

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 March 2025

DOCKET NUMBER: AR20240008962

APPLICANT REQUESTS:

- upgrade of his under other than honorable conditions (UOTHC) discharge to under honorable conditions (general) or honorable
- correction of his DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) to show in item 1 (Last Name – First Name – Middle Name) – his middle name as [REDACTED]
- correction of his DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) to show in item 9 (Date of Birth (DOB)) – his DOB as [REDACTED]
- narrative reason for separation as "Secretarial Authority"
- removal of the words "Neg" or "Negroid" throughout his service records
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Legal Brief
- Enclosure 1: Applicant's affidavit where he details his early childhood, family background, and two traumatic events during his time in service that contributed to his Post-traumatic Stress Disorder (PTSD) and his decision to go absent without leave (AWOL). The first incident occurred at basic training with a knife wielding Army cook, and the second incident occurred when an airplane engine caught fire, in-flight. (5 pages)
- Enclosure 2: Official Military Personnel File; various personnel documents to include his DA Form 20 (Enlisted Qualification Record), DD Form 47 (Record of Induction), DD Form 214, and a certificate of live birth that shows his middle name as [REDACTED] and his DOB as [REDACTED] (33 pages)
- Enclosure 3: Expert Opinion from Dr. K_T_, PhD, HSP-P, a licensed psychologist, wherein she concluded that the applicant has PTSD which was caused by his active-duty service and that there is a nexus between his PTSD and subsequent misconduct (6 pages)
- Enclosure 4: Photos of the applicant and his family (5 pages)

- Enclosure 5: Memorandum from A_M_K_, Under Secretary of Defense for Personnel and Readiness, Office of the Under Secretary of Defense, to Secretaries of the Military Departments, 25 August 2017 (5 pages)
- Enclosure 6: Memorandum from R_L_W, Under Secretary of Defense for Personnel and Readiness, Office of Under Secretary of Defense, to Secretaries of the Military Departments, 25 July 2018 (4 pages)
- Enclosure 7: Department of Defense Instruction (DODI) 1145.3, Military Personnel Data Files and Reporting Procedures for "Project One Hundred Thousand," 23 December 1968, this DODI contained a refinement of the original Instruction based on experience gained during Phases I and II of Project 100,000 which lowered military recruiting standards as part of a program to recruit 100,000 men each year who were otherwise mentally, physically or psychologically underqualified for service (3 pages)
- Enclosure 8: Article by L_H_, "Project 100,000: The Great Society's Answer to Military Manpower Needs in Vietnam, Vietnam Generation," Vol. 1, No. 2, Article 4, 1989, this article explained New Standards Men (NSM) (the term for men enlisted under Project 100,000) would receive the same basic training as regular Soldiers and all the special assistance they required; NSM would be trained in skills useful in military occupations and would have access to the best technological and military specialties; NSM would learn self-discipline by absorbing the military system; and NSM would receive veterans' benefits after their service in the Armed Forces. (25 pages)
- Enclosure 9: Study by W_E_B_, Assistant Secretary of Defense, "The Impact of Military Service on Low Aptitude Men," Air Force Human Resources Laboratory, February 1974, this study examined the impact of military experience upon the post-service lives of low aptitude men (47 pages)
- Enclosure 10: Memorandum to Presidential Clemency Board Members from J_B_, Presidential Clemency Board Staff Attorney, subject: Category IVs and Project 100,000, 1 September 1975, Box 8, Memoranda - Internal (4), C_E_G_ Papers at the Gerald R. Ford Presidential Library, this memorandum stated that many applicants who applied to the Presidential Clemency Board for clemency were "Category IV" men, whose Armed Forces Qualification Test (AFQT) score is between 10 and 30 (14 pages)
- Enclosure 11: Department of the Army, Report to the Congress by the Comptroller General of the U.S., "Management of the Project One Hundred Thousand Program," 8 December 1969, this report concluded that many Project 100,000 individuals were not receiving instruction because of insufficient instructors and individuals (47 pages)
- Enclosure 12: Report by J_H_L_ et al., "Effects of Military Experience on the Post-Service Lives of Low-Aptitude Recruits: Project 100,000 and the ASVAB Misnorming," Office of the Assistant Secretary of Defense for Force Management and Personnel, December 1989, this report opined that Project 100,000's social promises were not kept (239 pages)

