

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 July 2025

DOCKET NUMBER: AR20240010188

APPLICANT REQUESTS: Upgrade of his under honorable conditions (general) discharge. Additionally, he requests a personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Veterans Affairs (VA) Form 21-4138 (Statement in Support of Claim) wherein his spouse states she noticed he was always on edge, following his discharge from the Army. He abused illegal drugs; however, he has been clean for several years
- VA Form 21-0781a (Statement in Support of Claim for Service Connection for post-traumatic stress disorder (PTSD) Secondary to Personal Assault) wherein he details his unit's arrival to Bosnia under the cover of darkness. They were shot at as they exited the airplane. They were informed that Bosnian special operators were impersonating American troops, increasing their anxiety levels
- VA Form 21-0781 (Statement in Support of Claim for Service Connection for PTSD) wherein he states his unit's deployment to Bosnia took a downward spiral once they learned they were not there to be a peacekeeping force but as a deterrent to Russia
- VA summary of benefits letter, dated 11 April 2024 shows he received a 70% combined rating evaluation for various lower extremity injuries
- Standard Form 93 (Report of Medical History) page 1 only, shows he underwent a chapter physical examination on or about dated 20 August 1996. He stated he was in good health; however, he noted that he had frequent headaches and trouble sleeping, and depression or excessive worry
- Texas Educator Certificate, shows he fulfilled the requirements of State law to perform the duties of a teacher and a principal, effective 1 March 2023
- Professional resume shows he received a master's degree in education and works as an assistant principal
- DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects his service from 11 October 1994 to 21 September 1996
- personal statement, 3 pages
- detailed list of accomplishments, i.e. volunteer work, and various roles and responsibilities in the education field

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 PTSD issues contributed to his administrative separation. He explains in his statement which is available for the Board's review in the supporting documents his:

- depression or excessive worry
- thoughts of suicide after leaving the Army
- fear of dying while in Bosnia
- obsessive-compulsive disorder

3. A review of the applicant's available service record reflects the following:

a. He enlisted in the Regular Army on 11 October 1994.

b. He served in Bosnia from 24 December 1995 to 21 February 1996.

c. He underwent a psychiatric evaluation on 22 August 1996. The Chief, Psychiatry Department noted:

- his evaluation was requested by command
- he received a field grade Article 15 for marijuana on 19 June 1996
- his mood was described as depressed and angry
- he had earlier history of Alcohol and Drug Abuse Prevention and Control Program involvement for abuse of alcohol
- he was psychiatrically cleared for full duty and any administrative action deemed appropriate by the command

d. His commander notified him on 5 September 1996, that he was initiating actions to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 14, paragraph 14-12c, for incidents of serious misconduct. He noted the applicant's wrongful use of marijuana.

e. He acknowledged that he had been advised by counsel of the contemplated separation action, the possible effects of the discharge, and the rights available to him. He indicated he understood he could expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions were issued to him. He

submitted a statement in his own behalf; wherein he noted his accolades and accomplishments. He realized he made a serious mistake, and he was remorseful.

f. On 9 September 1996, the applicant's commander formally recommended his separation, prior to the expiration term of service, under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12c.

g. Consistent with the chain of command's recommendations, the separation authority approved the separation from the on 11 September 1996, and recommended his characterization of service be under honorable conditions (general).

h. The applicant was discharged on 21 September 1996. His DD Form 214 confirms he was discharged under the provisions of Army Regulation 635-200, paragraph 14-12c, for misconduct. His service was characterized as under honorable conditions (general). He completed 1 year, 11 months, and 11 days of net active service this period.

4. 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.

#### 5. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (general) discharge. He asserts experiencing PTSD while on active service, which 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 11 October 1994; 2) The applicant served in Bosnia from 24 December 1995-21 February 1996; 3) The applicant's commander notified him on 5 September 1996, that he was initiating actions to separate him under Chapter 14-12c due to incidents of serious misconduct. He noted the applicant's wrongful use of marijuana; 4) The applicant was discharged on 21 September 1996, Chapter 14-12c-for misconduct. His service was characterized as under honorable conditions (general). He completed 1 year, 11 months, and 11 days of net active service this period.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) and hardcopy VA medical documentation provided by the applicant were also examined.

c. The applicant asserts he experienced PTSD while on active service, which mitigates his misconduct. There is insufficient evidence the applicant was diagnosed

with a mental health condition including PTSD, while on active service. He underwent a psychiatric evaluation at the request of his Command on 22 August 1996. The applicant had received a field grade Article 15 for marijuana on 19 June 1996. The applicant also had an earlier history of alcohol abuse treatment through the Army program of Alcohol and Drug Abuse Prevention and Control Program. The applicant was not diagnosed with a mental health condition, and he was cleared from a psychiatric perspective for administrative action deemed appropriate by Command.

d. A review of JLV provided 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 PTSD, which mitigates his misconduct.

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

(3) Does the condition or 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 using illegal drugs, which could be a natural sequela to PTSD. However, the presence of misconduct is not sufficient evidence of the presence of a mitigating mental health condition or experience during active service. Yet, the applicant contends he was experiencing PTSD which mitigates his misconduct, and per Liberal Consideration, his contention is sufficient for the Board's consideration.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was warranted. Based upon the almost two years of honorable service completed, the misconduct leading to the applicant's separation, and the behavior health condition found in the medical review, the Board concluded there was sufficient evidence to grant clemency by upgrading the applicant's characterization of service to Honorable.

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

|      |      |      |                      |
|------|------|------|----------------------|
| :XXX | :XXX | :XXX | GRANT FULL RELIEF    |
| :    | :    | :    | GRANT PARTIAL RELIEF |
| :    | :    | :    | GRANT FORMAL HEARING |
| :    | :    | :    | DENY APPLICATION     |

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Honorable
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change

//SIGNED//

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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. Title 10, U.S. Code, Section 1556, 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.

3. 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.

4. 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. Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. It states that action will be initiated to separate a Soldier for misconduct when it was clearly established that rehabilitation was impracticable or unlikely to succeed.

5. 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.

6. 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//