

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 March 2025

DOCKET NUMBER: AR20240007994

APPLICANT REQUESTS:

- an upgrade of his under honorable conditions (General) discharge
- a video appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- DA Form 20 (Enlisted Qualification Record)
- Standard Form (SF) 88 (Report of Medical Examination) – induction exam
- Department of Veterans Affairs (VA) Benefits Letter (Ltr) – he was rated 70% combined service connected
- VA Veterans Preference Ltr
- VA Form 21-0781a (Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Trauma) with supporting statement (Complete statement is available in supporting documents 26 pages)
- VA Medical Record with doctors' statement (Complete record and statement is available in supporting documents 14 pages)
- Letter to Honorable Senator P.M. (Complete letter is available in supporting documents one page)
- Disabled American Veterans (DAV) – he disagreed with the VA decision dated 11 August 2015

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 that he is requesting an upgrade of his Army discharge from Under Honorable Conditions to Honorable Discharge due to his certified PTSD and military sexual trauma (MST). He recalls reporting drug use in the barracks to his Captain, who then informed those he reported. He struggled for decades with feelings of weakness, self-blame, and major depression, believing that perseverance alone could overcome his trauma. Coming from a proud military family with a strong service legacy, he enlisted voluntarily with the intent to serve honorably. However, he states that traumatic events beyond his control derailed his military career. He believes his less than honorable discharge has hindered his employment opportunities and misrepresents his character. Despite these challenges, he has pursued education and remains determined to prove his self-worth. He requests a discharge upgrade, believing compelling circumstances warrant reconsideration. "Complete statement is available in supporting documents page 3."

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

- a. He was inducted into the Army of the United States on 31 July 1972.
- b. He received non-judicial punishment on 13 March 1973, he went absent without leave (AWOL) on or about 5 March 1973 until on or about 12 March 1973.
- c. On 26 March 1973, his commander notified him of his intent to separate him under the provisions (UP) of Army Regulation (AR) 635-200 (Enlisted Personnel), chapter 13. Record is void of the applicant's acknowledgement.
- d. On 26 March 1973, his commander initiated separation UP of AR 635-200, chapter 13, due to unsuitability.
- e. On 9 April 1973, his chain of command recommend approval his discharge under UP AR 635-200, Chapter 13, para 5(b) 2, "Unsuitability".
- f. On 20 April 1973, He was advised by consulting counsel of the basis for the contemplated action to separate him for unsatisfactory performance UP of Chapter 13, AR 635-200, and its effects; of the rights available to him; and the effects of any action by him waiving his rights.
- g. On 26 April 1973, the separation authority approved separation UP of AR 635-200, chapter 13; he directed a General Discharge Certificate be issued.
- h. Accordingly, he was discharged under honorable conditions on 27 April 1973, he completed 8 months and 20 days net active service this period with 7 days of lost time.

4. On 20 December 2024, the U.S. Army Criminal Investigation Division (CID) provided information for the processing of this case. CID conducted a search of the Army criminal files indexes regarding the applicant's claims regarding MST and no records were found.

5. There is no evidence the applicant applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

6. 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.

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his general under honorable conditions discharge. He contends he experienced military sexual trauma (MST) and resultant PTSD that mitigates his misconduct. 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 was inducted into the Army of the United States on 31 July 1972; 2) The applicant received non-judicial punishment on 13 March 1973 for being AWOL from 5-12 March 1973; 3) The applicant was discharged on 27 April 1973, Chapter 13-Unsuitability. His service was characterized as (general) under honorable conditions.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military records. The VA's Joint Legacy Viewer (JLV) and VA medical documentation provided by the applicant were also examined.

c. The applicant asserts he experienced MST and resultant PTSD while on active service, which mitigates his misconduct. There is insufficient evidence the applicant reported MST or any resultant mental health conditions including PTSD while on active service.

d. A review of JLV provided evidence the applicant has been engaged in the VA since 2001, and he was initially provided assistance for unemployment/homelessness and treatment for Bipolar Disorder. Later in 2011, the applicant reported being exposed to MST and resultant PTSD. In 2014, the applicant was diagnosed with service-connected PTSD (70%SC) related to MST as a result of a Compensation and Pension evaluation.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a condition or experience that mitigates his misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant reported experiencing MST and resultant PTSD during his active service. He was diagnosed with service-connected PTSD as a result of MST by the VA.

(2) Did the condition exist or experience occur during military service? Yes, the applicant reported experiencing MST and resultant PTSD during his active service. He was diagnosed with service-connected PTSD as a result of MST by the VA.

(3) Does the condition experience actually excuse or mitigate the discharge? Yes, the applicant has been diagnosed with service-connected PTSD as a result of the applicant's report of MST. The applicant did go AWOL, which is an avoidant behavior and a natural sequelae to MST and PTSD. Per Liberal Consideration, the applicant's diagnosis of service-connected PTSD as a result of MST is a mitigatable mental health condition and experience.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. Based on the applicant's service record, medical evidence, and post-service achievements, the Board concluded the evidence demonstrates that the applicant's misconduct was mitigated by MST and resultant PTSD, and his post-service conduct reflects honorable character and continued contributions to society.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:


Mbr 1      Mbr 2      Mbr 3

:XX      :XX      :XX      GRANT FULL RELIEF

- : : : GRANT PARTIAL RELIEF
- : : : GRANT FORMAL HEARING
- : : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 27 April 1973 to show an honorable characterization of service.

  
**X** //SIGNED//  
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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. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 635-200 (Enlisted Personnel), in effect at the time, sets 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.

4. 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.

5. 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.

6. 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.

//NOTHING FOLLOWS//