- Enclosure 13: Article by J_L_G_, "Commentary: 100,000 Reasons to Shed No Tears for McNamara," McClatchy Newspapers, 7 July 2009, this article advises the reader to save your tears in the wake of the death of former Defense Secretary, Robert Strange McNamara who was one of the main architects of the Vietnam War and Project 100,000 (3 pages)
- Enclosure 14: Article by H_G_, "How a Plan to 'Salvage' Military Rejects for Vietnam War Service Ended Disastrously," HistoryNet, 15 June 2018, this article opines that at the beginning of Project 100,000 former Defense Secretary McNamara predicted that after returning to civilian life, Project 100,000 men would have an earning capacity "two to three times what it would have been if there had been no such program..." (9 pages)
- Enclosure 15: Article by M_D_, "Project 100,000: The Vietnam War's Cruel Experiment on American Soldiers," Bigthink.com. This article opines that Project 100,000 was a failed experiment. Further, Project 100,000 soldiers were about three times more likely to be killed in action (3 pages)
- Enclosure 16: Information paper – "Project 100,000: New Standards Program." This information paper outlines the background; mental and physical standards; definitions; quotas and the demographics of the project (8 pages)
- Enclosure 17: RAND Corporation, Conversion of Mental Category Scores from Armed Forces Qualification Test to Intelligence Quotient (IQ) Scores, this table shows recruits with a AFQT range of 10-30 are in Mental Category IV (1 page)
- Enclosure 18: Article by K_C_, MSED, "The Wechsler Adult Intelligence Scale, Verywell Mind," 6 December 2022, the Wechsler Adult Intelligence Scale is an intelligence test first published in 1955 and designed to measure intelligence in adults and older adolescents (6 pages)
- Enclosure 19: Army Board for Correction of Military Records (ABCMR): AR2002072808, 17 December 2002, previous case unrelated to the applicant wherein the Board granted full relief, noting that supporters of "Project 100,000" believed the lower Category IVs would somehow benefit from traditional and remedial training in the service (7 pages)
- Enclosure 20: ABCMR Docket Number: AR20170011426, 17 June 2019, previous case unrelated to the applicant wherein the Board granted full relief, liberal consideration applied based upon the applicant's level of education prior to his enlistment and scores on aptitude tests (8 pages)
- Enclosure 21: Department of Defense Appropriations Act of 1972 § 744. Public Law 92-205, Section 744 states none of the funds in this Act shall be available for the induction or enlistment of any individual into the military services under a mandatory quota based on mental categories (22 pages)
- Enclosure 22: Article by L_E_H_, "LBJ Wants Your Grade Point Average: The Vietnam Exam," The Harvard Crimson, 23 May 2016, this article opines with the war in Vietnam escalating, the U.S. Army found itself in need of more recruits, to meet these demands, the U.S. military began to draw from a new pool: college men (6 pages)

