

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 May 2025

DOCKET NUMBER: AR20240008743

APPLICANT REQUESTS: his uncharacterized discharge be upgraded to honorable and the narrative reason code change

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

- Online DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- Three Letters of Support
- Disability Statement
- DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20130016470 on 24 June 2014.
2. The applicant states he is currently rated at 70 percent disability level due to service-connected PTSD, which was the direct result of a sexual assault, physical and mental trauma, discrimination and retaliation based on his race, religion, country of birth and background.
  - a. The chain of command acted in a discriminatory and retaliatory manner against the core values of equality and justice that the Army stands for, deliberately labeled his discharge type as "uncharacterized" to prevent him from accessing future and possible benefits.
  - b. While he was at 87 days of service, there appears to be no other reason beyond discrimination and retaliation that could explain the urgency to ensure the service did not exceed 90 days. What other logic could there be for separating him 3 days short of qualifying for benefits? The timing and circumstances strongly suggest a deliberate effort to deny him the support and benefits he rightfully deserves.

3. The applicant enlisted in the Regular Army on 30 August 2011 for a period of 3 years and 22 weeks.
4. On 4 November 2011, an Entrance Physical Standards Board (EPSBD) determined the applicant had been diagnosed with Axis I: Anxiety Disorder NOS (not otherwise specified) which existed prior to service and recommended he be separated from the service for failure to meet medical procurement standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness).
5. On 17 November 2011, the approval authority determined his retention was not practical and approved the findings and recommendations of the EPSBD. The applicant concurred with the proceedings and requested to be discharged from the U.S. Army without delay.
6. On 23 November 2011, he was honorably discharged under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) paragraph 5-11, due to failure to meet medical/physical procurement standards with a characterization of uncharacterized. He served 2 months, 24 days of net active service this period.
7. The applicant provided:
  - a. Self-authored statement which reflects the applicant was rated at 70 percent service-connected disability due to PTSD which was a result of their traumatic experiences in the Army.
  - b. Support Letter from A. R., the applicant's brother which describes how the applicant was mistreated during his tenure in the Army.
  - c. Support Letter from A; R., the applicant's mother which describes how the applicant was unjustly treated while serving in the Army.
  - d. Support Letter from B. J., the applicant's friend, which describes how the applicant was unjustly treated during his service in the Army.
  - e. DVA Dashboard, showing he was entitled to a combined disability rating of 70 percent; however, it does not reflect the nature of his disability.
  - f. In previous ADRB case, the applicant submitted DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings) which reflects on 17 November 2011, the separation authority approved the recommendation for the applicant to be separated.

8. On 11 July 2012, the Army Discharge Review Board after careful consideration of his military records and all other available evidence, determined that he was properly and equitably discharged. Accordingly, his request for a change in the type and nature of his discharge was denied.

9. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his uncharacterized discharge to honorable and a change in the narrative reason to something more favorable. The applicant asserts PTSD and MST on his application 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 into the Regular Army on 30 August 2011.
- On 4 November 2011, an Entrance Physical Standards Board (EPSBD) determined the applicant had been diagnosed with Anxiety Disorder NOS (not otherwise specified) which existed prior to service and recommended he be separated from the service for failure to meet medical procurement standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness).
- On 23 November 2011, he was honorably discharged under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) paragraph 5-11, due to failure to meet medical/physical procurement standards with a characterization of uncharacterized. He served 2 months, 24 days of net active service this period.
- On 11 July 2012, the Army Discharge Review Board after careful consideration of his military records and all other available evidence, determined that he was properly and equitably discharged.

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 is currently rated at 70 percent disability due to service-connected PTSD, which was the direct result of a sexual assault, physical and mental trauma, discrimination and retaliation based on his race, religion, country of birth and background. The chain of command acted in a discriminatory and retaliatory manner against the core values of equality and justice that the Army stands for, deliberately labeled his discharge type as "uncharacterized" to prevent him from accessing future and possible benefits. While he was at 87 days of service, there appears to be no other reason beyond discrimination and retaliation that could explain the urgency to ensure the service did not exceed 90 days. What other logic could there

be for separating him 3 days short of qualifying for benefits? The timing and circumstances strongly suggest a deliberate effort to deny him the support and benefits he rightfully deserves.

d. The applicant further provides three separate letters of support, all of which are quite similar and none of them contain actual signatures.

e. Active-duty electronic medical records available for review show on 25 October 2011, the applicant self-referred to psychiatry and reported difficulty adjusting since being in a military environment triggered memories and images from the war that he experienced as a child. He also felt harassed due to his ethnicity. He was diagnosed with Adjustment Disorder with Anxiety and Depressed Mood and recommended for a full evaluation. The applicant was medically hospitalized from 3 November to 7 November 2011 and asserts this was related to his sexual assault. The applicant provides hardcopy documentation of an Entrance Physical Standards Board (EPSBD) proceedings held on 4 November 2011. The Board determined the applicant had been diagnosed with Anxiety Disorder NOS (not otherwise specified) which existed prior to service and recommended he be separated from the service for failure to meet medical procurement standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness). The evaluating physician noted the applicant was born in Iran and experienced childhood trauma during the Iran-Iraq war that triggered significant anxiety/trauma response in the basic training environment including nightmares, flashbacks, hyperarousal, and panic attacks. On 17 November 2011, the approval authority determined his retention was not practical and approved the findings and recommendations of the EPSBD. The applicant concurred with the proceedings and requested to be discharged from the U.S. Army without delay.

f. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 90% service connected, including 70% for PTSD. The applicant participated in a C and P examination on 3 November 2021 and was diagnosed with PTSD related to his experience of MST. A second C and P examination on 8 May 2023, also diagnosed him with PTSD. The VA electronic medical record shows the applicant has intermittently started the process of establishing care for behavioral health care services but has not followed-up on appointments.

g. Based on all available information, it is the opinion of this Agency Behavioral Health Advisor that there is sufficient evidence the applicant had a traumatic experience (MST) during military service. However, the applicant was not discharged due to misconduct but due to failure to meet medical procurement standards. Documentation of an Entrance Physical Standards Board (EPSBD) proceedings held on 4 November 2011 shows the applicant was diagnosed with Anxiety Disorder which existed prior to

service and recommended he be separated from the service for failure to meet medical procurement standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness).

h. Kurta Questions:

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

(2) Did the condition exist or experience occur during military service? Yes. The applicant is service-connected for MST-related PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant was discharged due to not meeting medical procurement standards and there is no misconduct that requires mitigation. His service is uncharacterized since he served for under 180 days, this discharge is neither negative nor positive. While there is evidence the applicant experienced MST, based on his service connection, the applicant's failure to meet medical procurement standards proceeded his experience of MST since on 25 October 2011 the applicant self-referred to psychiatry due to difficulty adjusting to being in a military environment since it triggered memories and images from the war he experienced as a child.

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, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition, available military records and medical review, the Board considered the advising official opinion based on all available information, it is the opinion of this Agency Behavioral Health Advisor that there is sufficient evidence the applicant had a traumatic experience (MST) during military service. However, the applicant was not discharged due to misconduct but due to failure to meet medical procurement standards.

Kurta Questions:

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

(2) Did the condition exist or experience occur during military service? Yes. The applicant is service-connected for MST-related PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant was discharged due to not meeting medical procurement standards and there is no misconduct that requires mitigation. His service is uncharacterized since he served for under 180 days, this discharge is neither negative nor positive. While there is evidence the applicant experienced MST, based on his service connection, the applicant's failure to meet medical procurement standards proceeded his experience of MST since on 25 October 2011 the applicant self-referred to psychiatry due to difficulty adjusting to being in a military environment since it triggered memories and images from the war he experienced as a child.

2. The Board noted the applicant completed 2 months, 24 days of net active service this period and did not complete training awarding him a military occupational specialty (MOS). Consideration was given to the advising official finding evidence the applicant during his service experienced MST. However, the Board agreed an uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for his or her character of service to be rated as honorable or otherwise

3. The Board notwithstanding the advising opined, found insufficient evidence of in-service mitigating factors that support the applicant's contentions for his uncharacterized discharge be upgraded to honorable and the narrative reason code be changed. Evidence in the record show the applicant was discharged for failure to meet medical procurement standards, as such there is no basis for granting the applicant's request for an upgrade and correction to his narrative reason. Therefore, the Board denied relief.

**BOARD VOTE:**

Mbr 1   Mbr 2   Mbr 3

:   :   :   **GRANT FULL RELIEF**

:   :   :   **GRANT PARTIAL RELIEF**

:   :   :   **GRANT FORMAL HEARING**

**[REDACTED]   [REDACTED]   [REDACTED]   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 Number AR20130016470 on 24 June 2014.

[REDACTED]

[REDACTED]

[REDACTED]

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 (Active Duty Enlisted Administrative Separations) set forth the basic authority for separation of enlisted personnel.
  - a. Paragraph 5-11 (Separation of personnel who did not meet procurement medical fitness standards) states, members who were not medically qualified under procurement medical fitness standards when accepted for initial enlistment, will be separated. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by appropriate military medical authority within 4 months of the member's initial entrance on AD or ADT which, would have permanently disqualified him or her for entry into the military service had it been detected at that time; and does not disqualify him or her for retention in, the military service under the provisions of AR 40-501, chapter 3. A member being separated under this section will be awarded, a character of service of honorable, under honorable conditions or an entry-level of separation.-.

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. (Uncharacterized separation) states a separation will be described as an entry level separation if processing is initiated while a member is in entry level status.

d. Section II of the Glossary defines entry level status, for Regular Army members, is the first 180 days of active duty.

3. AR 635-5-1 (Separation Program Designator Codes Separation Code JFW applies to enlisted Soldiers who were separated due to failed Medical/Physical Procurement Standards.

4. The Acting Principal Deputy Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 24 February 2016 [Carson Memorandum]. The memorandum directed the BCM/NRs to waive the statute of limitations. Fairness and equity demand, in cases of such magnitude that a Veteran's petition receives full and fair review, even if brought outside of the time limit. Similarly, cases considered previously, either by DRBs or BCM/NRs, but without benefit of the application of the Supplemental Guidance, shall be, upon petition, granted de novo review utilizing the Supplemental Guidance.

5. The Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017 [Kurta Memorandum]. The memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, traumatic brain injury (TBI), 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. 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.

a. Guidance documents are not limited to under other than honorable conditions discharge characterizations but rather apply to any petition seeking discharge relief

including requests to change the narrative reason, re-enlistment codes, and upgrades from general to honorable characterizations.

b. An honorable discharge characterization does not require flawless military service. Many veterans are separated with an honorable characterization despite some relatively minor or infrequent misconduct.

c. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with mental health conditions, including PTSD; TBI; or behaviors commonly associated with sexual assault or sexual harassment; and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

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

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief based on equity, injustice, or clemency grounds, BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//