ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 25 February 2025

DOCKET NUMBER: AR20240008204

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 8 June 2007 to show:

- his narrative reason for separation as "Secretarial Authority"
- his reentry (RE) code changed to RE-1

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

- DD Form 149 (Application for Correction of Military Record)
- Military Service Documents
- DD Form 214
- Attorney Brief
- Self-Authored Statement
- Applicant Resume
- Character Letter
- Department of Veterans Affairs (VA) Letter (2)
- Service Medical Documents (189)
- VA Medical Documents (62)
- Email

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 through counsel:

a. That in June of 2006, the applicant approached his superior, Sergeant First Class M__, regarding his mental health. The applicant was referred to the chaplain and counseled regarding the possibility of him being removed from service for being mentally unfit. Despite acknowledging that he could be separated from service, SFC M__ informed him that the top priority was to get him the help he needed. While the

applicant was deployed to Iraq, his fiancée was deployed to Kuwait. While she was deployed, she was sexually assaulted and impregnated by another soldier. As a result, she was sent home and had an abortion.

b. The two later got married on 31 December 2005 but less than a year later his wife tragically passed away on 14 August 2006. He first learned of wife's death over the phone, and never got a chance to see her before she died. She was in a tragic accident while visiting family, which he encouraged her to do, and he has consequently struggled with insurmountable feelings of guilt. She also happened to be pregnant with the applicant's child at the time of her passing. Shortly thereafter, his father fell ill and needed a kidney transplant. The tragic passing of his wife, combined with the health issues of his father, led to his drinking to cope with the stress.

c. The applicant voluntarily sought help for his alcohol dependency on 11 December 2006 and was subsequently enrolled in the Army Substance Abuse Program (ASAP). It was determined he would best benefit from an inpatient program designed to work through the emotional trauma that was causing him to drink. He successfully completed this program on 16 January 2007. He was immediately discharged for failure to rehabilitate after missing two required meetings and receiving DUI later that same month.

d. The Army refused to allow him to complete another treatment program. His DD Form 214 indicates he was separated for alcohol or other drug abuse rehabilitation failure, and it was originally a general, under honorable conditions discharge. He had no other disciplinary actions prior to the DUI. The applicant was diagnosed with post-traumatic stress disorder (PTSD) soon after service and is 100% service connected as of 25 June 2021. Due to the complexity of his service and events leading to his discharge, he has already received a discharge upgrade to honorable.

e. The applicant's narrative reason for discharge and reentry (RE) code are inequitable based on the length and quality of his service and the circumstances he endured while enlisted which caused him to develop PTSD and ultimately led to his discharge. The narrative reason and RE code should be changed to reflect his condition and match the discharge upgrade he has already received.

3. The applicant provides:

a. Character letter, undated shows he is a very close personal friend of the applicant. The applicant used to be an upbeat, very social, fun loving and outgoing person. He noticed a change in the applicant's behavior after the death of his wife in 2006. The applicant became withdrawn from people and would not let people close to him emotionally. Eventually he began to abuse alcohol to try and cope with the depressive feelings he was having. This alcohol abuse would lead to more depression

which lead to him being unable to function properly at work and home. The passing of his wife affected the applicant in every way possible and still affects him today. As a friend he has seen these effects on the applicant's life and noticed the difference from one day to the next.

b. VA letter, 2 September 2015 shows Dr. SD__, Staff Psychologist, Mental Health clinic states the applicant had feelings and reactions similar to those he experienced when in the military and post military, which eventually lead to clinical depression.

c. VA letter, 30 August 2021 shows the applicant was service connected for:

- bilateral flat foot (pes planus) with an evaluation of 50%
- left knee patellofemoral pain syndrome with an evaluation of 20%
- left shoulder strain, impairment of humerus with an evaluation of 20%
- left should strain, limitation of motion with an evaluation of 20%
- bilateral plantar fasciitis with an evaluation of 10%
- right patellofemoral pain syndrome with an evaluation of 10%

d. Medical documents that which will be reviewed and discussed by the mental health staff at the Army Review Boards Agency (ARBA).

