

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 June 2025

DOCKET NUMBER: AR20240009655

APPLICANT REQUESTS:

- An upgrade of his under other than honorable conditions discharge to honorable
- A personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) for reenlistment and supporting documents
- Army Discharge Review Board Case Report and Directive Docket Number AR20210012704, 30 June 2023

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, in effect, he is seeking a DD Form 214 for the period of 9 September 2014 through 15 September 2017, reflecting his honorable discharge. Although the Department of Veterans Affairs (VA) states the applicant is able to go to the VA facilities for treatment purposes and he has service-connected disabilities, he is unable to receive treatment at a VA facility due to the nature of his discharge. He has mental health conditions related to his request for the DD Form 214.
3. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 9 September 2014.
 - b. He served overseas in Korea from 12 February to 28 October 2016.
 - c. He reenlisted on 16 October 2017 for four years.

d. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged on 27 February 2020, under other than honorable conditions under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12b for a pattern of misconduct; he completed 5 years, 5 months, and 19 days net active service this period. Item 18 (Remarks) states Member has completed first full term of service, but is void of any mention of continuous honorable service or immediate reenlistment.

4. On 27 July 2023, the Army Discharge Review Board after careful consideration of his military records and all other available evidence, determined that he was properly and equitably discharged. Accordingly, his request for a change in the characterization of service and/or narrative reason of his discharge was denied.

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 issuance of a DD Form 214 for the period 09 September 2014 through 15 September 2017 reflecting honorable service. On his DD Form 149, the applicant indicated Other Mental Health Issues are related to his request. 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 09 September 2014, 2) his DD Form 214 shows he was discharged on 27 February 2020 under the provisions of AR 635-200, paragraph 14-12B, due to pattern of misconduct, with an under other than honorable conditions characterization of service, a separation code of JKA, and reentry code of '3,' 3) on 27 July 2023, the ADRB denied his previous request for relief as it was determined that he was properly and equitably discharged.

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

c. The applicant initially sought BH treatment from 24 February 2017 through 02 November 2017 for problems related to occupational stressors, sleep problems, anxiety, and childhood trauma, and treatment included individual and group therapy and medication management. He completed group therapy for anger management from 01 March 2017 through 31 May 2017. The applicant reported an improvement in stress and anxiety symptoms after he was moved to a new unit on 15 May 2017, though continued to report problems related to sleep. His diagnoses during this period of treatment

included Irritability and Anger, Intermittent Explosive Disorder, Insomnia, Unspecified, Adjustment Disorder with Anxiety, Anxiety Disorder Not Otherwise Specified (NOS), and Generalized Anxiety Disorder (GAD). He was prescribed Trazodone and Benadryl for problems related to sleep. The applicant underwent a psychological evaluation for Attention Deficit/Hyperactivity Disorder (ADHD) on 19 May 2017. The provider documented the results on 23 May 2017, indicating he did not meet full criteria for ADHD and that his concentration issues were due to mild anxiety associated with his work and familial stressors in addition to his poor sleep. He was diagnosed with Other Specified Problems Related to Psychosocial Circumstances.

d. There was a gap in BH treatment until 07 February 2019 wherein he presented at the encouragement of his provider due to anxiety and depression. He endorsed the following symptoms: problems with sleep, anhedonia, irritability, low energy, difficulty focusing, and racing thoughts. It was also documented that he reported a history of childhood trauma. He was diagnosed with Unspecified Trauma-and-Stressor Related Disorder. During a BH follow-up on 28 February 2019, Reaction to Severe Stress, Unspecified was added to his diagnoses. The applicant was referred for a medication evaluation on 22 March 2019 and was diagnosed with Adjustment Disorder, Unspecified. It appears he was prescribed Trazodone for sleep and on 22 April 2019 reported he did not wish to continue with psychotherapy though would continue follow-up with his prescriber for treatment of sleep problems. He was also prescribed Zoloft (antidepressant) in May 2019. The applicant received monthly calls to check-in regarding his BH medications. He re-engaged with BH on 07 November 2019 and followed-up approximately monthly until his separation. The applicant attended a BH termination session on 03 March 2020, with his final diagnosis noted as Other Problems Related to Employment.

On 10 September 2019, the applicant was referred to the Family Advocacy Program (FAP) for relational problems and allegations of intimate partner violence (IPV), noting he was the alleged offender/victim of intimate partner abuse. The Case Review Committee (CRC) results were unavailable for review; however, a FAP note dated 14 January 2020 documented the applicant as the offender. He completed treatment through FAP until 12 March 2020 when his case was closed due to completion of treatment. His diagnoses were documented as Problems in Relationship with Spouse or Partner and Other Specified Problems Related to Primary Support.

e. The applicant underwent a Command-Directed Behavioral Health Evaluation (CDBHE) (reason unspecified) on 12 September 2019 and was released without limitations. His diagnosis was documented as Other Specified Problems Related to Primary Support.

f. On 14 November 2019, the applicant underwent a Mental Status Evaluation (MSE) for the purposes of Chapter 14 separation. It was documented that the applicant was

being considered for separation due to falsifying documents. The evaluating provider diagnosed with him Other Specified Problems Related to Primary Support Group and documented that he met retention standards IAW AR 40-501 and was cleared for administrative separation.

g. A review of JLV shows the applicant is 0% service-connected (for treatment purposes only) for several conditions, including Neurosis, Generalized Anxiety Disorder (GAD).

