

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 August 2025

DOCKET NUMBER: AR20240009482

APPLICANT REQUESTS: an upgrade of his characterization of service from under honorable conditions (general) to honorable

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 at the time he was 17 years old and stationed at Fort Riley Special Processing Detachment and began hearing the horrible stories of all the Vietnam veterans and seeing the wounds that had been inflicted, and it affected him mentally. He experienced post-traumatic stress disorder of fear of deploying to Vietnam, and he went absent without leave (AWOL). He served honorably during his time and would like to request consideration of upgrading his under honorable conditions discharge to honorable. He was young and made a mistake, but he returned to complete his duty.
3. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 3 November 1967.
 - b. He accepted nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice on:
 - 26 April 1969, for being AWOL from on or about 4 January 1969 to on or about 27 January 1969 and from 7 April 1969 to on or about 21 April 1969. He was reduced to private first class (PFC)/E-3
 - 11 July 1969, for being derelict in the performance of his duties by failing to report directly back to his company after sick call, on or about 5 July 1969

- 26 July 1969, for on or about 22 July 1969 and 23 July 1969, failing to go at the time prescribed to his appointed place of duty
- 30 September 1969, for assaulting PFC ___, by striking him with his fists on his left ear, on or about 13 August 1969
- 2 July 1970, for being AWOL from on or about 15 May 1970 to on or about 24 June 1970. He was reduced to PFC/E-3

c. On 23 July 1971, at Fort Riley, KS, he was found guilty by a special court-martial of being AWOL from on or about 14 December 1970 to on or about 7 July 1971. The court sentenced him to reduction to private/E-1, forfeiture of \$127.00 per month for one month, and confinement at hard labor for one month.

d. On 18 August 1971, he was discharged under honorable conditions. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 3 years of net service this period. This form also shows in:

- Item 11c (Reason and Authority): Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), SPN 201, Expiration of Term of Service (ETS)
- Item 30 (Remarks): 81 days lost under Title 10 USC; 205 days lost subsequent to normal ETS

4. There is no indication the applicant applied to the Army Discharge Review Board for review of his discharge processing within the 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. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (general) discharge. He contends that he experienced posttraumatic stress disorder (PTSD) that mitigates his misconduct. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) The applicant enlisted in the Regular Army on 03 November 1967; 2) He accepted NJP on: A) 26 April 1969, for going AWOL from 04 January 1969 to 27 January 1969 and from 7 April 1969 to 21 April 1969, B) 11 July 1969, for being derelict in the performance of his duties, C) 26 July 1969, for two counts of failing to go to his appointed place of duty, D) 30 September 1969, for assaulting a fellow soldier, and E) 02 July 1970, for going AWOL from 15 May 1970 to 24 June 1970; 3) On 23 July 1971, the applicant was found guilty by special court-martial of going AWOL from 14 December 1970 to 7 July 1971; 4) The

applicant was discharged on 18 August 1971, Chapter 14- misconduct. His character of service was under honorable conditions (general). He completed 3 years of net active service with 81 days lost under Title 10 USC and 205 days lost subsequent to normal ETS.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service and medical records. The VA's Joint Legacy Viewer (JLV) was also reviewed. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts he experienced PTSD due to thoughts that he would be deployed to Vietnam that mitigates his misconduct. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including PTSD while on active service. The applicant underwent a separation medical evaluation on 14 July 1971 and 17 July 1971 as a part of his separation process. During this evaluation, the applicant was not diagnosed with any physical or mental health condition and was cleared from a medical perspective for separation. However, as a part of this evaluation, the applicant answered in the affirmative regarding experiencing "depression or excessive worry" and "nervous trouble of any sort" without any further information provided.