4. The applicant's service record shows:

a. DD Form 4 (Enlistment/Reenlistment Document-Armed Forces of the United States) shows the applicant enlisted the Regular Army on 7 August 2002.

b. He reenlisted on 15 January 2005.

c. Developmental counseling's between 22 June 2006 and 18 October 2006 show the applicant was counseled for:

- a self referral for mental health issues, possible repercussions of that fact (possible separation by chapter) and resources available to him on 22 June 2006
- being absent without leave (AWOL) on 12 and 18 October 2006

d. DA Forms 4187 (Personnel Action), 9 November 2006 and 11 November 2006 shows the applicant was AWOL and present for duty (PDY) on 11 November 2006.

e. Memorandum, Subject: Company Memorandum of Reprimand, 30 November 2006 shows the applicant's company commander reprimanded him.

f. Memorandum, Subject: Letter of Intent, 28 January 2007 shows the applicant's commander stated the applicant would be processed under the provisions of Army Regulation (AR) 635-200, Chapter 9 for Alcohol Abuse Rehabilitation Failure.

g. Memorandum, Subject: Summary of Rehabilitation Efforts for the applicant, 29 January 2007 shows the applicant's substance abuse counselor wrote the applicant was screened on 11 December 2006 as a self-referral as a result he was enrolled in the ASAP with a diagnosis of alcohol dependence.

(1) The applicant stated he could not stop drinking alcohol on his own and asked for assistance. His command agreed an intervention was that he be inpatient. The applicant successfully completed the 30-day inpatient treatment on 16 January 2007.

(2) He was advised he must attend scheduled appoints and attend Alcoholics Anonymous meetings on his own. He failed to report for two aftercare group sessions and missed and individual appoint with the counselor. A Soldier told the counselor the applicant received a driving under the influence 27 January 2007.

(3) Progress to date has been poor. In consultation with his unit, it has been determined the applicant has failed to achieve satisfactory progress and was declared a rehabilitation failure.

h. The applicant's immediate commander notified him he was initiating action to separate him from the U.S. Army under the provisions of Army Regulation (AR) 635-200, Chapter 9, for failing the ASAP. The reason for his proposed action is that the applicant continued to use alcohol while enrolled in the ASAP and recommended a under honorable conditions (general) discharge.

i. The applicant's commander recommended he be separated from the Army prior to the expiration of his term of service for failing the ASAP. His chain of command recommended a under honorable conditions (general) discharge and that he not be transferred to the Individual Ready Reserve (IRR).

j. The separation authority approved the recommended discharge action and directed the issuance of a under other honorable conditions (general) discharge, and he would not be transferred to the IRR.

k. Accordingly, the applicant was discharged on 8 June 2007. His DD Form 214 (now voided) shows completed 4 years, and 10 months net active service. He lost time from 9 November 2006 to 10 November 2006. The DD Form 214 also shows:

- item 13 (Decorations, Medal, Badges, Citations, and Campaign Ribbons Awarded or Authorized):

- Army Achievement Medical (2nd award)
- Army Achievement Medal (3rd award)
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal
- Army Service Ribbon
- Overseas Service Ribbon

- item 24 (Character of Service) under honorable conditions (general)
- item 25 (Separation Authority) Army Regulation 635-200, Chapter 9
- item 26 (Separation Code) JPD
- item 27 (Reentry Code) 4
- item 28 (Narrative Reason for Separation) Alcohol Rehabilitation Failure

5. The applicant submitted a request to ADRB for an upgrade to his character of service. On 9 December 2009, the ADRB determined that relief was warranted. Accordingly, the board voted to grant full relief in the form of an upgrade of characterization of service to fully honorable.

6. An updated DD Form 214 shows the applicant was discharged on 8 June 2007 and pursuant to ADRB, received an upgrade in his character of service to honorable. No further corrections were authorized.

