 135-0043 dated 15 May 2013, which shows the applicant's date of discharge as 28 May 2013
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 28 May 2013

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 during the time of his misconduct, he was being treated for, but not diagnosed with PTSD. Immediately upon separation, the VA diagnosed him with PTSD and his medications given during the end of his enlistment were continued. He was never told that he was being treated for PTSD, even though the VA psychiatrist confirmed that the medication and therapy regimen he was on was consistent with PTSD treatment. During his time in Iraq and Afghanistan, he experienced the horrific loss of several close friends and coalition forces along with many emotionally traumatic events such as corpse recovery and disposal, providing aid to combat wounded, was witness to a death-expectant infant due to rapacious sodomy from the father etc. He was a highly motivated Soldier until that time and had the Army allowed him to, he could have medically boarded due to PTSD.
3. A review of the applicant's service record shows:
  - a. He enlisted in the Regular Army on 13 October 2009.
  - b. He deployed to Iraq from 2 May 2010 to 22 July 2010 and to Afghanistan from 7 December 2011 to 1 November 2012.
  - c. On 20 February 2012, a Behavioral Health Officer submitted a memorandum for record indicating he was actively engaged in behavioral health care and treatment that was expected to last approximately three months.
  - d. On 12 May 2012, he received non-judicial punishment for stealing a man's watch, which was the property of the Army Air Force Exchange Service. He was reduced to private first class/E-3.
  - e. On 1 November 2012, he received non-judicial punishment for:
    - sleeping while at his post

- assault on a fellow Soldier with a dangerous weapon (loaded M4 carbine)
- he was reduced to private/E-2

f. On 27 February 2013, the immediate commander sent a memorandum for medical evaluation board to inform of his preferred chapter 14-12b proceedings on the applicant.

g. On 22 April 2013, the immediate commander notified the applicant of his intent to separate him under the provisions (UP) of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), chapter 14, paragraph 14-12c, for commission of a serious offense. The commander recommended that his period of service be characterized as general under honorable conditions. He acknowledged the same day.

h. He was advised by consulting counsel of the basis for the contemplated action to separate him for commission of a serious offense UP of chapter 14-12c, AR 635-200 and its effects; of the rights available to him.

i. His commander/chain of command recommended approval and that his character of service be general under honorable conditions.

j. On 9 May 2013, the separation authority approved separation UP of AR 635-200, chapter 14-12c, for commission of a serious offense; he directed a general under honorable conditions characterization of service.

k. Accordingly, he was discharged under honorable conditions on 28 May 2013. He completed 3 years, 7 months, and 16 days of net active service this period.

4. In reaching its determination, the Board can consider the applicants petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

#### 5. MEDICAL REVIEW:

1. The applicant is applying to the ABCMR requesting an upgrade of under honorable conditions (general) discharge to honorable. On his DD Form 293, the applicant indicated Posttraumatic Stress Disorder (PTSD) is 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 on 13 October 2009, 2) he deployed to Iraq from 02 May 2010 to 22 July 2010 and to Afghanistan from 07 December 2011 to 01 November 2012, 3) he received nonjudicial punishment (NJP) on 12 May 2012 for stealing a watch, 5) on 01 November 2012, he received NJP for sleeping at his post and assault on a fellow Soldier with a dangerous weapon, 6) On 27 February 2013, the immediate commander

sent a memorandum for medical evaluation board to inform of his preferred chapter 14-12b proceedings on the applicant, 7) the applicant was discharged on 28 May 2013 under the provisions of AR 635-200, chapter 14-12c, for commission of a serious offense, with a separation code of JKQ, and reentry code of '3.'

2. 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. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

