

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 July 2025

DOCKET NUMBER: AR20240008195

APPLICANT REQUESTS:

- reconsideration of his previous requests to change his voided enlistment to an honorable discharge, to change the narrative reason for separation, and compensation
- a personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record), 17 April 2024
- DD Form 149, 26 January 2025
- Applicant Statement Updated and Corrected, 30 April 2025
- Applicant Statement, 21 January 2025
- Applicant Statement Corrected, 12 August 2024
- Applicant Statement, 31 May 2024
- Applicant Corrected Statement, 14 August 2014
- Decision The Comptroller of the United States, 2 September 1976 (Available for the Board to review in the supporting documents)
- DD Form 214 (Report of Separation from Active Duty), 21 October 1976
- Medical Documents (19 pages), in support of his application
- Official Report of Test Results, dated 9 September 2008, which shows he passed the General Educational Development test
- University of Massachusetts Boston Certificate, dated 15 May 2010, and certified that he successfully completed the requirements of the Alcoholism/Chemical Dependency Treatment Services Program
- Letters of Support (13) (Available for the Board to review in the supporting documents)
- Enlistment Documents
- Separation Documents
- Domains of Impairment in Children Exposed to Complex Trauma, May 2005 (Available for the Board to review in the supporting documents)
- Information about Correction of Military Records and Review of Discharges
- Information on Complex Post Traumatic Stress Disorder (CPTSD)

- Multiple Articles (Available for the Board to review in the Supporting Documents)
- Procedural Due Process
- Letter, Cambridge Health Alliance, dated 25 February 2021, which shows he met with a social worker several times in 2019, and he indicated a history of interpersonal victimization from which he continued to experience psychiatric symptoms
- Applicant (Plaintiff) v. The United States (Defendant), Judgment, dated 14 December 2023, shows the applicant's motion to file a corrected response to the Army Board for Correction of Military Records (ABCMR) was granted
- Social Security Administration Benefit Verification Letter, dated 13 March 2024, shows beginning December 2023, his full monthly social security benefit before any deductions was \$1,608.10
- VA Form 21-22 (Appointment of Veterans Service Organization as Claimant's Representative), 12 June 2024
- Massachusetts Criminal Offender Record Information (CORI), dated 30 July 2024, shows the Massachusetts Department of Criminal Justice Information Services conducted a computerized search of the CORI database and the response summary showed no available CORI
- New Patient Progress Notes (4 pages) dated 5 August 2024, wherein the doctor states the applicant had a history of traumatic brain injury (TBI) which occurred in childhood resulting in PTSD. His 120 days in the military may have exacerbated his condition. He suffers from a type of psychiatric disorder on the bipolar spectrum, which may represent schizoaffective disorder.
- Letter, Power of Attorney between Applicant and the American Legion was revoked on 26 September 2024
- Letter from Applicant, dated 4 December 2024, wherein the applicant states he is a disabled senior citizen, and he can no longer afford rent and family support in Philippines, but he will continue to provide financial support for his 11-year-old disabled son and his caregiver
- Summary Process (Eviction) Summons and Complaint which shows he was required to appear in court. His tenancy was terminated because he refused the offer of a lease after his lease terminated.
- Notice of Virtual Summary Process Case Management Conference, 13 December 2024
- Certificate of Live Birth (Child), dated 22 May 2013
- Speech and Language Report of the applicant's child, dated 30 November 2017
- Summary of Developmental Assessment of the applicant's child, dated 4 March 2018
- Republic of Philippines Card, dated 12 March 2018, and shows the applicant's son has an intellectual disability

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20200004153 on 30 September 2021, AR20130006395 on 14 November 2013 and AR20110017271 on 27 March 2012.

