

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 June 2025

DOCKET NUMBER: AR20240009653

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:

- his uncharacterized service as honorable
- his narrative reason for separation changed from “entry level performance and conduct” to “medical discharge”

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 his discharge status has been updated by the Department of Veterans Affairs to show he received an “honorable medical discharge.” He would like his service record to reflect the same.
3. A review of the applicant’s service record shows:
 - a. He enlisted in the Regular Army on 29 October 2003.
 - b. He was formally counseled on nine occasions between 2 January 2004 and 27 February 2004. Areas of emphasis covered in the counseling included:
 - failure to obey a lawful order on multiple occasions
 - failure to follow instruction on multiple occasions
 - disrespect to a noncommissioned officer
 - lack of Army Values
 - lack of self-discipline
 - leaving appointed place of duty

- recommendation for transfer to Rehabilitation Holding Company
- recommendation for Article 15 proceedings
- leaving the barracks after lights out
- assisting two privates in leaving barracks after lights out
- failure to adapt to military life

c. On 1 March 2004, his commander notified him of the commander's intent to separate him under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 11, by reason of entry level performance and conduct.

d. He was advised by consulting counsel of the basis for the contemplated action to separate him and its effects; of the rights available to him; and the effects of any action taken by him to waive his rights.

e. His commander formally recommended approval of the separation action, prior to his expiration term of service.

f. On 1 March 2004, the separation authority approved the recommended separation action, waived the requirement for rehabilitative transfer, and directed the issuance of an uncharacterized entry level separation.

g. Accordingly, he was discharged on 17 March 2004, by reason of entry level performance and conduct. His service was uncharacterized. He completed 4 months and 19 days of net active service.

h. He did not graduate basic combat training. Nor was he awarded a military occupational specialty.

4. The Board should consider the applicant's argument and/or evidence in accordance with the published equity, injustice, or clemency determination guidance.

5. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of a change to his characterization of service from uncharacterized to honorable and the narrative reason for separation from "entry level performance" to "medical discharge."

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 29 October 2003.

- The applicant was formally counseled on nine occasions between 2 January 2004 and 27 February 2004 for the following: failure to obey a lawful order, failure to follow instructions, lack of Army Values, lack of self-discipline, leaving appointed place of duty, leaving barracks after lights out, and failure to adapt to military life.
- On 1 March 2004, his commander notified him of the commander's intent to separate him under the provisions of Army Regulation 635-200, Chapter 11, by reason of entry level performance and conduct, and the separation authority approved the recommended separation action, waived the requirement of rehabilitative transfer, and directed the issuance of an uncharacterized entry level separation.
- The applicant was discharged on 17 March 2004 and completed 4 months and 19 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 his discharge status has been updated by the Department of Veterans Affairs to show he received an "honorable medical discharge." He would like his service record to reflect the same. The application was void of any medical or mental health records. There was insufficient evidence that the applicant was diagnosed with a 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 is 10% service connected for lumbosacral or cervical strain following a Compensation and Pension (C&P) evaluation in 2014. The applicant has utilized VA's homeless program (July 2016) and in March 2017, he completed an initial intake through mental health where he reported symptoms of depression and anxiety as well as a childhood history of abuse and head injury. The applicant reported having been diagnosed with ADHD and Obsessive Compulsive Disorder (OCD) in middle school and stated he had been on medications for mood stabilizing and attention/concentration. He was diagnosed with Trichotillomania, Anxiety, Bereavement, and Chronic Pain Disorder. The applicant has intermittently engaged with mental health since then and his most recent encounter was in August 2025. He reported remission in symptoms of Bipolar Disorder and was discharged from care following three visits where he reported no symptoms.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a condition or experience that warrants a change in the characterization of his discharge or a referral to the Disability Evaluation System (DES). The applicant's records did not show any mental health conditions while he was on active service, but during his initial mental health visit with VA in 2017, the applicant reported a childhood history of diagnosed mental health conditions, which would indicate these conditions existed prior

to service. The behaviors for which the applicant was discharged after four months of service are indicative of “failure to adapt to a military environment” and given the absence of evidence of physical or mental health conditions, warranted an uncharacterized discharge associated with AR 635-200, chapter 11. The applicant cites his VA characterization of discharge and disability rating of 10% for cervical/lumbosacral strain as evidence of error in discharge justifying a referral to DES. However, VA examinations are based on different standards and parameters. They do not address whether a medical condition met or failed Army retention standards or if it was a ratable condition during the period of service. The VA’s character of discharge determination does not change the Armed Forces’ characterization of service and has no effect on the former service member’s military discharge status. The VA’s determination is for VA benefits and services eligibility purposes only. Therefore, a VA disability rating does not imply failure to meet Army retention standards at the time of service. Furthermore, an in-service diagnosis of cervical/lumbosacral strain is not automatically unfitting per AR 40-501 and would not automatically result in medical separation processing.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? NA; request is for “honorable medical discharge”

