

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 March 2025

DOCKET NUMBER: AR20240009926

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his uncharacterized service as honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, for the period ending 28 May 2004
- letter, Stokes Counseling, dated 1 April 2024
- statement of support, undated

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 served enough time to have an honorable discharge. He had mental health issues prior to enlisting because his brother died. His mother had brain cancer while he was in basic training. He had post-traumatic stress disorder (PTSD) while growing up. His recruiters knew about this but told him not to say anything.
3. The applicant enlisted in the Regular Army on 12 February 2004.
4. The applicant was formally counseled on 15 occasions between 10 April and 17 May 2004. Areas of emphasis covered in the counseling included:
 - failure to meet standards for basic rifle marksmanship (BRM)
 - recommendation for "New Start Out" due to BRM failure
 - separation from service due to BRM failure
5. On 24 May 2004, the applicant's immediate commander notified him that she was initiating action to separate the applicant under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 11. As the specific

reason, the commander stated the applicant failed BRM and lacked the self-discipline and motivation required to complete Basic Combat Training.

6. The applicant acknowledged receipt of the proposed separation notification and further acknowledged understanding that, if approved, he would receive an entry level separation with uncharacterized service. He waived his rights in writing and elected not to consult with counsel.

7. The applicant's immediate commander formally recommended his separation under the provisions of Army Regulation 635-200, Chapter 11, prior to his expiration term of service.

8. The separation authority approved the recommended separation action, waived rehabilitative transfer requirements, and directed the issuance of an entry level separation (uncharacterized).

9. The applicant was discharged on 28 May 2004, under the provisions of Army Regulation 635-200, Chapter 11, by reason of entry level performance and conduct. His DD Form 214 shows his service was uncharacterized. He completed 3 months and 17 days of net active service. He was not awarded a military occupational specialty.

10. The applicant provides:

a. A letter from Stokes Counseling, dated 1 April 2024, wherein the author states she has been treating the applicant for PTSD since 26 March 2024.

b. In an undated statement of support, the author recommends the applicant for any landscaping or social media endeavors, further stating she is consistently impressed with his professionalism, dedication, and passion for landscaping and digital marketing. He is a person of integrity and reliability.

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

12. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a correction of his DD Form 214 to show his uncharacterized service as honorable. On his DD Form 149, the applicant indicated that Posttraumatic Stress Disorder (PTSD) and Other Mental Health Issues are related to his request. More specifically, he stated that he had mental health issues prior to enlisting due to the death of his brother and while in basic training his mother had brain cancer. 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 (RA) on 12 February 2004, 2) The applicant was formally counseled on 15 occasions between 10 April and 17 May 2004, with the areas of emphasis noted as failure to meet standards for basic rifle marksmanship (BRM), recommendation for "New Start Out" due to BRM failure, and separation from service due to BRM failure, 3) on 24 May 2004, the applicant's immediate commander notified the applicant that she was initiating action to separate him under the provisions of AR 635-200, Chapter 11, with the specific reason(s) noted as failed BRM and lack of the self-discipline and motivation required to complete Basic Combat Training, 4) the applicant was discharged on 28 May 2004, under the provisions of AR 635-200, Chapter 11, by reason of entry level performance and conduct. His DD Form 214 shows his service was uncharacterized. He completed 3 months and 17 days of net active service. He was not awarded a military occupational specialty.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service records. There were no in-service medical records available for review. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. There were no in-service medical records available for review.

d. A review of JLV was void of medical information. There is no documentation available for review showing that the applicant is service-connected through the VA for any conditions.

e. A civilian treatment summary from Stokes Counseling dated 01 April 2024 was included as part of the applicant's application. The provider documented that the applicant had been under their care for PTSD, Chronic since 26 March 2024 [*Advisor's Note: the applicant's diagnosis of PTSD was not documented to be associated with his military service nor was the date of onset of the condition documented in the treatment summary*].

f. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a condition or experience during his time in service that mitigated his discharge. However, he contends that his discharge was related to PTSD and Other Mental Health Issues, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his discharge was related to PTSD and Other Mental Health Issues.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There were no in-service medical records available for review. A review of JLV did not show that the applicant is service connected through the VA for any conditions. The applicant provided documentation from a civilian/non-VA provider showing that he has been diagnosed and treated for PTSD since March 2024; however, the date of onset for his condition was not documented nor did the provider associate his diagnosis with his military service. Given that the preponderance of available evidence does not indicate the applicant had a condition at the time of discharge that failed medical retention standards in accordance with AR 40-501, his Uncharacterized separation under the provisions of Chapter 11 of AR 635-200 appears to be proper and equitable.

h. Regarding applicant's assertion of Other Mental Health Issues, while there is no evidence to support this diagnosis, applicant's self-assertion of Other Mental Health Issues alone merits consideration by the board.

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. Upon review of the applicant's petition, available military record and medical review, the Board concurred with the advising opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a condition or experience during his time in service that mitigated his discharge. The Board determined the applicant was not awarded a MOS and completed 3 months and 17 days of active service. He was separated under the provisions of Army Regulation 635-200, Chapter 11, for entry-level performance and conduct, specifically for failure to meet basic rifle marksmanship standards and a lack of self-discipline and motivation to complete Basic Combat Training.

2. The Board found insufficient evidence to support the applicant's contentions for correction of his DD Form 214 to show his uncharacterized service as honorable. The Board noted in accordance with regulatory guidance, service members separated within

the first 180 days of service are issued an entry-level separation with uncharacterized service unless specific circumstances warrant otherwise. An uncharacterized discharge is designed to reflect the limited duration and nature of service prior to the completion of initial training. While the Board acknowledged the applicant's personal challenges and recent diagnosis of PTSD, it determined that the characterization of service was administratively correct and consistent with regulatory guidance. Therefore, relief is denied

3. Consideration was given to the Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his discharge was related to PTSD and Other Mental Health Issues.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There were no in-service medical records available for review. A review of JLV did not show that the applicant is service-connected through the VA for any conditions. The applicant provided documentation from a civilian/non-VA provider showing that he has been diagnosed and treated for PTSD since March 2024; however, the date of onset for his condition was not documented nor did the provider associate his diagnosis with his military service. Given that the preponderance of available evidence does not indicate the applicant had a condition at the time of discharge that failed medical retention standards in accordance with AR 40-501, his Uncharacterized separation under the provisions of Chapter 11 of AR 635-200 appears to be proper and equitable.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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. 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 (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 ABCMR applicants (and/or their counsel) prior to adjudication.
3. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel.

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. Paragraph 3-7a 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.

c. Paragraph 3-9, in effect at the time of the applicant's separation, provided that 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.

d. 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.

e. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier were in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

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 Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress

disorder; traumatic brain injury; sexual assault; or sexual harassment. Boards are 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 misconduct that led to the discharge.

5. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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 on the basis of 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//