2. The applicant states:

a. He was and is significantly impaired with PTSD that stemmed from adverse childhood experiences that included emotional, physical, and sexual abuse and neglect before and during enlistment when the U.S. Army recruiter came to his place of employment on several occasions until he convinced him it was proper for him to enlist when it was most certainly not proper for him to enlist. He omitted his felony conviction on his enlistment form because recruitment verbally authorized it. He had no intent to enlist or intent to deceive. He believed the uniformed recruiter and trusted his recruitment information and knowledge of enlistment procedures. He was wrong and he was confronted by the battalion commander on the third day of training. He admitted to the battalion commander that the recruiter authorized the omissions. He states he was wrongfully accused and discharged for fraud, and he is not guilty.

b. PTSD was present at enlistment and discharge. It was not known to the separating authority. His TBI was not known to the separating authority. He needs veteran's affairs follow up/treatment. He was approved after five years for social security disability. He has PTSD, not bipolar. Dr. C_ and Dr. E_ diagnosed/treated the condition in July 2018. He was heavily and wrongfully medicated from 1971 – 2012.

c. He further explains in his updated and corrected statements, which is available for the Board's review in the supporting documents:

- The Complaint
- Enlistment
- Service
- Argument
- Victim of an erroneous enlistment discharge
- Recruiter Prospecting
- Improper recruitment practices
- Long term implications of childhood trauma
- Post military life

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

a. DD Form 1966 (Application for Enlistment – Armed Forces of the United States), dated 14 June 1976, shows:

(1) He answered "No" to item 37c (Have you ever been involved in the use, purchase, possession, or sale of marijuana, lysergic acid diethylamide, or any harmful or habit-forming drugs and/or chemicals except as prescribed by a licensed physician?)

(2) Item 40 (Involvement with Police or Judicial Authorities), noted answers to the questions would be verified with the Federal Bureau of Investigation (FBI), and other agencies to determine any previous records of arrest or convictions or juvenile court adjudications. If you conceal such records at this time, you may, upon enlistment, be subject to disciplinary action under the Uniform Code of Military Justice (UCMJ) and/or discharged from the military service with an other than honorable discharge.

(3) He responded "Yes" to the following questions in item 40:

- item 40a – Have you ever been arrested, charged, cited, or held by any law enforcement or juvenile authorities regardless of whether the citation or charge was dropped or dismissed, or you were found not guilty?
- item 40b – As a result of being arrested, charged, cited, or held law enforcement or juvenile authorities, have you ever been convicted, fined by or forfeited bond to a Federal, State, or other judicial authority or adjudicated a youthful offender or juvenile delinquent (regardless of whether the record in your case has been "sealed" or otherwise stricken from the court record)?

(4) In item 40g (Explain below "Yes" answers in "a" through "e." Be careful to include ALL incidents with law enforcement authorities that you discussed with your recruiter); he listed a speeding offense and indicated he had been fined \$15.00.

(5) He signed section V (Certification), indicating the information he provided was true, complete, and correct to the best of his knowledge. He also acknowledged that if any of the information was knowingly false or incorrect he could be tried in a civilian or military court and could receive a less than honorable discharge which could affect his future employment opportunities.

b. He enlisted in the Regular Army on 21 June 1976.

c. The applicant's FBI record check revealed that he was charged with eight offenses. The record does not clearly show the disposition of four of the charges. The charges and disposition (where available) are as follows:

- 23 June 1971, illegal possession of heroin and a hypodermic needle and syringe
- 8 July 1971, being present where narcotic drugs were found (dismissed)
- 27 August 1971, illegal possession of heroin and illegal possession of heroin to sell
- 19 October 1971, breaking and entering with the intent to commit a felony
- 12 October 1972, received stolen property (superior court)
- 30 October 1972, forgery (20 days of observation)
- 25 July 1973, forgery
- 14 November 1975, trespassing (20 days - specific disposition not shown)

d. On 27 September 1976, the applicant's immediate commander informed him that he was being separated under the provisions of Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), chapter 14, due to fraudulent enlistment - concealment of a conviction by civil court. The commander listed the following reason for the proposed action: at the time of enlistment the applicant answered "no" to all questions in item 40, DD Form 1966, or answered "yes" in item 40 but failed to list all convictions or arrests in item 40g, thus concealing a conviction by civil court.