- Enclosure 23: Article by J_K_, "Draft Resistance in the Vietnam Era, Antiwar and Radical History Project," 2008, this article opines that draft resisters filed for conscientious objector status, didn't report for induction when called, or attempted to claim disability (3 pages)
- Enclosure 24: Article by R_M_, "An Overview of the Vietnam War Protests," ThoughtCo, 28 July 2019, this article details that as American involvement in Vietnam grew in the 1960s, a small number of concerned and dedicated citizens started to protest what they viewed as a colossal movement, with protests drawing hundreds of thousands of Americans into the streets (12 pages)
- Enclosure 25: Office of the Pardon Attorney, Vietnam War Selective Service Act Violators, U.S. Department of Justice, December 2018, this application allows those convicted during the Vietnam War era of a draft violation, could obtain an individual certificate of pardon showing that the presidential pardon proclamation of January 21, 1977, applied to them if they could produce the necessary documentation from their prosecution (1 page)
- Enclosure 26: Article by R_F_A_ et al., "Factors Associated with Persistent PTSD among U.S. Military Service Members and Veterans, Biomed Central Psychiatry" (11 pages)
- Enclosure 27: Article by M_J_F_, "PTSD History and Overview," U.S. Department of Veterans Affairs, this article opined that PTSD is unique among psychiatric diagnoses because of the great importance placed upon the etiological agent, the traumatic stressor (7 pages)
- Enclosure 28: Article by Major K_V_U_, Psy. D. U.S. Army, "An Examination of PTSD and Criminal Responsibility among U.S. Servicemembers," Military Medicine, Vol. 185, Issue 1-2, 2020. This retrospective study evaluated the prevalence of PTSD diagnosis among military servicemembers referred for Sanity Boards, which is a military evaluation for competence to stand trial and criminal responsibility (5 pages)
- Enclosure 29: Article by J_S_, MD, "PTSD in Adults: Impact, Comorbidity, Risk Factors, and Treatment," The Canadian Journal of Psychiatry, Vol. 59, No. 9, 2014. This article opined that PTSD is a prevalent mental health problem associated with substantial psychiatric morbidity (8 pages)
- Enclosure 30: Article by C_M_B_ et al., "Racial Discrimination is Associated with Acute Post-traumatic Stress Symptoms and Predicts Future PTSD Symptom Severity in Trauma-Exposed Black Adults in the U.S.," Journal of Traumatic Stress, Vol. 34, Issue 5, 14 March 2021 (18 pages)
- Enclosure 31: Editorial by M_H-R_H_, "Mental Health Screening and Coordination of Care for Soldiers Deployed to Iraq and Afghanistan," The American Journal of Psychiatry, Vol. 168, Issue 4, April 2011 (3 pages)
- Enclosure 32: Department of Defense Task Force on the Administration of Military Justice in the Armed Forces, Report of the Task Force on the Administration of Military Justice in the Armed Forces, Vol. I, 30 November 1972

Two types of racial discrimination were identified; intentional and systematic (78 pages)

- Enclosure 33: U.S. Government Accounting Office, Report to the Congress of the U.S. by the Comptroller General, "Military and Discharge Policies and Practices Result in Wide Disparities: Congressional Review is Needed," 15 January 1980 (140 pages)
- Enclosure 34: Excerpt from Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Factors Governing Issuance of Honorable, General and Undesirable Discharge Certificates, December 1973 (12 pages)
- Enclosure 35: Article by C_J_ & M_P_, "The Black-White Test Score Gap: An Introduction," Brookings Institution Press. This article opines that intelligence tests therefore constitute a racially biased estimate of innate ability, which is what non-psychologists often mean by the word "intelligence" (51 pages)
- Enclosure 36: Article by Z_H_, "'Negroid' Found in Military Forms 20 Years after Term was Ordered Removed," Washington Examiner, 25 July 2019, (2 pages)
- Enclosure 37: "75 Years After Segregation Banned in the Military, Department of Defense Continues its Efforts to Combat Discrimination," U.S. Government Accountability Office, 26 July 2023 (4 pages)
- Enclosure 38: National Transportation Safety Board (NTSB): Aviation Investigation Search Page. This form allows individuals to search the NTSB aviation accident database for civil aviation accidents and selected incidents that occurred from 1962 to present within the U.S. (2 pages)
- Enclosure 39: Applicant's employee benefits card (1 page)
- Enclosure 40: Affidavit of J_W_ (applicant's spouse) provides a statement detailing his mental health while in the service, and post-service. She recalls him informing her of the incidents involving an airplane and knife. He still has a fear of flying. They have three grandchildren; however, one died due to the Coronavirus Disease. They remain a strong family and are involved in their church.
- Enclosure 41: Article by P_F_, "'I really prayed, for God to let her live': Family warns of Coronavirus dangers," WWAYTV3, 22 November 2020, this news article details the life and death of J_W_ (3 pages)
- Enclosure 42: Obituary for Ms. J_W_ (2 pages)
- Enclosure 43: North Carolina criminal record check shows that the applicant has only received citations for motor vehicle violations (16 pages)
- Enclosure 44: Excerpt from H_G_, "McNamara's Folly: The Use of Low-IQ Troops in the Vietnam War," 21 May 2015, this excerpt states that mental health specialists throughout the war zone observed that Project 100,000 men were at high risk for psychiatric disturbances, according to Dr. B_ (2 pages)

