

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 May 2025

DOCKET NUMBER: AR20240009191

APPLICANT REQUESTS:

- upgrade of his (general) under honorable conditions discharge
- change narrative reason for separation from pattern of misconduct to something else

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

- DD Form 293 (Online) (Application for the Review of Discharge from the Armed Forces of the United States)
- Statement in Support of Claim for Service Connection for Post-Traumatic Disorder (PTSD) including names of two members that died in 2012
- Discharge instructions Cypress Creek Hospital (3 pages) in support of his claim which shows a diagnosis of MDD, without psychosis, PTSD after he wrote a suicide note
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 17 December 2008
- DD Form 214, 1 November 2010
- DD Form 214, 20 December 2012
- DD Form 214, 15 May 2023
- Texas Army National Guard (TXARNG) discharge order showing he was discharged on 15 May 2023

FACTS:

1. The applicant states he was deployed to Afghanistan from February 2012 to December 2012. He helped to carry out counter-insurgency operations across. His role there was a machine gunner in the Provincial reconstruction team Kunar province. During his time, he witnessed many of his fellow service members be killed in gruesome ways, and he saw scores of dead bodies. He feared for his life every day of his deployment and had trouble sleeping. During his deployment, his symptoms of anxiety and depression started. He was diagnosed with PTSD in 2022 while he was active duty in the TXARNG after his second suicide attempt.

a. He still suffers from symptoms of PTSD, including nightmares, flashbacks, severe emotional distress, feelings of hopelessness, lack of interest in activities, difficulty sleeping, self-destructive behavior, memory problems, severe anger, paranoia, and feeling detached from loved ones. He was referred to a Mental Health Clinic and undergo therapy and take medication for his PTSD.

b. Despite this treatment, his PTSD symptoms continued, and he felt like the only way to feel better during that time was to leave the ARMY and go absent without leave (AWOL). His combined service in the national guard was 14 years and 5 months with 2 combat deployments and achieved the rank of E7 sergeant first class (SFC). He believes his service was honorable and would not have had any misconduct if it were not for his mental health issues that seemed to get worse.

c. His PTSD has negatively affected his work and his personal life significantly. He got divorced from his wife and lost custody of his children. He was fired after he could not concentrate on his job and took too many days off due to his depression. He also was doing a bad job at work because of his memory issues. He has been unable to maintain relationships with friends, coworkers, and family members due to his anger issues. He has been diagnosed with depression, anxiety, and have panic attacks. The medication that he takes to help these issues has not relieved his symptoms.

2. A review of the applicant's service record shows:

a. He enlisted in the Ohio Army National Guard (OHARNG) on 25 July 2008.

b. He entered a period of active duty training (ADT) on 3 September 2008. He was honorably released from ADT on 17 December 2008 and returned to his state.

c. He voluntarily transferred interstate on 17 March 2009 to the Texas Army National Guard (TXARNG).

d. He entered a period of active duty on 1 October 2009, in support of Operation Iraqi Freedom. He was honorably released from active duty on 1 November 2010.

e. He entered a period of active duty on 25 November 2011, in support of Operation Enduring Freedom. He was honorably released from active duty on 20 December 2012.

f. He extended his initial enlistment several times with the last being on 19 April 2021, for one year establishing a new expiration term of service date of 1 June 2024.

g. The complete facts and circumstances that led to his separation are not available. However, a properly constituted DD Form 214 shows he was discharged under other than honorable conditions on 15 May 2023, under the provisions of Army

Regulation 635-200 (Active Duty Enlisted Administrative Separations). He completed 4 years, 6 months, and 25 days net active service this period. He was awarded or authorized: Army Commendation Medal with V device, Army Commendation Medal (2d award), USN Achievement Medal, Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Afghanistan Campaign Medal with campaign star, Humanitarian Service Medal, Iraq Campaign Medal with campaign star, Army Service Ribbon, Overseas Service Ribbon (2d award), Army Reserve Component Overseas Training Ribbon (2d award), Armed Forces Reserve Medal with M device, NATO Medal, Combat Infantryman Badge, and Senior Parachutist Badge. It also shows:

- Separation Code: JKM
- Reentry Code: 4
- Narrative Reason for Separation: Misconduct (Other)
- Dates of Time Lost During this Period: 20221212 – 20230515 (12 December 2022 – 15 May 2023)

h. TXARNG order 0005380701.00 issued on 17 July 2023, shows he was demoted from sergeant first class/E-7 to private/E-1 effective 15 May 2023, by reason of unsatisfactory participation.

i. ARNG Annual Statement, 25 July 2023, shows he had 14 years, 9 months, and 21 days creditable service for retired pay.