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

8. MEDICAL REVIEW:

a. Background: Following an upgrade in the characterization of his service, the applicant is requesting a change in his narrative reason for separation to "Secretarial Authority" and in his re-entry eligibility (RE) code to RE-1. He asserts PTSD 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 7 August 2002, followed by one reenlistment on 15 January 2005.
- Developmental counseling's between 22 June 2006 through 18 October 2006 show the applicant was counseled for:
- a self-referral for mental health issues, possible repercussions of that fact (possible separation by chapter) and resources available to him on 22 June 2006

- being absent without leave (AWOL) on 12 and 18 October 2006
- DA Forms 4187 (Personnel Action), shows the applicant was AWOL from 9 November 2006 and present for duty (PDY) on 11 November 2006.
- Memorandum, Subject: Letter of Intent, 28 January 2007 shows the applicant's commander stated the applicant would be processed under the provisions of Army Regulation (AR) 635-200, Chapter 9 for Alcohol Abuse Rehabilitation Failure.
- Memorandum, Subject: Summary of Rehabilitation Efforts for the applicant, 29 January 2007 shows the applicant's substance abuse counselor wrote the applicant was screened on 11 December 2006 and enrolled in the ASAP with a diagnosis of Alcohol Dependence.
- Applicant's immediate commander notified him he was initiating action to separate him from the U.S. Army under the provisions of Army Regulation (AR) 635-200, Chapter 9, for failing the ASAP. The reason for the proposed action was the applicant's continued use of alcohol while enrolled in the ASAP. He recommended a under honorable conditions (general) discharge and that he not be transferred to the Individual Ready Reserve (IRR).
- Applicant was discharged on 8 June 2007 under the provision of Army Regulation 635-200, Chapter 9, with an under honorable conditions (general) characterization of service. His DD Form 214 (now voided) shows his narrative reason for separation as Alcohol Rehabilitation Failure, separation code JPD, and reentry code 4. He completed 4 years, and 10 months net active service and lost time from 9 November 2006 to 10 November 2006.
- An updated DD Form 214 shows the applicant was discharged on 8 June 2007 and pursuant to ADRB, received an upgrade in his character of service to honorable. No further corrections were authorized.

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 via counsel, in June of 2006, he approached his superior regarding his mental health. The applicant was referred to the chaplain and counseled regarding the possibility of him being removed from service for being mentally unfit. Despite acknowledging he could be separated from service; the applicant was informed the top priority was getting him the help he needed. While the applicant was deployed to Iraq, his fiancée was deployed to Kuwait. While she was deployed, she was sexually assaulted and impregnated by another soldier. As a result, she was sent home and had an abortion. The two later got married on 31 December 2005 but less than a year later his wife tragically passed away on 14 August 2006. He first learned of his wife's death over the phone, and never got a chance to see her before she died. She was in a tragic accident while visiting family, which he encouraged her to do, and he has consequently struggled with insurmountable feelings of guilt. She also happened to be pregnant with the applicant's child at the time of her passing. Shortly thereafter, his father fell ill and needed a kidney transplant. The tragic passing of his wife, combined

with the health issues of his father, led to his drinking to cope with the stress. The applicant voluntarily sought help for his alcohol dependency on 11 December 2006 and was subsequently enrolled in the Army Substance Abuse Program (ASAP). It was determined he would best benefit from an inpatient program designed to work through the emotional trauma that was causing him to drink. He successfully completed this program on 16 January 2007. He was immediately discharged for failure to rehabilitate after missing two required meetings and receiving a DUI later that month. The Army refused to allow him to complete another treatment program. His DD Form 214 indicates he was separated for alcohol or other drug abuse rehabilitation failure, and it was originally a general, under honorable conditions discharge. He had no other disciplinary actions prior to the DUI (this is contrary to the medical record which indicates the applicant had an Article 15 for a positive marijuana urinalysis). The applicant was diagnosed with post-traumatic stress disorder (PTSD) soon after service and is 100% service connected as of 25 June 2021. Due to the complexity of his service and events leading to his discharge, he has already received a discharge upgrade to honorable.