h. The ADRB case as summarized in Docket Number AR20210012704 dated 08 March 2021 was reviewed. It was documented that the applicants AMHRR is void of the specific facts and circumstances that led to his discharge from the Army; however, some separation documents were provided by the applicant. It was noted that the applicant received a notification of an intent to separate on 10 December 2019 for the following reasons: on 06 September 2019, the applicant struck another Soldier while at an off-post residence; on 25 September 2018, the applicant received a summarized Article 15 for disrespecting a noncommissioned officer, and on 10 October 2019, the applicant received a Field Article 15 for impersonating an officer and falsifying an official record to add ARCOMs and AAMs to an enlisted record brief. Regarding the Medical Advisory, the Advisor found that he was diagnosed with several potentially mitigating BH conditions including Reaction to Severe Stress, Adjustment Disorder, Anxiety Disorder, Generalized Anxiety Disorder (GAD), and Intermittent Explosive Disorder. The Advisor opined that the applicant's misconduct of disrespect of an NCO was mitigated by his diagnosis of Other Trauma-and-Stressor Related Disorder. However, the Advisor opined that his misconduct of striking another person, impersonating an officer and lying on an official document were not mitigated by his BH condition(s). Furthermore, the Advisor opined that the applicant's misconduct of striking another person, impersonating an officer and lying on an official document outweighed the relief offered through Liberal Consideration.

i. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence that the applicant has been diagnosed with two potentially mitigating BH conditions, Other Trauma-and-Stressor-Related Disorder and Generalized Anxiety Disorder (his diagnoses of Adjustment Disorder with Anxiety, Anxiety Disorder, Unspecified, and Insomnia, Unspecified are subsumed by his diagnosis of GAD; his diagnosis of Reaction to Severe Stress, Unspecified is subsumed by his diagnosis of Other Trauma-and-Stressor-Related Disorder). Intermittent Explosive Disorder, which falls under the purview of administrative separation, and psychosocial stressors do not constitute mitigating conditions. This Advisor would contend that partial BH mitigation is supported.

j. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant was diagnosed with Other Trauma-and-Stressor-Related Disorder and Generalized Anxiety Disorder in-service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant was diagnosed with Other Trauma-and-Stressor-Related Disorder and Generalized Anxiety Disorder in-service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Partially. The applicant has been diagnosed with two potentially mitigating BH conditions in-service, Other Trauma-and-Stressor-Related Disorder and Generalized Anxiety Disorder. The complete facts and circumstances surrounding his discharge were unavailable for review; however, his previous ADRB case documented the misconduct as stated in his notification for the intent to separate as striking another Soldier, disrespecting a noncommissioned officer, and a Field Grade Article 15 for impersonating an officer and falsifying an official record. As there is an association between difficulty with authority figures and anxiety/trauma, there is a nexus between his misconduct of disrespecting an NCO and his diagnoses of GAD/ Other Trauma-and-Stressor-Related Disorder. However, impersonating a commissioned officer, falsifying documents, and striking another person are not part of the natural history and sequelae associated with GAD or Other Trauma-and-Stressor-Related Disorder, nor do these conditions interfere with the ability to distinguish between right and wrong and act in accordance with the right. Thus, BH mitigation would be partially supported, specifically for his misconduct of disrespecting an NCO.

BOARD DISCUSSION:

1. 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 limited documentation related to the misconduct leading to the applicant's separation, and the findings of only partial mitigation for the misconduct known from the available documentation, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

2. The Board did note the applicant completed a period of honorable service which is not properly annotated on his DD Form 214; therefore, they recommended making that change to more accurately reflect the military service of the applicant.

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 the Army records of the individual concerned be corrected by amending the applicant's DD Form 214 by adding in Remarks the statement, "Continuous Honorable Service 9 September 2014 to 15 October 2017".
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.

//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 15-185 (ABCMR) states ABCMR members will review all applications that are properly before them to determine the existence of an error. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. 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.

3. 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.

4. AR 635-8 (Separation Processing and Documents), provides for the preparation and distribution of the DD Form 214. It states a Soldiers DD Form 214 or DD Form 215 (Correction to the DD Form 214, Certificate of Release or Discharge from Active Duty) contains vital, sensitive, and authoritative data.

a. Paragraph 5-2 (When not to prepare a DD Form 214), states a DD Form 214 will not be prepared for Soldiers discharged for immediate reenlistment in the Regular Army.

b. Paragraph 5-6 (Rules for completing the DD Form 214) states for item 18 (Remarks) for enlisted Soldiers with more than one enlistment period during the time covered by this DD Form 214, enter "IMMEDIATE REENLISTMENTS THIS PERIOD" and specify inclusive dates for each period of reenlistment. For Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except "Honorable", enter "Continuous Honorable Active Service from" (first day of service for which DD Form 214 was not issued) until (date

before commencement of current enlistment). Then, enter the specific periods of reenlistment as prescribed above.

c. Paragraph 8-3 (When to Prepare the DD Form 215) states prepare a DD Form 215 in response to a request for a Soldier or veteran to correct a previously issued Army DD Form 214. Requests should contain a cop of the DD Form 214 in question and source documents that substantiate the Correction of Military Records or Army Discharge Review Board directing the change.

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

a. 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. An under other than honorable conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

6. 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.

7. 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.

//NOTHING FOLLOWS//