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

5. 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.

6. MEDICAL REVIEW:

a. Background: The applicant is requesting upgrade of his under honorable conditions (general) discharge to honorable and a more favorable narrative reason for separation. He contends PTSD as related to his request.

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

- Applicant enlisted in the Ohio Army National Guard (OHARNG) on 25 July 2008.

- He entered a period of active duty on 1 October 2009, in support of Operation Iraqi Freedom. He was honorably released from active duty on 1 November 2010.
- He entered a period of active duty on 25 November 2011, in support of Operation Enduring Freedom. He was honorably released from active duty on 20 December 2012.
- The complete facts and circumstances that led to his separation are not available. However, a properly constituted DD Form 214 shows he was discharged under other than honorable conditions on 15 May 2023, under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations). His narrative reason for separation was "Misconduct (Other)" with separation code JKM and RE code 4. Dates of time loss from 12 December 2022 to 15 May 2023.

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 served in Afghanistan from February 2012 to December 2012. He helped to carry out counter-insurgency operations across. His role there was a machine gunner in the Provincial reconstruction team Kunar province. During his time, he witnessed many of his fellow service members be killed in gruesome ways, and he saw scores of dead bodies. He feared for his life every day of his deployment and had trouble sleeping. During his deployment, his symptoms of anxiety and depression started. He was diagnosed with PTSD in 2022 while he was active duty in the TXARNG after his second suicide attempt. Despite treatment, his PTSD symptoms continued, and he felt like the only way to feel better during that time was to leave the ARMY and go absent without leave (AWOL). His combined service in the national guard was 14 years and 5 months with 2 combat deployments and he achieved the rank of E7 sergeant first class (SFC). He believes his service was honorable and he would not have had any misconduct if it were not for his mental health issues that seemed to get worse.

d. Active-duty electronic medical records available for review show on 18 June 2012, while in theater, the applicant was assessed and placed on profile following an IDF blast. He was screened for a TBI and continued to receive follow-up care. On 26 September 2012, he was assessed once again following injury to the head while exercising. The applicant presented as a walk-in to behavioral health on 23 June 2015 at the behest of his wife due to irritability, depressed mood, and difficulty focusing; he was diagnosed with PTSD with insomnia and recommended for therapy. He participated in follow-up assessments through October 2015. The applicant provides documentation of a hospital discharge showing he was psychiatrically hospitalized from 1 February to 8 February 2021 and was diagnosed with Major Depressive Disorder and PTSD. The electronic medical record shows a note dated 6 April 2021, stating the applicant was psychiatrically hospitalized on 23 March 2021 due to suicidal ideation related to his wife

proceeding with divorce. On 22 February 2022, he was seen as a walk-in at behavioral health services in Ft. Hood and reported multiple stressors. Per the applicant, he had 5 to 6 major TBIs, a MEB had been started due to unrelenting pain in both legs, and he had been on a profile for over one year. He further reported severe depression due to separation from his wife and pending divorce. He shared wanting out of the military but felt his command was not supportive of his problems.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 80% service connected, including 50% for PTSD.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a behavioral health condition that mitigates his misconduct. In addition, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support a referral to the IDES process based on the applicant's repeated head injuries and his multiple psychiatric hospitalizations. Per medical documentation, in the electronic medical record, the applicant reported that the process of a MEB had been started but there is no documentation. Overall, the applicant is 80% service connected, including 50% for PTSD, and the effective date of his rating is 28 July 2022, which predates his discharge from military service. Paragraph 7-1 of AR 40-400, Patient Administration (8 July 2014), states, in part: "If the Soldier does not meet retention standards, an MEB is mandatory and will be initiated by the physical evaluation board liaison officer (PEBLO)." In addition, Paragraph 7-5b (5) more directly addresses this case, stating that one of the situations requiring MEB consideration is "an RC member not on AD who requires evaluation because of a condition that may render him or her unfit for further duty." In addition, Paragraph 2-9c of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (8 February 2006), identifies "The unit commander will – c. Refer a soldier to the servicing MTF for medical evaluation when the soldier is believed to be unable to perform the duties of his or her office, grade, rank, or rating." Overall, based on the documentation available for review, and in the interest of fairness and justice, the applicant warrants a referral to the IDES process.

g. Kurta Questions:

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

(2) Did the condition exist or experience occur during military service? Yes. The applicant is 50% service connected for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes.

