

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 March 2025

DOCKET NUMBER: AR20240008113

APPLICANT REQUESTS:

- an upgrade of his characterization of service from under other than honorable conditions to honorable
- a personal appearance hearing before the Board

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

- Two DD Form 149 (Application for Correction of Military Record), 16 May 2024 and 15 January
- Department of Veterans Affairs benefits letter, 2 July 2024
- Summary of treatment letter, 12 September 2024
- Two self-authored statement, 1 October 2024
- Applicant's letter to Secretary of Defense, 1 February 2025
- Two written statements from the applicant's superiors, undated

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, in effect, he does not believe he got the proper guidance of his discharge and was given misleading information that changed his discharge type. There was a lack of understanding on the impact his under other than honorable conditions characterization of service would have on his future. He believes he should have been given additional support to assist him with the discharge process.
  - a. He as 18 years old and was treated unfairly in the 1970s being an Afro-American Soldier. He did not find favor with white officers and sergeants who found him unfit and could not adjust to military life. He was very fearful, worried, stressed, and had reoccurring nightmares. He got no support for his mental health needs, and he did not

have proper counsel to tell him how his election to request discharge from the service would affect his future.

b. He was declared unfit by his superiors. He went to another unit, which he believed would have helped him, but this undiagnosed post traumatic stress disorder showed up again, and he was sent back to his previous unit due to behavior health problems. With the new policy in place, there is no doubt he would have been given the help that he needed and would not have been discriminated against. His undiagnosed PTSD resulted in an injustice of him being discriminated against racially.

c. His unresolved anger, undiagnosed PTSD, and because of the way he was treated in the Army got so out of control that he attacked a white soldier named. They got into argument over fake drugs. The argument escalated to a physical altercation where the applicant was injured badly. If he had the help that he needed, the incident would have never happened. He takes full responsibility for his actions, and he is sorry for his behavior he knows it was a result of his undiagnosed PTSD.

3. The applicant provides:

a. A VA benefits letter, 2 July 2024, showing he has a service-connected disability for bilateral hearing loss and PTSD with major depression disorder.

b. A summary of treatment letter from his social worker wherein she states she has worked with the applicant since October 2022 for treatment with anger and outbursts, anxiety, difficulty being able to manage stress, and challenges maintaining relationships and employment.

c. His letter to the Secretary of Defense, 1 February 2025, wherein he states he has encountered issues with the Army Review Board Agency regarding his multiple requests for an upgrade of his characterization of service.

d. Two written statements from his superiors showing the applicant had a difficult time adjusting to his job as an infantry man. His non-commissioned officer found the applicant to be lacking in discipline, difficult to manage, and required excessive supervision. The applicant's peers experienced difficulty with him when cooperation was required and personal relations with other members of his platoon were strained.

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

a. He enlisted in the Regular Army on 10 August 1981.

b. Seven DA Forms 4187 (Personnel Action) shows his duty status was changed on the following dates:

- Present for Duty (PDY) to Absent Without Leave (AWOL) – 14 December 1981
- AWOL to Dropped from Rolls (DFR) – 12 January 1982
- DFR to PDY – 22 March 1982
- PDY to AWOL – 13 April 1982
- AWOL to DFR – 13 April 1982
- DFR to Confined by Civil Authorities – 16 January 1984
- Confined by Civil Authorities to PDY -8 March 1984

c. His DD Form 458 (Charge Sheet) shows court martial charges were preferred against him on 9 March 1984, for two violations of Article 86 (AWOL), Uniform Code of Military Justice, in that he did absent himself from unit from on or about 14 December 1981 to on or about 19 March 1982 and from on or about 13 April 1982 to on or about 8 March 1984.

d. On 14 March 1984, he voluntarily requested discharge for the good of the service under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 10.

(1) He acknowledged that he made the request of his own free will and was not coerced by any person. He acknowledged his understanding that by requesting discharge, he was admitting guilt to the charges against him or of a lesser-included offense that authorized the imposition of a bad conduct or dishonorable discharge.

(2) He further acknowledged request of his own free will and had not been subject to any coercion by any person. He understood that by submitting a request for discharge, he acknowledged that he understood the elements of the offense charged and he was guilty of the charge against him. Moreover, he acknowledged that under no circumstances did he desire further rehabilitation, for he had no desire to perform further military service.

(3) He further acknowledged he consulted with council for consultation, who had fully advised him of the nature of his rights under the UCMJ, the elements of the offense which he was charged, the facts which must be established by competent evidence beyond a reasonable doubt to sustain a finding of guilty, the possible defenses which appeared to be available at the time, and the maximum permissible punishment if found guilty. Although he was furnished legal advice by counsel, the decision was his own.