d. A review of JLV did not reveal any additional results or documentation. The applicant has not been diagnosed with a service-connected mental health condition and does not receive any service-connected disability.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence to support the applicant had a mental health 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 misconduct? Yes, the applicant asserts he experienced PTSD during his time in service, which mitigates his misconduct. There was insufficient evidence that the applicant was diagnosed with PTSD during his time in service. However, the applicant did report mental health symptoms during his separation physical examination, without additional information available.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service. There was insufficient evidence that the applicant was diagnosed with PTSD during his time in service. However, the applicant did report mental health symptoms during his separation physical examination, without additional information available.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence the applicant has been diagnosed with or treated for PTSD that occurred during military service. The applicant did report “depression or excessive worry” and “nervous trouble of any sort” without any further information provided during his separation medical evaluation. The applicant did engage in avoidant and erratic behavior during active service such as failing to follow orders and going AWOL on a number of occasions. This behavior can be a natural sequelae to some mental health conditions, including PTSD. However, the presence of misconduct is not sufficient evidence of a mental health condition. In addition, there is no nexus between the applicant’s reported PTSD and the applicant’s misconduct of assaulting a fellow service member in that: 1) this type of misconduct is not a part of the natural history or sequelae of PTSD and; 2) PTSD broadly does not impact one’s ability to distinguish right from wrong and act in accordance with the right. Yet, the applicant contends he experienced a mental health condition or experience while on active service that mitigates his misconduct, and the applicant’s contention is sufficient for consideration per the Liberal Consideration Policy.

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 request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant’s statement and record of service, the frequency and nature of the applicant’s misconduct and the reason for separation. The applicant received multiple nonjudicial punishments and was found guilty at a special court-martial for being absent without leave from 14 December 1970 to 7 July 1971, a serious misconduct. The Board found no error or injustice in the separation proceedings and designated characterization of service assigned during separation. The Board agreed with the medical review and concluded that based upon a preponderance of the evidence, there was insufficient evidence to warrant an upgrade to his characterization of service and denied relief.

2. Based upon the misconduct leading to the applicant’s separation and the following recommendation found in the medical review related to the liberal consideration:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced PTSD during his time in service, which mitigates his misconduct. There was insufficient evidence that the applicant was diagnosed with PTSD during his time in service. However, the applicant did report

mental health symptoms during his separation physical examination, without additional information available.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service. There was insufficient evidence that the applicant was diagnosed with PTSD during his time in service. However, the applicant did report mental health symptoms during his separation physical examination, without additional information available.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence the applicant has been diagnosed with or treated for PTSD that occurred during military service. The applicant did report “depression or excessive worry” and “nervous trouble of any sort” without any further information provided during his separation medical evaluation. The applicant did engage in avoidant and erratic behavior during active service such as failing to follow orders and going AWOL on a number of occasions. This behavior can be a natural sequelae to some mental health conditions, including PTSD. However, the presence of misconduct is not sufficient evidence of a mental health condition. In addition, there is no nexus between the applicant’s reported PTSD and the applicant’s misconduct of assaulting a fellow service member in that: 1) this type of misconduct is not a part of the natural history or sequelae of PTSD and; 2) PTSD broadly does not impact one’s ability to distinguish right from wrong and act in accordance with the right. Yet, the applicant contends he experienced a mental health condition or experience while on active service that mitigates his misconduct, and the applicant’s contention is sufficient for consideration per the Liberal Consideration Policy.

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

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.



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, set forth the basic authority for the separation of enlisted personnel.
 - a. An honorable discharge is a separation with honor. Issuance of an honorable discharge certificate is predicated upon proper military behavior and proficient

performance of duty during the member's current enlistment or period of obligated service with due consideration for the member's age, length of service, grade, and general aptitude. Where a member has served faithfully and performed to the best of his ability and has been cooperative and conscientious in doing his assigned tasks, he may be furnished an honorable discharge.

b. A general discharge is a separation from the Army under honorable conditions. It is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A general discharge may be issued if an individual has been convicted of an offense by general court-martial or has been convicted by more than one special court-martial in the current enlistment period or obligated service or any extension thereof. The decision is discretionary; if there is evidence that the individual's military behavior has been proper over a reasonable period of time subsequent to the conviction(s), he may be considered for an honorable discharge.

c. An undesirable discharge is an administrative separation from the service under conditions other than honorable. It may be issued for unfitness or misconduct. An undesirable discharge will be directed only by a commander exercising general court-martial jurisdiction, a general officer in command who has a judge advocate officer on his staff, or by higher authority, based on the approved recommendation of a board of officers, unless the member waives the board or requests discharge for the good of the Service.

3. 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.

4. 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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance

does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. 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.

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//