e. He was advised by consulting counsel of the basis for the contemplated action to discharge him for concealment of arrest record. He submitted a statement in his own behalf.

f. The intermediate commander recommended approval.

g. On 18 October 1976, the separation authority approved the separation and directed orders be issued to void the applicant's enlistment under the provisions of AR 635-200, paragraph 14-4d, as the applicant concealed a civil conviction and there was recruiter connivance indicated.

h. He was released on 21 October 1976. His DD Form 214 shows he was released from military control under the provisions of AR 635-200, chapter 14, by reason of void enlistment. His service was not characterized. This form also shows in:

- Item 9e (Character of Service): DNA, indicating it does not apply
- Item 18a (Net Active Service This Period): 0 years, 0 months, and 0 days

4. The ABCMR considered the applicant's request in ABCMR Docket Number AR20110017271 on 27 March 2012. The Board denied the applicant's request and determined the evidence presented did not demonstrate the existence of a probable error or injustice. The Board noted that his contentions that he served honorably was noted. Notwithstanding this contention, the record showed his service was not

characterized because he was separated by reason of a void enlistment. As a result, his DD Form 214 properly shows that character of service was not applicable in this case.

5. The ABCMR considered the applicant's request in ABCMR Docket Number AR20130006395 on 14 November 2013. The Board denied his request and determined the evidence presented did not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of the case were insufficient as a basis to amend the decision of the ABCMR set forth in Docket Number AR20110017271, dated 27 March 2012.

6. The ABCMR considered the applicant's request in ABCMR Docket Number AR20200004153 on 30 September 2021. The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, his record of service, the frequency and nature of his misconduct, and the reason for his separation. The Board considered the applicant's BH claim and the review and conclusions of the ARBA BH Advisor. The Board found insufficient evidence of in-service mitigating factors and concurred with the conclusion of the medical advising official regarding his misconduct not being mitigated by a BH condition. Based on a preponderance of evidence, the Board determined the reason for the applicant's discharge was not in error or unjust.

7. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

8. MEDICAL REVIEW:

a. Background: The applicant is requesting reconsideration of his prior requests of an upgrade of his voided enlistment to honorable, along with a change in the narrative reason for separation, and compensation. He contends PTSD and OMH as related to his request.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following:

- Applicant enlisted in the Regular Army on 21 June 1976.
- Applicant's FBI record check revealed that he was charged with eight offenses:
- 23 June 1971, illegal possession of heroin and a hypodermic needle and syringe
- 8 July 1971, being present where narcotic drugs were found (dismissed)
- 27 August 1971, illegal possession of heroin and illegal possession of heroin to sell

- 19 October 1971, breaking and entering with the intent to commit a felony
- 12 October 1972, received stolen property (superior court)
- 30 October 1972, forgery (20 days of observation)
- 25 July 1973, forgery
- 14 November 1975, trespassing (20 days - specific disposition not shown)
- On 27 September 1976, the applicant's immediate commander informed him that he was being separated under the provisions of Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), chapter 14, due to fraudulent enlistment - concealment of a conviction by civil court. The commander listed the following reason for the proposed action: at the time of enlistment the applicant answered "no" to all questions in item 40, DD Form 1966, or answered "yes" in item 40 but failed to list all convictions or arrests in item 40g, thus concealing a conviction by civil court.
- Applicant was released on 21 October 1976. His DD Form 214 shows he was released from military control under the provisions of AR 635-200, chapter 14, by reason of void enlistment. His service was not characterized.
- Previous consideration of the applicant's case by the ABCMR in Docket Number AR20200004153 on 30 September 2021, AR20130006395 on 14 November 2013 and AR20110017271 on 27 March 2012 denied the applicant's request.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states he was and is significantly impaired with PTSD that stemmed from adverse childhood experiences that included emotional, physical, and sexual abuse and neglect before and during enlistment when the U.S. Army recruiter came to his place of employment on several occasions until he convinced him it was proper for him to enlist when it was most certainly not proper for him to enlist. He omitted his felony conviction on his enlistment form because recruitment verbally authorized it. He had no intent to enlist or intent to deceive. He believed the uniformed recruiter and trusted his recruitment information and knowledge of enlistment procedures. He was wrong and he was confronted by the battalion commander on the third day of training. He admitted to the battalion commander that the recruiter authorized the omissions. He states he was wrongfully accused and discharged for fraud, and he is not guilty.