(4) He understood that if his request for discharge was accepted, he may be discharged under conditions other than honorable and furnished an under other than honorable discharge certificate. He acknowledged he had been advised and understood the possible effects of an under other than honorable discharge and that as a result of

the issuance of such a discharge, he would be deprived of many or all Army benefits, and he may be ineligible for many or all other benefits administered by the Veterans Administration, that he may be deprived of his rights and benefits as a veteran under both federal and state law.

e. On 21 March 1984, his immediate commanders recommended approval of his request for discharge for the good of the service under the provisions of AR 635-200, chapter 10, with an under other than honorable conditions characterization of service.

f. On 28 March 1984, his intermediate commander recommended approval of his request for discharge for the good of the service under the provisions of AR 635-200, chapter 10, with the issuance of an other than honorable conditions discharge certificate.

g. On 20 April 1984, the separation approval authority approved the applicant's request for discharge for the good of the service under the provisions of AR 635-200, chapter 10, with the issuance of an other than honorable conditions discharge certificate.

h. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged on 3 May 1984 under the provisions of AR 635-200, chapter 10, for the good of the service - in lieu of court-martial. He completed 6 months and 24 days of net active service with lost time from 14 February 1981 to 18 March 1982 and from 7 March 1984 to 13 April 1984. His service was characterized as under other than honorable conditions. Item 13 (Decorations, Medals, Badges, Citation and Campaign Ribbons Awarded or Authorized), does not list any awards or campaign medals.

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

6. The pertinent Army regulation in effect at the time provided discharges under the provision of Army Regulation 635-200, chapter 10, where voluntary requests from the Soldier to be discharged in lieu of a trial by court-martial.

7. 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.

## 8. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under other than honorable conditions (UOTHC) to honorable. He contends he experienced an undiagnosed PTSD that mitigates his misconduct.

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 10 August 1981.
- His DD Form 458 (Charge Sheet) shows court martial charges were preferred against him on 9 March 1984, for two violations of Article 86 (AWOL) in that he did absent himself from unit from on 14 December 1981 to 19 March 1982 and from 13 April 1982 to 8 March 1984.
- On 14 March 1984, he voluntarily requested discharge for the good of the service under the provisions of Army Regulation (AR) 635-200, chapter 10, which was approved by his command and the separation authority.
- The applicant was discharged on 3 May 1984 and completed 6 months and 24 days of net 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 his symptoms of undiagnosed PTSD interfered with his ability to adjust to a military environment, and his "all white leadership" deemed him to be unfit. He goes on to discuss an incident that occurred in the barracks and references racial problems in the 1970s as contributing factors to his misconduct resulting in his discharge. He also expressed a belief that he did not receive proper counsel related to the discharge process. He indicated PTSD as an issue or condition related to his request. A VA Rating Decision letter dated 2 July 2024 showed that the applicant is service connected for treatment purposes only for PTSD. A letter from his treating provider, a licensed clinical social worker, dated 12 September 2024 showed that the applicant reported several symptoms of PTSD and was diagnosed and treated for this condition. However, a specific traumatic experience is not provided. There was insufficient evidence that the applicant was diagnosed with PTSD or another 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 initially engaged mental health treatment through the VA in March 2023, but documentation from 10 July 2023 noted a conversation between his VA psychiatrist and his non-VA therapist, who reported a treatment history over the previous six months and a PTSD diagnosis related to "being threatened by superiors and racial related issues." A psychiatry intake was

conducted on 19 September 2023, and the applicant reported race-based trauma as well as a physical altercation with another soldier, and he was diagnosed with PTSD and was provided with an antidepressant medication. Documentation indicated that the applicant has continued with psychotherapy through his non-VA provider, but he has utilized VA for group therapy and medication management. At his most recent psychiatry visit on 7 January 2025, he was continued on an antidepressant and a medication for sleep/anxiety.

e. Two Compensation and Pension (C&P) evaluations were obtained and both showed diagnoses of PTSD. The first exam, conducted on 30 January 2024, showed the applicant reported an incident where he was stabbed by another individual as related to an exchange of marijuana and he “faced disciplinary actions and stockade placement and ultimately had other than honorable discharge related to this incident.” The dates of his service are listed as 24 November 1975 to 3 May 1984. A second exam was completed on 6 June 2024 showed a similar report of the primary traumatic stressor (physical altercation initiated by another soldier related to selling “fake marijuana” and the applicant pulling a knife in self-defense), which he reported occurred in August 1977. The applicant also indicated this event led to his under honorable conditions discharge in September 1977. He was again diagnosed with PTSD. Notably, the examiner explained “the veteran served in the Army from 11/1975 to 9/1977 and again in 8/1981 to 5/1984. He was discharged both times with under honorable conditions (*inaccurate?*). He stated his first discharge was due to an assault and physical altercation. He reenlisted stating the Army messed him up and he wanted them to ‘fix it.’ There does not seem to be, based on his records and reports, any specific cause for the second discharge.”

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support that the applicant had a condition or experience that mitigates his misconduct. The applicant asserts that his discharge should be mitigated based on undiagnosed PTSD secondary to an altercation, which occurred in the barracks and was related to the selling of “fake marijuana.” He goes on to discuss racial prejudices in the 1970s and how this impacted the response from his leadership, including that he was not afforded mental health treatment. Documentation from his C&P examinations provided some evidence that the applicant actually had two terms of service (November 1975 to September 1977), but the application only includes the enlistment documents and charge sheet from what appears to be his second term of service from 1981 to 1984. The charge sheet indicates he was discharged due to two specifications of being AWOL. The traumatic event associated with the applicant’s diagnosis of PTSD was related to the altercation, which occurred during his first term of service.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. Although there are no in-service documentation showing any mental health symptoms or diagnoses, the applicant provided a letter from his treating provider indicating diagnosis and treatment of PTSD, and he is service connected for treatment purposes only by the VA for PTSD.