d. Active-duty electronic medical records available for review show on 28 June 2006 the applicant self-referred for behavioral health services due to feelings of anxiety and depression due to frustration with his unit leadership and issues in his marriage. He further reported prior ASAP participation due to testing positive for marijuana use. On 6 July 2006, command requested an evaluation of the applicant due to “violent thoughts”. He was seen by the chaplain who suggested he be seen by mental health. The applicant was evaluated on 11 July 2006 and diagnosed with Adjustment Disorder with Disturbance of Emotions and Conduct. The evaluation states the applicant was distressed due to his wife’s sexual assault while deployed. On 18 October 2006, the applicant was seen as a walk-in due to distress related to his wife’s death on 14 August 2006 in a dirt bike accident and his guilt over her death. He was diagnosed with Bereavement, Adjustment Disorder with Disturbance of Emotions and Conduct, and Alcohol Abuse. The record shows the applicant continued to receive supportive services as needed until December 2006 and was also seen by a civilian provider through Military One Source. On 15 November 2006, the applicant presented with depression due to grief, loss of motivation, increased alcohol consumption, sleep problems, social withdrawal, and suicidal ideation without plan or intent. He was referred for stress management and encouraged to talk to the chaplain about his concerns regarding familial stressors, his father's illness, and his ongoing bereavement. He continued to receive supportive services until December 2006. An encounter dated 11 December 2006, states the applicant continued to exhibit issues at work, he was frequently late for work and his performance was “below expectations”. Hardcopy documentation shows a memorandum dated 29 January 2007 providing a summary of rehabilitation efforts for the applicant, the substance abuse counselor reported the applicant was screened on 11 December 2006 as a self-referral and was enrolled in the Army Substance Abuse Program (ASAP) with a diagnosis of Alcohol Dependency. On 15 December 2006, the

applicant complained he could not stop drinking alcohol on his own and upon further evaluation inpatient treatment was recommended. His command agreed with the intervention and the applicant successfully completed a 30-day inpatient treatment program on 16 January 2007. He was advised that he was required to attend scheduled appointments and Alcoholics Anonymous meetings on his own. He failed to report for two aftercare group sessions, missed an individual appointment with his counselor, and received a DUI on 27 January 2007. The memorandum goes on to state the applicant's progress was poor and, in consultation with his unit, it was determined the applicant failed to achieve satisfactory progress and was declared a rehabilitation failure.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 100% service connected for PTSD and other medical conditions. The record indicates the applicant sought behavioral health services in November 2008 and was initially diagnosed with Dysthymic Disorder. A C and P examination dated 4 October 2011 diagnosed the applicant with Major Depression. The electronic medical record shows the applicant has received ongoing intermittent supportive psychotherapy, medication management, addiction medicine, and social work support due to housing concerns and assistance with entitlements.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor the applicant had traumatic experiences during his time in service that contributed to his behavioral health condition. The applicant is 100% service connected, for PTSD. Following an upgrade in the characterization of his service, the applicant is requesting a change in his narrative reason for separation to "Secretarial Authority" and in his re-entry eligibility (RE) code to RE-1. While a change in the narrative reason for separation is typical when an upgrade of the characterization of service is granted, it is unusual for the narrative reason for separation to be change to "Secretarial Authority". In addition, given his 100% service-connected disability, an RE code of 4 would typically be indicated.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Not applicable.

(2) Did the condition exist or experience occur during military service? Not applicable.

(3) Does the condition or experience actually excuse or mitigate the discharge? Not applicable.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the facts and circumstances leading to the applicant's separation, the Board concluded the current narrative reason for separation was appropriate. The Board found insufficient evidence of an error or injustice warranting a change to the separation code and/or narrative reason for separation based upon the events leading to the applicant's discharge from military service.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

//SIGNED//

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. 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.

