

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 March 2025

DOCKET NUMBER: AR20240008970

APPLICANT REQUESTS: an upgrade of his general, under honorable conditions discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Problem List
- Department of Veterans Affairs (VA) Letter

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 he was suffering from undiagnosed Post Traumatic Stress Disorder (PTSD). It began after a deployment to Iraq from February 2004 to January 2005. His unit was located at Balad Airbase. They were under regular attacks from mortars, rocket-propelled grenades (RPGs) and small arms. He feared for his life and the lives of his soldiers daily. While deployed he developed anxiety. He went through the deployment feeling that things were beyond his control. After he returned, he used alcohol as a way of coping with his feelings and dealing with the stress. The alcohol and substance abuse increased after he was told that his unit was redeploying around the end of 2005. He felt his negative actions never hurt anyone except his self.
3. The applicant provided a comprehensive list of VA health problems that VA providers helped the applicant to manage and a VA Letter indicating he was granted 100 percent service-connected disability compensation.
4. A review of the applicant's service record shows:

- a. He enlisted in the Regular Army on 26 February 1998
- b. On 3 May 2005 the applicant submitted a urine sample that indicated, that was positive for amphetamines (AMP)/methamphetamines (METH) drugs.
- c. On 24 May 2005 he was counseled for violation of Article 112a wrongful use of a controlled substances.
- d. On 2 June 2005, the applicant underwent a mental evaluation for consideration for discharge. The physician noted he is mentally responsible for his behavior, can distinguish right from wrong, and possesses sufficient mental capacity to participate in administrative and judicial proceedings. He was cleared for any administrative actions deemed appropriate by command.
- e. The service record includes the applicant's medical evaluations, dated 9 June 2005, for the purpose of separation which indicated he was generally in fair health. The applicant was marked qualified for separation.
 - DD Form 2808 (Report of Medical Examination)
 - DD Form 2807 (Report of Medical History)
- f. On 10 June 2005, he accepted nonjudicial punishment for wrongful use of marijuana. His punishment included forfeiture of \$1102.00 pay per month for two months.
- g. The applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 14, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel) for patterns of misconduct. The specific reasons for his proposed recommendation were wrongful used amphetamine/methamphetamine between on or about 4 Apr 05 and 4 May 05. The applicant acknowledged receipt of the notification of separation action on 22 June 2005.
- h. After consulting with legal counsel, he acknowledged:
 - the rights available to him and the effect of waiving said rights
 - he may encounter substantial prejudice in civilian life if a discharge under other than honorable conditions is issued to him
 - he may apply to the Army Discharge Review Board or the ABCMR for upgrading
 - he is ineligible to apply for enlistment in the Army for 2 years after discharge
- h. Consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation under the provisions

of Chapter 14, AR 635-200, paragraph 14-12c for misconduct. He would be issued a general, under honorable conditions discharge.

i. Orders 195-0007, dated 14 July 2005, discharged the applicant from active duty with an effective date of 22 July 2005.

j. On 22 July 2005, he was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 7 years, 4 months, and 27 days of active service. He was assigned separation code JKQ and the narrative reason for separation listed as "Misconduct." It also shows he was awarded or authorized:

- Army Commendation Medal
- Army Achievement Medal (5th award)
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Global War on Terrorism Expeditionary Medal
- Korean Defense Service Medal
- NCO Professional Development Ribbon
- Army Service Ribbon
- Army Good Conduct Medal
- Overseas Service Bar (2nd Award)

5. There is no evidence the applicant has applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

6. By regulation (AR 635-200), action will be taken to separate a Soldier for misconduct, such as patterns of misconduct, when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

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

8. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under honorable conditions (general) to honorable. He contends he experienced an undiagnosed mental health condition, including PTSD, that mitigates his misconduct.

