

IN THE CASE OF: ██████████

BOARD DATE: 14 August 2025

DOCKET NUMBER: AR20240010108

APPLICANT REQUESTS:

- reconsideration of his request for upgrade of his under other than honorable conditions (UOTHC) discharge
- 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) – 2
- self-authored letters – 2

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20140019691 on 9 July 2015.

2. The applicant provides two self-authored letters which provide a comprehensive account of the challenges he faced upon his return from Desert Storm. He states that:

- he experienced a myriad of severe health issues, including insomnia, headaches, respiratory problems, bowel irregularities, and persistent tinnitus
- his leadership openly challenged his medical profile
- he was placed on restriction for seeking medical attention
- his first sergeant stated he would make his life a “living hell”
- he endured the trauma of war
- he developed post-traumatic stress disorder (PTSD) from constant harassment
- he went absent without leave (AWOL) out of desperation
- he suffers from Gulf War Syndrome

3. On his DD Form 149, the applicant noted he needed corrections to his decorations/awards and promotions/rank; however, he did not provide any comments for any specific issue.

4. A review of the applicant's available service records reflect:

a. He enlisted in the Regular Army on 8 February 1989.

b. He served in Southwest Asia from 31 August 1990 to 27 March 1991.

c. He was reported as AWOL on 2 June 1992.

d. Court-martial charges were preferred against the applicant on 7 July 1992, for violations of the Uniform Code of Military Justice. His DD Form 458 (Charge Sheet) shows he was charged with one specification of going AWOL.

e. He surrendered to military authorities on 8 March 1993.

f. The available record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing.

g. The applicant was discharged on 29 April 1993. His DD Form 214 (Certificate of Release or Discharge from Active Duty) confirms he was discharged under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10, for the good of the service – in lieu of trial by court-martial. He was discharged in the lowest enlisted grade and his service characterized as UOTHC. He completed 3 years, 5 months, and 18 days of net active service this period with 279 days of lost time.

h. Additionally, his DD Form 214 shows he was awarded or authorized the:

- Southwest Asia Service Medal (2 Bronze Stars)
- Army Achievement Medal
- National Defense Service Medal
- Army Service Ribbon
- Expert Qualification Badge, Hand Grenade
- Marksman Qualification Badge, M-16 Rifle
- Kuwait Liberation Medal

i. The applicant petitioned the ABCMR requesting upgrade of his UOTHC discharge. On 9 July 2015, the Board voted to deny relief and determined the overall merits of the case were insufficient as a basis for correction of the applicant's records.

5. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

6. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR for reconsideration of his request for an upgrade of his under other than honorable conditions (UOTHC) discharge. He contends he experienced mental health conditions including PTSD, which mitigate 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 8 February 1989; 2) The applicant served in Southwest Asia from 31 August 1990-27 March 1991; 3) Court-martial charges were preferred against the applicant on 7 July 1992 for being AWOL. Later, the applicant surrendered to military authorities on 08 March 1993. The available record is void of a separation packet containing the specific facts and circumstances surrounding his discharge processing; 4) On 29 April 1993, the applicant was discharged, Chapter 10, for the good of the service – in lieu of trial by court-martial. His service characterized as UOTHC. He completed 3 years, 5 months, and 18 days of net active service this period with 279 days of lost time.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service records. The VA's Joint Legacy Viewer (JLV) was also reviewed. No additional medical documentation was provided for review.

c. The applicant asserts he experienced mental health conditions including PTSD while on active service which mitigate his misconduct. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including PTSD, while on active service.

d. A review of JLV provided evidence the applicant began to engage with VA in 2008. There is insufficient evidence the applicant has been diagnosed with a service-connected mental health condition, including PTSD, and he does not receive any service-connected disability for a mental health condition including PTSD.

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, which 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 mental health conditions including PTSD, which mitigates his misconduct.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions including PTSD while on active service, which mitigates his misconduct.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant was experiencing a mental health condition including PTSD, while he was on active service. The applicant did engage in avoidant behavior such as going AWOL for an extended period of time, which could be a natural sequela to some mental health conditions including PTSD. However, the presence of misconduct is not sufficient evidence of the presence of a mitigating mental health condition during active service. Yet, the applicant contends he was experiencing a mental health condition which mitigates his misconduct, and per Liberal Consideration, his contention is sufficient for the Board's consideration.

BOARD DISCUSSION:

1. 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 amendment of the ABCMR decision rendered in Docket Number AR20140019691 on 9 July 2015.

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 mental health conditions including PTSD, which mitigates his misconduct.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions including PTSD while on active service, which mitigates his misconduct.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant was experiencing a mental health condition including PTSD, while he was on active service. The applicant did engage in avoidant behavior such as going AWOL for an extended period of time, which could be a natural sequela to some mental health conditions including PTSD. However, the presence of misconduct is not sufficient evidence of the presence of a mitigating mental health condition during active service. Yet, the applicant contends he was

experiencing a mental health condition which mitigates his misconduct, and per Liberal Consideration, his contention is sufficient for the Board's consideration.

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

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

8/15/2025

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 1556, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.

2. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR.

a. Paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

c. Paragraph 2-15a governs requests for reconsideration. This provision of the regulation allows an applicant to request reconsideration of an earlier decision of the ABCMR. The applicant must provide new relevant evidence or argument that was not considered at the time of the ABCMR's prior consideration.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

a. 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. 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.

c. Chapter 10 provided that a member who had committed an offense or offenses, for which the authorized punishment included a punitive discharge, could submit a request for discharge for the good of the service in lieu of trial by court-martial. The request could be submitted at any time after charges had been preferred and must have included the individual's admission of guilt. Although an honorable or general discharge was authorized, a UOTHC discharge was normally considered appropriate.

4. The Under Secretary of Defense for Personnel and Readiness provided clarifying guidance to Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Navy Records (BCM/NR) on 25 August 2017. 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, 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 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.

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, 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.

//NOTHING FOLLOWS//