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

a. 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.

b. Chapter 9 contains the authority and outlines the procedures for discharging Soldiers because of alcohol or other drug abuse. A member who has been referred to the ADAPCP for alcohol/drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical. Nothing in this chapter prevents separation of a Soldier who has been referred to such a program under any other provisions of this regulation. Initiation of separation proceedings is required for Soldiers designated as alcohol/drug rehabilitation failures. The service of Soldiers discharged under this chapter will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status.

c. Paragraph 5–3 (Secretarial plenary authority) provides that:

(1) Separation under this paragraph is the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the best interest of the Army. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memorandums.

(2) Secretarial separation authority is normally exercised on a case-by-case basis but may be used for a specific class or category of Soldiers. When used in the latter circumstance, it is announced by special Headquarter, Department of the Army directive that may, if appropriate, delegate blanket separation authority to field commanders for the class category of Soldiers concerned.

4. Army Regulation 635-8 (Separation Documents), states, the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

5. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities and reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214 (Certificate of Release or Discharge from Active Duty). The SPD code JPD (is to be used for RA Soldiers discharged for the alcohol or other drug abuse).

6. The SPD/RE Code Cross Reference Table provides instructions for determining the RE Code for Active Army Soldiers and Reserve Component Soldiers. This cross-reference table shows the SPD code and a corresponding RE Code. The table in effect at the time of his discharge shows the SPD code JPD has a corresponding RE Code of "4."

7. Army Regulation 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-1 Applies to persons immediately eligible for reenlistment at time of separation
- RE-2 Applies to persons not eligible for immediate reenlistment
- RE-3 Applies to persons who may be eligible with waiver-check reason for separation
- RE-4 Applies to persons who are definitely not eligible for reenlistment

8. PTSD can occur after someone goes through a traumatic event like combat, assault, or disaster. The Diagnostic and Statistical Manual of Mental Disorders (DSM) is published by the American Psychiatric Association (APA) and provides standard criteria and common language for the classification of mental disorders. In 1980, the APA added PTSD to the third edition of its DSM nosologic classification scheme. Although controversial when first introduced, the PTSD diagnosis has filled an important gap in psychiatric theory and practice. From a historical perspective, the significant change ushered in by the PTSD concept was the stipulation that the etiological agent was outside the individual (i.e., a traumatic event) rather than an inherent individual weakness (i.e., a traumatic neurosis). The key to understanding the scientific basis and clinical expression of PTSD is the concept of "trauma."

9. PTSD is unique among psychiatric diagnoses because of the great importance placed upon the etiological agent, the traumatic stressor. In fact, one cannot make a PTSD diagnosis unless the patient has actually met the "stressor criterion," which means that he or she has been exposed to an event that is considered traumatic. Clinical experience with the PTSD diagnosis has shown, however, that there are individual differences regarding the capacity to cope with catastrophic stress. Therefore, while most people exposed to traumatic events do not develop PTSD, others go on to develop the full-blown syndrome. Such observations have prompted the recognition that trauma, like pain, is not an external phenomenon that can be completely objectified. Like pain, the traumatic experience is filtered through cognitive and emotional processes before it can be appraised as an extreme threat. Because of individual differences in this appraisal process, different people appear to have different trauma thresholds, some more protected from and some more vulnerable to developing clinical symptoms after exposure to extremely stressful situations.

10. The fifth edition of the DSM was released in May 2013. This revision includes changes to the diagnostic criteria for PTSD and acute stress disorder. The PTSD diagnostic criteria were revised to take into account things that have been learned from scientific research and clinical experience. The revised diagnostic criteria for PTSD include a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity. The sixth criterion concerns duration of symptoms, the seventh criterion assesses functioning, and the eighth criterion clarifies symptoms as not attributable to a substance or co-occurring medical condition.

11. 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 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.

12. 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 Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) 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 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 misconduct that led to the discharge.

13. The Under Secretary of Defense (Personnel and Readiness) issued guidance to Service DRBs and Service BCM/NRs on 25 July 2018 [Wilkie Memorandum], 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 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 grounds.

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 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//