ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 24 June 2025

DOCKET NUMBER: AR20240010372

APPLICANT REQUESTS: reconsideration of his previous request for:

- upgrade of his under honorable conditions (General) discharge to honorable
- change in narrative reason for separation

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

- Online application, 13 August 2024
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 30 April 2010
- Everglades University Official Transcript, 4 August 2022
- Embry-Riddle Aeronautical University Worldwide Campus Unofficial Transcript, 5 August 2024
- Medical documentation, 12 August 2024, shows he was diagnosed by a license clinical psychologist and was determined to have ongoing anxiety and PTSD, more likely caused by his military service, particularly combat deployments

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 AR20220009544 on 15 June 2023.

2. The applicant states his conduct while in service was deeply affected by his post-traumatic stress disorder (PTSD) from his combat tours. Prior to his PTSD, his conduct was above average, he had excelled academically and professionally. Since his discharge he was completed two Bachelors of Science degrees and a Master of Business Administration.

3. A review of the applicant’s service record shows the following:

a. He enlisted in the Regular Army on 1 July 2003. He reenlisted on 5 October 2006, for a 5-year period and reenlisted on 13 November 2009, for an additional 6 years.

b. He served overseas/deployment combat duty:

- from 2 March 2004 to 2 March 2005 in Iraq
- from 17 October 2005 to 7 December 2005 in Pakistan
- from 25 September 2006 to 3 December 2007 in Iraq

c. He received nonjudicial punishment on 9 December 2009 for overindulging in intoxicating liquor or drugs, which incapacitated him for his performance of duties on or about 24 November 2009. He was reduced to private first class/E-3.

d. He was notified by his immediate commander of the intent to initiate him for separation, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Active Duty Enlisted Administrative Separations) Chapter 14-12c (Commission of a Serious Offense) with issuance of an under honorable conditions (general) characterization of service. He acknowledged receipt on 17 March 2010

e. On 18 March 2010, 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 by him waiving his rights. He elected to request consideration of his case, a personal appearance, and consulting counsel before an administrative separation board.

f. His chain of command recommended approval of his separation and further recommended his character of service be under honorable conditions (General).

g. On 9 April 2010, the separation board recommended he be separated from the service with an under honorable conditions (General) discharge.

h. On 23 April 2010, the separation authority approved his separation and directed he be issued an under honorable conditions (General) characterization of service.

i. Accordingly, his DD Form 214 shows he was discharged on 30 April 2010 under the provisions of AR 635-200, paragraph 14-12c for misconduct, serious offense, in the grade of E-3. He received an under honorable conditions (General) character of service, with separation code JKQ and reentry code 3. He completed 6 years and 10 months of net active service this period.

4. On 14 February 2011, the Army Discharge Review Board after careful consideration of his military records and all other available evidence, determined he was properly and equitably discharged and denied his request for a change in the character and/or reason of his discharge.

5. In his previous request (AR20220009544) on 15 March 2023, after reviewing the application and all supporting documents, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. His request was denied by the ABCMR.

6. 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.

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (general) characterization of service to honorable and to change the narrative reason for separation. On his application, the applicant indicated Posttraumatic Stress Disorder (PTSD) is 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 01 July 2003, 2) he served overseas/deployed to the following locations: Iraq (02 March 2004 to 02 March 2005; 25 September 2006 to 03 December 2007), and Pakistan (17 October 2005 to 07 December 2005), 3) he received nonjudicial punishment on 09 December 2009 for overindulging in intoxicating liquor or drugs, which incapacitated him for his performance of duties on or about 24 November 2009, 4) he was notified by his immediate commander of the intent to initiate separation under the provisions of AR 635-200, Chapter 14-12c with issuance of an under honorable conditions (general) characterization of service. He acknowledged receipt on 17 March 2010, 5) the applicant was discharged on 30 April 2010 under the provisions of AR 635-200, paragraph 14-12c for misconduct, serious offense, with a separation code of JKQ and reentry code of '3.' 5) the applicant's previous petition(s) for relief to the ADRB on 14 February 2011 and ABCMR on 15 March 2023 were denied.

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. In-service medical records available via JLV were reviewed. His military BH history was outlined in detail in the previous ABCMR medical advisory and thus only a brief overview will be provided here. The applicant was enrolled in the Army Substance Abuse Program (ASAP) on 07 December 2009 for outpatient treatment. His primary diagnosis was Alcohol Abuse until 17 February 2010 wherein it was updated to Alcohol Dependence (now known as Alcohol Use Disorder). The applicant was admitted to an inpatient rehabilitation treatment program from 17 February 2010 to 18 March 2010

following a DUI on 11 February 2010. Following his discharge from the inpatient rehabilitation treatment program, the applicant continued outpatient ASAP treatment until 27 April 2010. Records show he was also prescribed Chantix on 05 April 2010 for treatment of Nicotine Dependence.

d. On 11 December 2009 the applicant presented for a behavioral health Chapter separation evaluation with the reason for the visit noted as due to being drunk on duty. The provider diagnosed him with Alcohol Abuse and noted that he did not exhibit any symptoms of an emotional or mental illness and no treatment was recommended, though it was recommended that he follow-up with a substance abuse support group or outpatient treatment.