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 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. Counsel states, in pertinent part:

a. The sole reason for the applicant's UOTHC discharge was two periods of AWOL, which were a result of his struggle with service-incurred PTSD and was diagnosed by a civilian clinical psychologist. When considering the overall nature of his Vietnam-era service, the circumstances surrounding his induction and discharge, and his service-connected PTSD diagnosis, an UOTHC discharge characterization is unjust for five primary reasons:

- under current military enlistment standards, the applicant would not have been eligible for military service. He was only eligible to be drafted with an AFQT score of 154, back in 1970, due to Project 100,000
- his two periods of AWOL were caused by undiagnosed and untreated PTSD
- he was drafted into the Army at a time when prejudice against minority servicemembers was rampant
- his life post-service is one of character and growth
- the ramifications of his undiagnosed PTSD and UOTHC discharge have been severe; the traumatic events that he experienced while in service left lasting consequences on his life and mental health

b. In summary, this Board should upgrade the applicant's discharge based on injustice. Specifically, his induction under Project 100,000, his service-incurred PTSD, and the systemic racial prejudice in the Army at the time of his service were unjust. These three conditions were prevalent throughout his time in service. Fundamental fairness also demands granting all relief based on his complete rehabilitation, spotless post-service record, and unwavering acceptance of responsibility. Now, half a century later, the applicant has suffered long enough—this Board has the opportunity to right this wrong by granting all requested relief.

3. The applicant states:

a. He was happy being drafted, to get away in the military and wanted to be the best at everything he did. He went in as a cook, and was jumping out of airplanes. It didn't scare him, flying never scared him.

b. While at basic training, a white guy that had been training him pulled a knife on him and chased him around. When the applicant told his superiors they just laughed; it felt like it was some joke they were pulling on him. He thought why are they laughing? He was jumpy all the time after that. He had to sleep with one eye open and was afraid. He took a flight to go home while on leave. There was a guy sitting beside him

mumbling, and the applicant heard beeping noises. He looked out the window and saw the plane's engine was on fire. He thought the plane was going to crash. This incident did something to him. Later, he was supposed to fly to Germany. However, he was told the plane would be delayed for three days and he thought it was a bad omen, so he went AWOL. He couldn't get back on a plane.

c. He went back and turned himself in and received a UOTHC discharge. He shouldn't have left though; however, he wasn't going to be safe on that plane. No one knew about mental health back then, they didn't care. When he got out, he didn't tell anyone he was in the military. He just hid it, for so many years. He felt like he did not belong in the military. It was like he was a guinea pig being set up. He now knows about the Project 100,000 Program. In 2023, he went to a Veterans center for help with his PTSD and was turned away because of his UOTHC discharge.

4. On 15 July 1970, the applicant was inducted into the Army of the United States. His DD Form 47 shows in:

- Item 1 (Last Name - First Name - Middle Name) - his middle name as [REDACTED]
- Item 5 (Date of Birth) – his DOB as [REDACTED]
- Item 20a (Test – Form – Score) – his AFQT as 15, which placed him in AFQT Category IV

5. On 12 May 1971, the applicant accepted nonjudicial punishment (NJP) under Article 15 of the Uniform Code of Military Justice (UCMJ), for failing to go at the time prescribed to his appointed place of duty at the time prescribed, on or about 10 May 1971. His punishment included forfeiture of \$39.00 per month for one month, and 14 days extra duty and restriction.

6. On 13 July 1971, he accepted NJP under Article 15 of the UCMJ, for going AWOL from on or about 7 July 1971, until on or about 10 July 1971. His punishment included forfeiture of \$75.00 for one month.