d. Due to the period of service no active-duty electronic medical records were available for review. Hardcopy medical documentation shows the applicant was admitted to a state psychiatric hospital on 5 February 1973 and had been previously psychiatrically hospitalized on: 27 September 1971, 16 October 1971, 30 October 1972, and 5 January 1973. He was diagnosed with Schizophrenic Reaction, Chronic, Undifferentiated type, and hospitalized at least five times prior to military service. His hospitalization on 27 September 1971 diagnosed him with Drug Addiction – Heroin.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected. However, he has sought services via the VA, with an initial assessment on 22 September 2011 indicating the applicant was seeking to obtain a diagnosis of PTSD as "an alternative to his Bipolar diagnosis". In addition, despite having been medicated related to his Bipolar diagnosis for over 40 years, the applicant was seeking to stop taking medication. The assessment states the applicant "was an active polysubstance (OH, heroin, cocaine, marijuana, speed, barbiturates, opiates, and LSD) abuser as a young adult. His substance abuse led to him being rejected from military service when he was drafted in 1968. In 1971 he stole money from his parents and was sent to jail as a result. While in jail he went into withdrawal and had a number of outbursts that led him to acquire the diagnosis of Bipolar." He continued to struggle with substance abuse for a number of years after his 10-month prison sentence, leading to multiple additional jail stays and chronic homelessness. He later signed up for military service in June of 1976. After leaving military service he continued chronic polysubstance abuse until 1990. The clinician opined the applicant's presentation was incongruent with a diagnosis of PTSD. He was diagnosed with Anxiety Disorder (Not Otherwise Specified); Chronic Alcohol Dependence, In Remission; and Combined Drug Dependence, In Remission; with a Rule-out of Bipolar I. During a follow-up session on 27 October 2011 he was diagnosed with Anxiety Disorder, NOS; Alcohol abuse, full remission; Polysubstance abuse, full remission; and Personality Disorder, NOS. The applicant was recommended for group therapy and participated in five sessions before he discontinued treatment.

The applicant provides a letter, dated 5 October 2016, from a nurse who collaborated with his primary care provider diagnosing him with various medical conditions but no current BH condition and indicating a history of PTSD, depression and anxiety. The letter states his ongoing case with the VA possibly negatively impacted his well-being and his PTSD. However, she was not diagnosing him with PTSD, and he did not have a case with the VA. A letter from a mental health provider dated 21 August 2018, specifically for the purpose of an appeal, states the applicant's trauma-related symptoms stem from childhood abuse and neglect. Another letter dated 15 March 2021, from his primary care provider at the time, states the applicant had a long-standing history of PTSD related to sexual and physical violence as a child. A second letter from the same provider, dated 20 February 2024, reiterates the above information, that his trauma-related symptoms stem from childhood abuse and neglect, but states his symptoms were further exacerbated by his reported military service.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that the applicant had a behavioral health condition that existed prior to military service and a civil conviction along with multiple prior arrests. The applicant purposely omitted his mental health, polysubstance abuse, and criminal record. When this information was uncovered his enlistment was voided.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant selected PTSD and OMH on his application as related to his request.