(2) Did the condition exist or experience occur during military service? NA; request is for “honorable medical discharge”

(3) Does the condition or experience actually excuse or mitigate the discharge? NA; request is for “honorable medical discharge”

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. The evidence of record shows the applicant was counseled on nine occasions between 2 January 2004 and 27 February 2004 for the following acts of misconduct:

- failure to obey a lawful order on multiple occasions
- failure to follow instruction on multiple occasions
- disrespect to a noncommissioned officer
- lack of Army Values

- lack of self-discipline
- leaving appointed place of duty
- recommendation for transfer to Rehabilitation Holding Company
- recommendation for Article 15 proceedings
- leaving the barracks after lights out
- assisting two privates in leaving barracks after lights out
- failure to adapt to military life

Additionally, the Board reviewed and concurred with the medical advisory noting the VA's character of discharge determination does not change the Armed Forces' characterization of service and has no effect on the former service member's military discharge status. The VA's determination is for VA benefits and services eligibility purposes only. Therefore, a VA disability rating does not imply failure to meet Army retention standards at the time of service. Furthermore, an in-service diagnosis of cervical/lumbosacral strain is not automatically unfitting per AR 40-501 and would not automatically result in medical separation processing. The Board also noted the applicant was not awarded a military occupational specialty. Therefore, the Board found no error or injustice in his characterization of service nor an injury that would warrant referral to the IDES or a medical discharge.

2. The Board considered the following Kurta Questions under liberal consideration:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? NA; request is for "honorable medical discharge"

(2) Did the condition exist or experience occur during military service? NA; request is for "honorable medical discharge"

(3) Does the condition or experience actually excuse or mitigate the discharge? NA; request is for "honorable medical discharge"

3. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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.

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. Title 10, U.S. Code (USC), 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 Army Board for Correction of Military Records (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, USC, Section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent.

3. Title 10, USC, Section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating at less than 30 percent.

4. Section 1556 of Title 10, USC, 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 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, and reviews to Army Board for Correction of Military Records applicants prior to adjudication.

5. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), establishes the Physical Disability Evaluation System (PDES) and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his or her office, grade, rank, or rating. It provides for a medical evaluation board that is convened to document a Soldier's medical status and duty limitations insofar as duty is affected by the Soldier's status. A decision is made as to the Soldier's medical qualifications for retention based on the criteria in AR 40-501 (Standards of Medical Fitness), Chapter 3. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in service.

a. The mere presence of impairment does not of itself justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the member reasonably may be expected to perform because of his or her office, rank, grade, or rating. The Army must find that a service member is physically unfit to reasonably perform his or her duties and assign an appropriate disability rating before he or she can be medically retired or separated.

b. When a member is being processed for separation for reasons other than physical disability (e.g., retirement, resignation, reduction in force, relief from active duty, administrative separation, discharge, etc.), his or her continued performance of duty (until he or she is referred to the PDES for evaluation for separation for reasons indicated above) creates a presumption that the member is fit for duty. Except for a member who was previously found unfit and retained in a limited assignment duty status in accordance with chapter 6 of this regulation, such a member should not be referred to

the PDES unless his or her physical defects raise substantial doubt that he or she is fit to continue to perform the duties of his or her office, grade, rank, or rating.

c. When a member is being processed for separation for reasons other than physical disability, the presumption of fitness may be overcome if the evidence establishes that the member, in fact, was physically unable to adequately perform the duties of his or her office, grade, rank, or rating even though he or she was improperly retained in that office, grade, rank, or rating for a period of time and/or acute, grave illness or injury or other deterioration of physical condition that occurred immediately prior to or coincidentally with the member's separation for reasons other than physical disability rendered him or her unfit for further duty.

6. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 3 provides that a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.

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

c. 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.

d. A separation would be described as entry level with uncharacterized service if processing were initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions was authorized, due to the reason for separation and was warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, determined a characterization of service as honorable was clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization was authorized when the Soldier was separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

e. Chapter 11 provides for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. When separation of a Soldier in an entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, he or she will normally be separated per this chapter. Service will be uncharacterized for entry-level separation under the provisions of this chapter.

7. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Service Boards for Correction of Military/Naval Records (BCM/NR) 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.

//NOTHING FOLLOWS//