7. On an undetermined date, the applicant accepted NJP under Article 15 of the UCMJ, for going AWOL a second time, from on or about 4 September 1971, until on or about 26 October 1971.

8. On or about 2 November 1971, the applicant was reported as AWOL a third time, and remained absent until he returned to military control on or about 20 March 1972.

9. Court-martial charges were preferred against him on 22 March 1972, for violations of the UCMJ. His DD Form 458 (Charge Sheet) shows he was charged with two specifications of going AWOL.

10. The applicant consulted with legal counsel on 24 March 1972, and was advised of the basis for the contemplated trial by court-martial; the maximum permissible punishment authorized under the UCMJ; the possible effects of an undesirable discharge; and the procedures and rights that were available to him.

a. Subsequent to receiving legal counsel, the applicant voluntarily requested discharge under the provisions of Army Regulation 635-200, Chapter 10, for the good of the service. In his request for discharge, he acknowledged he understood that if his request for discharge was accepted, he may be discharged UOTHC. He understood that, as a result of the issuance of such a discharge, he could be deprived of many or all Army benefits, he could be ineligible for many or all benefits administered by the Veterans Administration, and he could be deprived of his rights and benefits as a Veteran under both Federal and State law.

b. He declined to submit a statement in his own behalf.

11. On 23 May 1972, the applicant's commander recommended approval of the applicant's request for discharge with issuance of an undesirable discharge certificate.

12. The separation authority approved the applicant's request for discharge in lieu of court-martial, and directed issuance of a DD Form 258A (Undesirable Discharge Certificate).

13. The applicant was discharged on 9 June 1972. He was credited with 1 year, 4 months, and 12 days of net active service this period with 193 days of lost time. His DD Form 214 contains the following entries in:

- item 1 (Last Name – First Name – Middle Name) – [REDACTED]
- item 9 (Date of Birth) – [REDACTED]
- item 12c (Separation Authority) – AR [Army Regulation] 635-200, Chapter 10, Separation Program Number (SPN) 246
- item 13a (Character of Service) – UOTHC
- item 15 (Reenlistment Code) – RE-4

14. 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.

15. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under other than honorable conditions (UOTHC) to something more favorable and a change to his narrative reason

for separation. He contends he experienced an undiagnosed mental health condition, including PTSD, that mitigates his misconduct. He also requested additional changes that fall outside the scope of this Advisor's expertise.

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

- The applicant was inducted into the Regular Army on 15 July 1970.
- On 12 May 1971, the applicant accepted NJP under Article 15 of the UCMJ for failing to go at the time prescribed to his appointed place of duty on or about 10 May 1971.
- On 13 July 1971, he accepted NJP for going AWOL from 7 July 1971, until 10 July 1971.
- On an undetermined date, the applicant accepted NJP for going AWOL a second time, from 4 September 1971 until 26 October 1971.
- On 2 November 1971 the applicant was reported as AWOL a third time and remained absent until he returned to military control on 20 March 1972.
- Court-martial charges were preferred against him on 22 March 1972, for violations of the UCMJ. His DD Form 458 (Charge Sheet) shows he was charged with two specifications of going AWOL. After receiving legal counsel, the applicant voluntarily requested discharge under the provisions of Army Regulation 635-200, Chapter 10, for the good of the service.
- The applicant was discharged on 9 June 1972 and completed 1 year, 4 months, and 12 days of net active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts through counsel that his two periods of AWOL were a result of his struggle with service-incurred PTSD, and under current enlistment standards he would not have been eligible for military service. The application indicated PTSD as an issue or condition related to his request, and he described two events where he felt his life was in danger (having a knife pulled on him and being chased; and being on a plane that had an engine fire). A Memorandum to the ABCMR from Kimberly Tran, PhD dated 17 March 2024 concluded that the applicant had a diagnosis of PTSD secondary to his active duty Army service and "there is a nexus between his PTSD and subsequent misconduct." Dr. Tran's report outlines each category of symptoms of PTSD and how the applicant has experienced those as well as a thorough account of his reported trauma exposure. The brief contained over 500 pages of research articles related to "Project 100,000," which lowered the standards for induction into the military, and the applicant asserts his induction was a result of these lowered standards. The research articles, in summary, point to increased mental health risks/symptoms as a result of this program. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed no record of the applicant.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support that the applicant had a condition or experience that mitigates his misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. There are no mental health records from his time in service, but a comprehensive evaluation conducted in 2024 showed a diagnosis of PTSD associated with service incurred trauma.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service. His application and psychological evaluation discuss two traumatic events that occurred during his time in service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. While there is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service, the application does include a comprehensive psychological evaluation outlining his report of each symptom criteria for a diagnosis of PTSD associated with his time in service. The applicant reported two traumatic events, having a knife pulled on him and experiencing an engine fire while in flight, that occurred while in service. The applicant's misconduct of being AWOL can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. Additionally, counsel provides an overwhelming amount of research to support the increased likelihood of mental health symptoms and going AWOL in service members who were inducted under "Project 100,000." Given the nexus between trauma exposure and avoidance, coupled with his 2024 diagnosis of PTSD, and in accordance with liberal consideration, the basis for separation is considered mitigatable.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the Board made the following findings and recommendations related to the requested relief:

