

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 April 2025

DOCKET NUMBER: AR20240008596

APPLICANT REQUESTS:

- upgrade of his character of service from under honorable conditions (General)
- a personal appearance before the board either in person or via video/telephone

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

- DD Form 149 (Application for Correction of Military Record), 12 April 2024
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 7 January 1987
- Medical Documentation, 20 June 2024
- Department of Veterans Affairs decision document, 12 July 2024
- Two-character reference statements

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states during his time in service he experienced traumatic events that led to his mental health disorders. Despite seeking treatment and support his conditions worsened which led to his misconduct and discharge. Since his discharge, he has sought treatment and is making significant progress in managing his mental health disorders while being a productive citizen.
3. On his DD Form 149, he annotates post-traumatic stress disorder (PTSD), and other mental health are related to this request.
4. A review of the applicant's service record shows the following:
 - a. He enlisted in the Regular Army on 7 December 1984, for a 4-year period.

b. The highest rank he attained was private first class/E-3.

c. He accepted two nonjudicial punishments under the provisions of Article 15 of the Uniform Code of Military Justice (UCMJ):

(1) On 10 November 1986, for disobeying a lawful order on or about 3 November 1986. His punishment imposed was reduction to the grade of E-2 and forfeiture of \$167.00 for one month.

(2) On 2 December 1986, for disobeying a lawful order on or about 21 November 1986. His punishment imposed was reduction to the grade of E-1.

d. His service record is void of documentation containing the specific facts and circumstances surrounding his discharge processing. However, his DD Form 214 shows he was discharged on 7 January 1987, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12a for misconduct, in the grade of E-1. His service was characterized as under honorable conditions (General). He completed 2 years, 1 month, and 1 day of net active service.

5. The applicant provides:

a. Department of Veterans Affairs decision document, dated 12 July 2024, which shows he receives an 80% service-connected disability rating evaluation.

b. Medical documentation, with a printout date of 20 June 2024, showing he was diagnosed with adjustment disorder with depressed mood, PTSD, and major depressive disorder.

c. Two-character reference statements, of whom describe the applicant's military service while suffering and enduring mental health disorders to include PTSD and depression. They know the applicant has worked hard to regain control over his life. They believe the applicant is more than deserving of an upgrade to his discharge.

6. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (general) character of service. He contends he experienced mental health conditions including PTSD that mitigates his misconduct. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings

(ROP). Pertinent to this advisory are the following: 1) The applicant enlisted in the Regular Army on 7 December 1984; 2) The applicant accepted two nonjudicial punishments between November-December 1986 for disobeying a lawful order; 3) His service record is void of documentation containing the specific facts and circumstances surrounding his discharge processing; 4) The applicant was discharged on 7 January 1987, Chapter 14-12a for misconduct. His service was characterized as under honorable conditions (general). He was credited with 2 years, 1 month, and 1 day of net active service for this period.

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

c. The applicant asserts he experienced mental health conditions including PTSD while on active service that mitigates his misconduct. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including PTSD while on active service.

d. A review of JLV provided evidence the applicant began to engage with the VA for care for physical concerns starting in 2004. In 2012, he was diagnosed with service-connected PTSD (SC 50%) by the VA. He had been intermittently engaged in behavioral health treatment, but he has more consistently engaged in behavioral health treatment in 2024. The applicant has also been diagnosed with an Adjustment Disorder related to current stressors and also Major Depression related to his reported experiences during his military service.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence beyond self-report the applicant was experiencing a mental health condition including PTSD while on active service. However, there is insufficient evidence surrounding the events and circumstances which resulted in the applicant's discharge to provide an appropriate and complete opinion on possible mitigation as the result of his reported mental health condition or experience.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No. There is sufficient evidence beyond self-report the applicant was experiencing a mental health condition including PTSD while on active service. The applicant did engage in some erratic behavior such as not follow orders, which can be a natural sequelae to mental health conditions including PTSD. However, there is insufficient evidence surrounding the events and circumstances which resulted in the

applicant's discharge to provide a complete and appropriate opinion on possible mitigation as the result of his reported mental health condition or experience. Yet, the applicant contends he experienced a mental health condition while on active service, which mitigates his misconduct, and his contention is sufficient for consideration per the Liberal Consideration Policy.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition or experience actually excuse or mitigate the misconduct? N/A.

BOARD DISCUSSION:

1. After thorough review of the application, supporting documents, and the applicant's military record, the Board determined that relief was not warranted in this case. The Board carefully considered the applicant's request for an upgrade of his discharge characterization from "under honorable conditions (General)" to "Honorable" and conducted a comprehensive review in accordance with published Department of Defense guidelines for liberal consideration of discharge upgrade requests. The Board noted that although the applicant's complete separation package was not available for review, the Board found the applicant accepted two nonjudicial punishments, was separated for misconduct and he did not object to his separation at the time. In addition, the Board concurred with the medical review official who found insufficient evidence surrounding the events and circumstances which resulted in the applicant's discharge. The Board determined there was no error or injustice and the character of service he received at the time of separation and that his discharge was appropriate and denied relief.

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 misconduct? No. There is sufficient evidence beyond self-report the applicant was experiencing a mental health condition including PTSD while on active service. The applicant did engage in some erratic behavior such as not follow orders, which can be a natural sequelae to mental health conditions including PTSD. However, there is insufficient evidence surrounding the events and circumstances which resulted in the applicant's discharge to provide a complete and appropriate opinion on possible mitigation as the result of his reported mental health condition or experience. Yet, the applicant contends he experienced a mental health condition while on active service,

which mitigates his misconduct, and his contention is sufficient for consideration per the Liberal Consideration Policy.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition or experience actually excuse or mitigate the misconduct?
N/A.

The Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

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:

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.

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. 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 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 (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR has the discretion to hold a hearing; applicants do not have a right to appear personally before the Board. The Director or the ABCMR may grant formal hearings whenever justice requires.
4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.
 - a. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions (a pattern of misconduct consisting solely of minor military disciplinary infractions), a pattern of misconduct (consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline). Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter; however, the separation authority may direct a general discharge if merited by the Soldier's overall record.
 - b. 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.

c. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

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 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 post-traumatic stress disorder; traumatic brain injury; sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on those conditions or experiences.

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and Service BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

//NOTHING FOLLOWS//