e. A review of JLV shows the applicant is 10% service-connected through the VA for Tinnitus (10%), Ear Infection (0%), and Allergic or Vasomotor Rhinitis (0%). He is not service-connected for any BH conditions. His VA treatment records show that he completed an initial evaluation through the Trauma Recovery Program (TRP) on 28 May 2025 to assess for possible acceptance into the program. The provider documented the applicant's index trauma(s), documenting several traumatic events that were combat-related including Soldiers in his unit getting shot down, exposure to incoming rockets and mortars, and reliving events as part of his job where he was involved behind a radio/screen. The evaluating provider diagnosed the applicant with PTSD, Chronic and was deemed appropriate for participation in the TRP.

f. The applicant included an Independent Medical Examination Report dated 12 August 2024 as part of his packet, which was conducted by a licensed clinical psychologist for the purposes of aiding in evaluating the applicant's eligibility for veteran's benefits. The evaluating psychologist diagnosed the applicant with PTSD and noted that his symptoms and behaviors are closely linked to his military service. The provider opined that the applicant's mental health issues are more likely than not caused by his military service, in particular, his combat deployments and the associated traumatic experiences.

g. The Memorandum for Notification of Separation under the provisions of AR 635-200, Chapter 14, paragraph 14-12c(2) shows the reason for the proposed action is he drove with a blood alcohol concentration (BAC) in excess of the legal limit on or about 06 May 2009 and on or about 07 February 2010. On or about 24 November 2009, he was unable to perform his duties due to the previous overindulgence in intoxicating liquor or drugs.

h. Review of the medical opine included in ABCMR Docket Number AR20220009544 shows that at the time of the opine, the Advisor noted his BH treatment history reflected in-service diagnoses of Alcohol Abuse and Alcohol Dependence. His records were void of a diagnosis of PTSD. As such, the Advisor opined that there was insufficient

evidence of a diagnosis or markers of PTSD, and, although his discharge was related to Alcohol Dependence, Liberal Consideration does not offer relief for this condition absent a comorbid BH diagnosis. As such, BH mitigation was not supported.

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 PTSD due to combat-related trauma, which is a potentially mitigating BH condition. This Advisor contends that the totality of the applicant's misconduct is mitigated by his diagnosis of PTSD.

j. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant has been diagnosed with PTSD, which was attributed to combat-related trauma.

(2) Did the condition exist or experience occur during military service? Yes, the applicant has been diagnosed with PTSD, which was attributed to combat-related trauma.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. In-service records show the applicant was treated for Alcohol Dependence (his diagnosis of Alcohol Abuse is subsumed by this diagnosis). Since being discharged from the military, he has been diagnosed by both VA and a non-VA/civilian BH provider with PTSD due to combat-related trauma. Excessive alcohol use is often a self-medicating behavior, used to avoid and mask symptoms, and this can be associated with the natural history and sequelae of numerous disorders, to include trauma. As there is an association between excessive alcohol use and trauma, there is a nexus between his misconduct of driving under the influence of alcohol in excess of the legal limit, inability to perform his duties due to the previous overindulgence in intoxicating liquor or drugs, and his diagnosis of PTSD. As such, BH mitigation is supported.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was separated for misconduct with the commander for overindulging in intoxicating liquor or drugs, which incapacitated him for his

performance of duties. However, the Board concurred with the medical advisor's review that there is sufficient evidence that the applicant has been diagnosed with PTSD due to combat-related trauma due to his two tours in Iraq and in Pakistan to mitigate his character of service and restore his rank to Specialist (SPC)/E4.

2. The Board noted also determined that the evidence of record was insufficient to warrant a change to the applicant's narrative reason for separation due to his serious misconduct. Based on a preponderance of the evidence, the Board concluded that the narrative reason for separation the applicant received upon separation was appropriate.

3. 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 discharge? Yes, the applicant has been diagnosed with PTSD, which was attributed to combat-related trauma.

(2) Did the condition exist or experience occur during military service? Yes, the applicant has been diagnosed with PTSD, which was attributed to combat-related trauma.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. In-service records show the applicant was treated for Alcohol Dependence (his diagnosis of Alcohol Abuse is subsumed by this diagnosis). Since being discharged from the military, he has been diagnosed by both VA and a non-VA/civilian BH provider with PTSD due to combat-related trauma. Excessive alcohol use is often a self-medicating behavior, used to avoid and mask symptoms, and this can be associated with the natural history and sequelae of numerous disorders, to include trauma. As there is an association between excessive alcohol use and trauma, there is a nexus between his misconduct of driving under the influence of alcohol in excess of the legal limit, inability to perform his duties due to the previous overindulgence in intoxicating liquor or drugs, and his diagnosis of PTSD. As such, BH mitigation is supported.

The Board concluded there was sufficient evidence of an error or injustice warranting a change to the applicant's characterization of service to an honorable discharge and the restoration of his rank to SPC/E-4 based upon the medical review and his multiple deployments.

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 amendment of the ABCMR's decision in Docket Number AR20220009544 on 15 March 2023. The Board determined the evidence presented is sufficient to warrant 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, for the period ending 30 April 2010 to show in:

- item 4a (Grade, Rate or Rank): "SPC":
- Item 4b (Pay Grade): "E4"
- item 24 (Character of Service): Honorable

2. The Board further determined that 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 changing his narrative reason for separation.

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. Section 1556 of Title 10, U.S. Code (USC), requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.

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

a. 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.

b. Paragraph 3-7b states 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 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions (a pattern of misconduct consisting solely of minor military disciplinary infractions), a pattern of misconduct (consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline). Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter; however, the separation authority may direct a general discharge if merited by the Soldier’s overall record.

3. 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. Standards for

review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or 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.

4. 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.

//NOTHING FOLLOWS//