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 enlisted into the Regular Army on 26 February 1998. His DD Form 214 shows a deployment to Kuwait/Iraq from 15 January 2004 to 15 January 2005.
- The applicant tested positive for amphetamines/methamphetamines on 3 May 2005, and on 10 June 2005, he accepted NJP for wrongful use of Amphetamines/Methamphetamines.
- The applicant's commander notified the applicant of his intent to separate him under the provisions of Chapter 14, Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel) for patterns of misconduct. The specific reasons for his proposed recommendation were wrongful used amphetamine/methamphetamine between on or about 4 Apr 05 and 4 May 05.
- The applicant was discharged on 22 July 2005, and he completed 7 years, 4 months, and 27 days of 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 that he was suffering from depression and PTSD while in the service but did not seek help because it was frowned upon, and he indicated PTSD as an issue/condition related to his request. A VA letter dated 26 April 2024 showed he has a 100% service connected combined rating. A Report of Mental Status Evaluation dated 2 June 2005 showed the met retention standards and was cleared for any administrative action deemed appropriate by command. A Report of Medical Examination dated 9 June 2005 showed no indication of any psychiatric symptoms, and a Report of Medical History completed by the applicant on the same date did not indicate any mental health symptoms or problems. 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 the applicant contacted the Veterans Crisis Line on 23 September 2020 and reported symptoms of PTSD and possible hallucinations, and he indicated these symptoms had become more prominent secondary to being unemployed due to the pandemic. However, he did not show up for a scheduled appointment. His next encounter with mental health was on 8 April 2021 when he was inpatient to be evaluated for a heart transplant and was experiencing delirium and hallucinations. In a heart transplant evaluation on 8 April 2021, he reported two hospitalizations for psychiatric symptoms in 2020 and was currently taking an antidepressant and an anxiolytic. He was diagnosed with PTSD, and recommendations for residential PTSD treatment as well as substance abuse treatment were made. On 1 June 2021 he completed an intake and described trauma exposure, including mortar attacks while in Balad and witnessing a sergeant being seriously injured. His

medications were adjusted, and he was diagnosed with PTSD, Cannabis Use Disorder, Alcohol Use Disorder, and Cognitive Disorder, Not Otherwise Specified (NOS) due to history of a TBI. A neuropsychological evaluation was conducted on 12 August 2021 and concluded that his reported cognitive symptoms were more likely related to medications, stress, and his psychiatric condition, and he was not diagnosed with any neurocognitive disorder. The applicant has utilized the VA's housing program, medication management, vocational rehabilitation services, and individual therapy for PTSD and addiction. His most recent encounter was on 5 March 2025 where he reported continued abstinence and improved interpersonal relationships. Notably, the Compensation and Pension Examinations were not available for review, but JLV showed that the applicant is 50% service connected for PTSD.

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 is no in-service documentation of any mental health symptoms, but the applicant's VA records revealed a history of two hospitalizations for PTSD related symptoms and ongoing treatment since 2020. He is also 50% service connected for PTSD.

(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, and documentation showed he deployed to Kuwait/Iraq from January 2004 to January 2005.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. However, the applicant has been diagnosed, treated, and service connected through the VA for PTSD. Substance abuse is a common self-medicating strategy for avoiding uncomfortable emotions and memories related to trauma exposure, and substance use can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. Given the nexus between trauma exposure, avoidance of emotion, and substance use and in accordance with liberal consideration, the basis for separation is mitigated.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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. One potential outcome was to deny relief, notwithstanding the medical opinion. However, upon review of the applicant's petition, available military records and the medical review, the Board concurred with the advising 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.

2. The Board noted the applicant's contentions that his misconduct was directly related to undiagnosed Post Traumatic Stress Disorder (PTSD) stemming from his deployment to Iraq from February 2004 to January 2005, where his unit at Balad Airbase endured frequent mortar, RPG, and small arms attacks. He credibly described the daily fear for his life and the lives of his soldiers, and the anxiety that developed during this period. The Board agreed the applicant served honorably for over seven years, attaining the rank of Staff Sergeant, and earning multiple awards including the Army Commendation Medal, five Army Achievement Medals, the Army Good Conduct Medal, and deployment-related honors. While the applicant's misconduct is documented, the Board found it was mitigated by the applicant's combat service, the severity of his mental health condition, and his demonstrated record of achievement. Given these factors, the Board found that the applicant's overall service merits recognition with an upgrade of his discharge to honorable.

3. The Board considered the following 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 is no in-service documentation of any mental health symptoms, but the applicant's VA records revealed a history of two hospitalizations for PTSD related symptoms and ongoing treatment since 2020. He is also 50% service connected for PTSD.

(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, and documentation showed he deployed to Kuwait/Iraq from January 2004 to January 2005.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. However, the applicant has been diagnosed, treated, and service connected through the VA for PTSD. Substance abuse is a common self-medicating strategy for avoiding uncomfortable emotions and memories related to trauma exposure, and substance use can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. Given the nexus between trauma exposure, avoidance of emotion, and substance use and in accordance with liberal consideration, the basis for separation is mitigated.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing his characterization of service as honorable.

//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. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) states an honorable discharge is a separation with honor. 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. Paragraph 3-7b (General Discharge) states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

3. 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.

4. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole, or in part, to: mental health conditions, including PTSD; TBI; sexual assault; sexual harassment. Boards were directed to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for that misconduct which led to the discharge.

5. 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.

//NOTHING FOLLOWS//