(2) Did the condition exist or experience occur during military service? No. The applicant had a psychiatric, polysubstance abuse, and criminal history that existed prior to military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant was discharged due to a fraudulent enlistment. He claims his recruiter is to blame for his purposeful omission of information that would have precluded him from military service. However, there is no evidence to support his assertion and the application he completed clearly stated that knowingly providing false or incorrect information could be tried in a civilian or military court. The medical record indicates the applicant had a pre-existing behavioral health condition, Schizophrenic Reaction, Chronic, Undifferentiated type; that was likely exacerbated by his years of polysubstance abuse. The BH condition and his polysubstance abuse existed prior to military service. In addition, the applicant had a criminal history that would have precluded military service. The applicant concealed his psychiatric, substance abuse, and criminal history in order to gain access to military service. When this information was uncovered his enlistment was void. Based on the documentation available for review, his separation process appears proper, equitable and free of error, and insufficient new evidence has been provided to determine otherwise.

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. Upon review of the applicant's petition, available military records and medical review, the Board concurred with the advising opinion of the Agency Behavioral Health Advisor that the applicant had a behavioral health condition that existed prior to military service and a civil conviction along with multiple prior arrests. The applicant purposely omitted his mental health, polysubstance abuse, and criminal record. When this information was uncovered his enlistment was voided. Therefore, the Board denied relief.

2. The Board considered the following Kurta questions under liberal consideration:

a. Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant selected PTSD and OMH on his application as related to his request.

b. Did the condition exist or experience occur during military service? No. The applicant had a psychiatric, polysubstance abuse, and criminal history that existed prior to military service.

c. Does the condition or experience actually excuse or mitigate the discharge? No. The applicant was discharged due to a fraudulent enlistment. He claims his recruiter is to blame for his purposeful omission of information that would have precluded him from military service. However, there is no evidence to support his assertion and the application he completed clearly stated that knowingly providing false or incorrect information could be tried in a civilian or military court. The medical record indicates the applicant had a pre-existing behavioral health condition, Schizophrenic Reaction, Chronic, Undifferentiated type; that was likely exacerbated by his years of polysubstance abuse. The BH condition and his polysubstance abuse existed prior to military service. In addition, the applicant had a criminal history that would have precluded military service. The applicant concealed his psychiatric, substance abuse, and criminal history in order to gain access to military service. When this information was uncovered his enlistment was void. Based on the documentation available for review, his separation process appears proper, equitable and free of error, and insufficient new evidence has been provided to determine otherwise.

3. 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Numbers AR20200004153 on 30 September 2021, AR20130006395 on 14 November 2013 and AR20110017271 on 27 March 2012.

X //SIGNED//

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. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel. Chapter 14 established policy and prescribed procedures for processing fraudulent entry cases and provided for the administrative disposition of enlisted personnel for misconduct by reason of fraudulent entry into the service. Section II pertained to incident of fraudulent entry. It stated that fraudulent entry was the procurement of an enlistment, induction, or period of active service through any deliberate material misrepresentation, omission, or concealment which, if known might have resulted in rejection. Any incident which met

the foregoing could be cause for discharge for fraudulent entry. All service performed under a fraudulent enlistment was considered null and void.

a. A member shall not receive a discharge, characterization of service at separation, or an entry level separation if the enlistment or induction is void except when a constructive element arises. If characterization or entry level separation will be described as an order of release from custody and control of the Army. A constructive element would include:

- Submitted voluntarily to military authority
- Met the mental competency and minimum age qualifications at time of voluntary submission to military authority
- Received pay and allowances
- Performed military duties

b. When the information is omitted or where no entry is appropriate, enter "DNA."

c. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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.

2. Army Regulation 635-5 (Personnel Separations – Separation Documents), in effect at the time, stated on the DD Form 214, include the following information for members who were released from custody and control of the Army because of a void or voided enlistment:

- Item 9e (Character of Service): Enter in all capital letters, NOT APPLICABLE, for release from custody and control of the Army due to voidance of fraudulent enlistments.
- Item 9f (Type of Certificate Issued): Enter "none" for voidance due to fraudulent entry.

3. Title 38, USC, section 1110 (General - Basic Entitlement): For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, air, or space service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

4. Title 38, USC, section 1131 (Peacetime Disability Compensation - Basic Entitlement): For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, air, or space service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

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.

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. 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.

8. 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.

//NOTHING FOLLOWS//