3. In-service records included as part of his application and available via JLV were reviewed. The applicant first presented for BH treatment while deployed on 03 June 2012, primarily reporting problems with his wife and anger. He was diagnosed with Adjustment Disorder with Disturbance of Emotions and Conduct and was started on Fluoxetine (antidepressant) for mood stabilization. The applicant continued to meet with BH throughout the rest of his deployment (last in-theater session documented as 04 November 2012) and was prescribed medication by the medical provider(s) at the aid station. Throughout this period of treatment, he reported significant problems with anger, marital issues, anxiety, insomnia, night terrors, and anxiety. On 11 September 2012, he presented to the Combat Stress Control (CSC) clinic due to an incident involving flagging another Soldier, to which the applicant reported it was inadvertent and that he has difficulty controlling his anger once it's been triggered. It was noted that he did not meet criteria for a psychiatric diagnosis at the time and his problems were most consistent with psychosocial stressors related to Primary Support Group. On 01 October 2012, the applicant reported an exacerbation of symptoms after finding out that his best friend and team leader was killed by an IED right before the applicant was scheduled to return to theater from R&R. He reported a worsening of symptoms over the past few months and documented that he was easily agitated, sleep problems and night terrors, fearful dreams that woke him up and he felt were related to traumatic events, depression related to losing his friend, and tired of being in the deployed environment. It was documented that he reported believing most of his symptoms would resolve upon re-deployment. He was diagnosed with Anxiety Disorder Not Otherwise Specified (NOS) with a rule out (R/O) of PTSD. The provider documented that he appeared to be experiencing significant anxiety and depression in relation to exposure to combat-related traumas, the recent loss of a friend, and deployment burnout. He was considered fit for duty. Review of his BH treatment records while deployed shows he was diagnosed with several conditions in addition to those previously mentioned: Adjustment Disorder with Depressed and Anxious Mood, Sleep Disorders Organic Insomnia, and Occupational Problem. The applicant was also trialed on several medications while in theater to address his BH symptoms, in addition to those previously mentioned, to include Clonidine (anxiety), Trazodone (sleep), Benadryl (sleep), Ambien (sleep, prescribed to help with flight to-and-from R&R leave), Lunesta (sleep), and Prazosin (nightmares).

4. The applicant was command-referred to the Army Substance Abuse Program (ASAP) on 12 December 2012 following a domestic dispute with his wife wherein he punched a door, yelled, was arrested and spent 4 nights in jail. He reported his blood alcohol content (BAC) at the time of his arrest was 0.16. It appears there was a rehabilitation treatment meeting (RTM) on 07 January 2013 though his results were not available for review. He appeared to attend one ASAP group on 06 March 2013. Records show he was diagnosed with Alcohol Abuse.

5. Upon returning from deployment, on 17 December 2012 he reported that "everything has gotten worse since returning home except anger." He was diagnosed with Anxiety Disorder NOS, R/O PTSD, and on Axis II Cluster B traits were noted (refers to personality-disorder related traits). The applicant was scheduled to continue with psychotherapy and was scheduled for a medication evaluation. His antidepressant was changed on 19 December to Zoloft from Prozac, and he was started on Seroquel (antipsychotic) for Insomnia. During a BH appointment on 23 January 2013 it was documented that he was being evaluated for a Medical Evaluation Board (MEB) due to a back injury. He reported improvement in his mood and sleep but continued anxiety. The provider indicated he would start Prolonged Exposure (PE) (PE is an evidence-based treatment for PTSD) at his next session if willing. On 20 February 2013, his BH provider submitted a memorandum for record (MFR) to his commander indicating he was actively engaged in behavioral health care and treatment that was expected to last approximately three months. The provider further noted that he likely would not be cleared for administrative separation from a BH perspective as the recommendation would likely be to finish the 90-day period of treatment. There were no safety concerns documented at the time of the MFR. He engaged in PE treatment through 18 March 2013 wherein he reported that almost all of his combat-related anxiety had improved with the exception of increased startle response to loud noises, and as such felt he did not need to continue with PE treatment. His diagnosis was changed to Adjustment Disorder and the provider documented that his remaining concerns were related to ongoing external stressors (e.g., marital problems, pending divorce, work stress, and financial stress). It was documented that he was fit for duty in accordance with (IAW) AR 40-501. His sleep medication was changed from Seroquel to Ambien on 20 February 2013. His medication regimen until his time of separation was documented as Zoloft, Ambien, and Prazosin.

6. The applicant self-referred to the Family Advocacy Program (FAP) on 27 December 2012 to enroll in the STOP 16 group as he was advised by the court to attend domestic violence treatment. It was documented that he did not have a FAP case. He enrolled in the group though discontinued on 21 February 2013 after being notified by the judge that the class did not count towards his domestic violence treatment requirement. His diagnoses during his treatment through FAP were documented as Adjustment Disorder with Disturbance of Emotions and Conduct, Relational Problems, and Marital Problem. He presented to FAP on one other occasion on 26 March 2013 due to an incident

wherein he pushed his spouse, punched two doors, and was arrested. His diagnosis was noted as Other Specified Family Circumstances.