(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. The traumatic event, which the applicant references in his narrative and is documented in his VA records, was related to an altercation that occurred during his first term of service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. However, there is sufficient evidence that the applicant was diagnosed with PTSD due to a service-connected traumatic event. Avoidant behavior, such as going AWOL, can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. Given the nexus between trauma exposure and avoidance, and in accordance with liberal consideration, the basis for separation is mitigated.

#### 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 considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was charged with two violations of being absent without leave from 14 December 1981 to 19 March 1982 and from 13 April 1982 to 8 March 1984, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board noted the applicant's contention of being wrongfully accused of post-traumatic stress disorder.

2. Based upon the misconduct leading to the applicant's separation and the following recommendation found in the medical review related to the liberal consideration:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition,

including PTSD, at the time of the misconduct. Although there are no in-service documentation showing any mental health symptoms or diagnoses, the applicant provided a letter from his treating provider indicating diagnosis and treatment of PTSD, and he is service connected for treatment purposes only by the VA for PTSD.

(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. The traumatic event, which the applicant references in his narrative and is documented in his VA records, was related to an altercation that occurred during his first term of service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. However, there is sufficient evidence that the applicant was diagnosed with PTSD due to a service-connected traumatic event. Avoidant behavior, such as going AWOL, can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. Given the nexus between trauma exposure and avoidance, and in accordance with liberal consideration, the basis for separation is mitigated.

3. The Board concluded there was sufficient evidence to support that the applicant had a condition or experience that mitigates his misconduct. Based on a preponderance of the evidence, the Board concluded that the applicant's characterization of service will be upgraded to under honorable conditions (General).

4. 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

:                :                :                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 3 May 1984, to show his characterization of service as under honorable conditions (General).

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 upgrading his characterization of service to honorable.

4/7/2025

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. Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 provided that a member who committed an offense or offenses, the punishment for which includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The request for discharge may be submitted at any time after court-martial charges are preferred against the member, regardless of whether the charges are referred to a court-martial and regardless of the type of court-martial to which the charges may be referred. The request for discharge may be submitted at any stage in the processing of the charges until final action on the case by the court-martial convening authority. Commanders will ensure that a member is not coerced into submitting a request for discharge for the good of the service. The member is given reasonable time to consult with a consulting counsel and to consider the wisdom of submitting such a request for discharge. After receiving counseling, the member may elect to submit a request for discharge for the good of the service. The member will sign a written request, certifying that they were counseled, understood their rights, may receive a discharge under other than honorable conditions, and understood the adverse nature of such a discharge and the possible consequences. A discharge under other than honorable conditions was normally appropriate for a member who is discharged for the good of the service. However, the separation authority was authorized to direct a general discharge certificate if such was merited by the member's overall record during their current enlistment. For members who had completed entry level status, characterization of service as honorable was not authorized unless the member's record was otherwise so meritorious that any other characterization clearly would be improper.

b. An honorable discharge is a separation with honor. Issuance of an honorable discharge certificate is predicated upon proper military behavior and proficient performance of duty during the member's current enlistment or period of obligated service with due consideration for the member's age, length of service, grade, and general aptitude. Where a member has served faithfully and performed to the best of his ability and there is no derogatory information in his military record, he should be furnished an honorable discharge certificate.

c. A general discharge is a separation from the Army under honorable conditions. It is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. The recipient of a general discharge is normally a member whose military record and performance is satisfactory.

d. A discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct or for the good of the service.

3. AR 635-5-1 (Separation Program Designator (SPD) Codes), in effect at the time, provided that enlisted Soldiers separated under the provisions of AR 635-200, chapter 10 for the Good of the Service in lieu of court-martial would receive a separation code of "KFS."

4. AR 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-1 provides a list of RE codes.

- RE code "1" applies to Soldiers completing their term of active service, who are considered qualified for enlistment if all other criteria are met.
- RE code "2" is no longer in use but applied to Soldiers separated for the convenience of the government, when reenlistment is not contemplated, who are fully qualified for enlistment/reenlistment.
- RE code "3" applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, whose disqualification is waivable; they are ineligible unless a waiver is granted.
- RE code "4" applies to Soldiers separated from last period of service with a non-waivable disqualification
- RE code "3B" applied to Soldiers who had lost time during their last period of service, who were ineligible for enlistment unless a waiver was granted.
- RE code "3C" applied to Soldiers who had completed over 4 months of service who did not meet the basic eligibility pay grade requirements or who have been denied reenlistment under the Qualitative Retention Process and were ineligible for enlistment unless a waiver was granted.

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; 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.

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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records 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. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. 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.

//NOTHING FOLLOWS//