- Discharge Upgrade: DENY, based upon the relatively short term of honorable service completed prior to a pattern of misconduct leading to the applicant's separation.
- Correction of middle name: GRANT, based upon the requested spelling appearing on the applicant's DD Form 47 (Record of Induction), dated 1 August 1969.
- Correction of DOB: GRANT. Although the DOB on the applicant's DD Form 214 matches that reflected on his DD Form 47 (Record of Induction), based upon the information on the applicant's birth certificate and the close nature of the error, the Board concluded by a preponderance of the evidence an error was present warranting correction.
- Change Narrative Reason for Separation: DENY, based upon the current narrative reason for separation, in the Board's opinion, accurately reflects the facts leading to the applicant's separation.
- Removal of the words "Neg" or "Negroid": DENY, based upon the applicant failing to specify documents in the record requiring the requested change. The Board did note that the applicant's DA Form 20 annotates the information, however that is an internal document assisted to manage an individual's military service/career. Based upon the applicant's DD Form 214 being the only public document used as a veteran and that document not reflecting the contested information, the Board concluded there was insufficient evidence of an error or injustice warranting correction.

BOARD VOTE:Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:XXX	:XXX	:XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by amending the applicant's DD Form 214 to show the following entries without Board action:

- his middle name as shown on his certificate of live birth
- his DOB as shown on his certificate of live birth

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to upgrading the applicant's characterization of service, changing his narrative reason for separation, and/or amending other information in the record.

//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. Title 10, U.S. Code, Section 1556, 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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR.

a. Paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. 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.

4. Army Regulation 635-5 (Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. The version in effect at the time established standardized policy for preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. It states the purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate, reflective of the conditions as they existed at the time of separation. For item 1, enter name in all capital letters in the order shown. Include

abbreviation for junior, senior, second, when appropriate. For item 9, self-explanatory; enter the DOB.

5. Army Regulation 635-5 (Personnel Separations – Separation Documents), Appendix A (SPN and Authority Governing Separations), provided for SPNs and their corresponding reason for separation/discharge. The SPN (later renamed Separation Program Designator (SPD) codes) are three-character alphabetic combinations that identify reasons for and types of separation from active duty. The SPN "246" was the correct code for Soldiers separating under the provisions of Army Regulation 635-200 for the good of the service.

6. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

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. 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.

c. Chapter 10 provided that a member who had committed an offense or offenses, for which the authorized punishment included a punitive discharge, could submit a request for discharge for the good of the service in lieu of trial by court-martial. The request could be submitted at any time after charges had been preferred and must have included the individual's admission of guilt. Although an honorable or general discharge was authorized, a UOTHC discharge was normally considered appropriate.

7. The Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Navy Records (BCM/NR), on 3 September 2014, 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.

8. The Under Secretary of Defense for Personnel and Readiness provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017. 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, 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 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.

9. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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 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//