7. The applicant underwent a Mental Status Evaluation (MSE) for the purposes of chapter separation on 27 March 2013. It was documented that he had resolution of combat and deployment-related experiences though continued to experience stress related to external stressors. The provider documented his diagnosis as Adjustment Disorder, Cluster B Traits, and noted that he was psychiatrically cleared for administrative separation as deemed appropriate by command. It was further documented that he did not feel as though he needed BH treatment any longer and that he believed his symptoms would resolve upon separation from the Army.

8. A review of JLV shows the applicant is 100% service-connected through the VA for PTSD (100%), Lumbosacral or Cervical Strain (40%), and inflammation of Sciatic Nerve (20%).

9. A memorandum dated 22 April 2013 documenting the commander's intent to separate the applicant included the following reasons for the proposed action: stole from AAFES on 04 October 2011, assaulted another Soldier with a loaded weapon on 02 September 2012, fell asleep while at his post on 03 October 2012, failed to report to his place of duty on 25 January 2013, 22 February 2013, and 02 April 2013, and disrespectful to a noncommissioned officer on 25 January 2013.

10. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence that the applicant has been diagnosed with several potentially mitigating BH conditions, Anxiety Disorder NOS and PTSD. His in-service diagnoses of Adjustment Disorder [with Disturbance of Emotions and Conduct; with Depressed Mood; with Anxious and Depressed Mood], Sleep Disorders Organic Insomnia, and Anxiety Disorder NOS are subsumed by his diagnosis of PTSD. The applicant was also diagnosed with several psychosocial stressors in-service (e.g., Marital Problem, Primary Support Group, Relational Problem, Occupational Problem, and Other Specified Family Circumstances), and Alcohol Abuse, which do not constitute mitigating conditions. This Advisor would contend that the applicant's misconduct is partially mitigated by his diagnosis of PTSD.

11. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant was diagnosed with Anxiety Disorder NOS in-service and has been diagnosed and service-connected through the VA for PTSD.

(2) Did the condition exist or experience occur during military service? Yes, the applicant was diagnosed with Anxiety Disorder NOS in-service and has been diagnosed and service-connected through the VA for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? Partially. The applicant has been diagnosed with two potentially mitigating BH conditions, Anxiety Disorder NOS and PTSD. His diagnosis of Anxiety Disorder NOS is subsumed by his diagnosis of PTSD. As there is an association between problems with sleep, difficulty with authority figures, avoidance behaviors, and trauma, there is a nexus between the applicant's misconduct of disrespect to an NCO, failure to report to his place of duty, and falling asleep while at his post and his diagnosis of PTSD. However, assaulting another Soldier with a loaded weapon and theft are not part of the natural history and sequelae of PTSD, nor does the condition interfere with the ability to distinguish between right and wrong and adhere to the right. Furthermore, his misconduct of assault and theft outweighs the relief offered by Liberal Consideration. As such, there is support for partial BH mitigation as it pertains to his misconduct of failure to report, disrespect to an NCO, and falling asleep while at his post.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition, available military records and the medical advisory the Board considered the advising official opine based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence that the applicant has been diagnosed with several potentially mitigating BH conditions, Anxiety Disorder NOS and PTSD.

2. The opine noted, the applicant's in-service diagnoses of Adjustment Disorder [with Disturbance of Emotions and Conduct; with Depressed Mood; with Anxious and Depressed Mood], Sleep Disorders Organic Insomnia, and Anxiety Disorder NOS are subsumed by his diagnosis of PTSD. The applicant was also diagnosed with several psychosocial stressors in-service (e.g., Marital Problem, Primary Support Group, Relational Problem, Occupational Problem, and Other Specified Family Circumstances), and Alcohol Abuse, which do not constitute mitigating conditions. This Advisor would contend that the applicant's misconduct is partially mitigated by his diagnosis of PTSD.

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3. Consideration was given to the applicant's deployments and his length of service. However, the Board notwithstanding the advising official finding sufficient evidence that the applicant has been diagnosed with several potentially mitigating BH conditions, Anxiety Disorder NOS and PTSD. The Board found insufficient evidence of in-service mitigating factors that outweighed the applicant's misconduct of stealing from the post exchange and assault with a weapon against another Soldier. The Board agreed the applicant was discharged for commission of a serious offense and was provided an under honorable conditions (General) characterization of service. The Board determined the applicant's discharge characterization is warranted as he did not meet the standards of acceptable conduct and performance of duty for Army personnel to receive an Honorable discharge. As such, the Board denied relief.



BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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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 (Active Duty Enlisted Administrative Separations), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. 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. 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 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

//NOTHING FOLLOWS//