The complete facts and circumstances that led to the applicant's separation are not available. However, his DD Form 214 shows he had time loss from 12 December 2022 to 15 May 2023 likely due to AWOL. The applicant is service connected for combat-related PTSD. Given the association between PTSD and avoidant behavior, there is a nexus between the applicant's BH condition and his misconduct of being AWOL.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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 consideration for requesting upgrade of discharge characterization of service. The complete facts and circumstances surrounding the applicant's separation are not available for review. However, the official record contains a properly constituted DD Form 214, which reflects that the applicant was discharged under other than honorable conditions on 15 May 2023, pursuant to the provisions of Army Regulation (AR) 635-200. The Board examined the available documentation, including the DD Form 214, and determined that the separation action was executed in accordance with governing regulatory requirements.
2. The DD Form 214 is presumed to be administratively correct and carried out in compliance with applicable law and regulation. No evidence was presented to establish that the characterization of service or narrative reason for separation was erroneous or unjust. Under AR 635-200, separations under other than honorable conditions are authorized when a Soldier's conduct or performance warrants such characterization. In the absence of complete separation records, the Board relied upon the presumption of regularity, which holds that government officials have properly discharged their duties unless clear evidence to the contrary is provided. The applicant did not submit substantiating documentation to overcome this presumption or to demonstrate that the characterization of service or narrative reason was improper.
3. In addition to reviewing the administrative record, the Board considered a medical advisory opinion addressing the applicant's health history and its potential impact on his misconduct. The medical advisory concluded that there is sufficient evidence to support the applicant suffered from a behavioral health condition during the period of service in question. The advisory further noted that this condition may have materially mitigated the applicant's misconduct. In addition, the advisory identified repeated head injuries and multiple psychiatric hospitalizations as factors warranting referral to the Integrated Disability Evaluation System (IDES) process. The Board reviewed and concurred with the medical advisory's findings, acknowledging the applicant's documented medical and

behavioral health challenges. Therefore, the Board determined the applicant's records should be referred to IDES for evaluation

4. The Board considered the following Kurta questions under liberal consideration:

a. Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts PTSD on his application as related to his request.

b. Did the condition exist or experience occur during military service? Yes. The applicant is 50% service connected for PTSD.

c. Does the condition or experience actually excuse or mitigate the discharge? Yes. The complete facts and circumstances that led to the applicant's separation are not available. However, his DD Form 214 shows he had time loss from 12 December 2022 to 15 May 2023 likely due to AWOL. The applicant is service connected for combat-related PTSD. Given the association between PTSD and avoidant behavior, there is a nexus between the applicant's BH condition and his misconduct of being AWOL.

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 that the evidence presented was sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

a. Directing the applicant be entered into the Disability Evaluation System (DES) and a medical evaluation board convened to determine whether the applicant's condition(s) met medical retention standards at the time of service separation.

b. In the event that a formal physical evaluation board (PEB) becomes necessary, the individual concerned may be issued invitational travel orders to prepare for and participate in consideration of his case by a formal PEB if requested by or agreed to by the PEB president. All required reviews and approvals will be made subsequent to completion of the formal PEB.

c. Should a determination be made that the applicant should have been separated under the DES, these proceedings will serve as the authority to void his administrative separation and to issue him the appropriate separation retroactive to his original separation date.

2. The Board further determined that 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 changing his type of discharge without evaluation under the DES.

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

a. Chapter 3 provides that an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Chapter 14, in effect at the time, established policy and prescribed procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, pattern of misconduct, and commission of a serious offense. The issuance of a discharge under other than honorable conditions was normally considered appropriate for a Soldier discharged under this chapter. However, the separation authority could direct a general discharge if such were merited by the Soldier's overall record.

2. AR 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of:

- JKA as the appropriate code to assign Soldiers who are discharged for a pattern of misconduct
- JKM as the appropriate code to assign Soldiers who are discharged for Misconduct (Other)
- JFF as the appropriate code to assign Soldiers who are discharged under the provisions of AR 635-200 with a narrative reason of "Secretarial Authority"
- The Secretary of the Army will determine RE code for separations under Secretarial authority
- SPD code may be used when HQDA message or other directive authorizes voluntary separation in an individual case or category of cases

3. 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.

4. 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.

5. 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.

6. 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//