

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240010420

APPLICANT REQUESTS: upgrade his under other than honorable conditions to honorable conditions.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)

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 before his trouble he was always a good soldier and made Staff Sergeant in under six years. He knows he has Post Traumatic Stress Disorder (PTSD). He served in the 3rd Armored Cavalry Regiment as an Armor Crewman. He deployed to Bosnia and twice to Iraq. He served in combat with the enemy, and we even served as bait for a Navy Seal Team who were hunting insurgents that were attacking American convoys. His unit was repeatedly attacked (almost nightly) by enemy rocket-propelled grenades (RPG's) and gunfire. His PTSD caused him to have major anxiety with thoughts of dying. When he deployed to Iraq the second time his wife took his children, cleared out his house at Fort Carson and left him nothing but his clothes. He received no noticed from her, he just found her gone. Several times, he requested leave from his unit so he could find his children, but the Army denied his requests. He also asked for a referral to mental health, but the Army had a 30 day wait list to see a doctor or therapist. He left without permission because he was worried since his wife had a substance abuse problem and he discovered she moved in with a man he did not know who was living in the with his children. He requests an upgrade so he can get Veteran Affairs (VA) benefits for the PTSD he contracted while in Iraq.
3. A review of the applicant's service records shows:

- a. He enlisted in the Regular Army on 16 September 1997.
- b. He served overseas in the following:
 - Bosnia from 20000308 to 20000917
 - Kuwait/Iraq from 20030401 to 20030901
 - Kuwait/Iraq from 20040126 to 20040318
- c. He was AWOL for a total of 228 days:
 - 22 days 20031220 to 20040111
 - 66 days 20050125 to 20050331: (apprehended/confinement)
 - 3 days 20050601 to 20050603
 - 2 days 20050720 to 20050721
 - 135 days 20050802 to 20051215
- d. On 8 April 2005, he accepted nonjudicial punishment for AWOL 25 January 2005 to 31 March 2005. His punishment included reduction to sergeant (SGT)/E-5.
- e. DD Form 458 (Charge Sheet) shows court martial charges were preferred on 29 August 2005, for AWOL 2 August 2005.
- f. The service record is void separation documentation from the applicant's command.
- g. Accordingly, he was discharged with an under other than honorable conditions on 10 February 2006, he completed 7 years, 9 months, and 8 days net active service this period. It also shows he was awarded or authorized:
 - Army Commendation Medal
 - Army Achievement Medal (6th award)
 - National Defense Service Medal
 - Armed Forces Expeditionary Medal
 - Global War on Terrorism Expeditionary Medal
 - Global War on Terrorism Service Medal
 - Non-Commissioned Officer Professional Development Ribbon (2nd award)
 - Army Service Ribbon
 - NATO Medal
 - Iraq Campaign Medal

4. On 29 October 2009, the applicant was notified the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for an upgrade of his discharge.

5. By regulation, an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

6. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his under other than honorable conditions (UOTHC) discharge to honorable. He asserts PTSD and OMH as related to his request.

b. 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:

- Applicant enlisted in the Regular Army on 16 September 1997 and honorably completed two enlistments.
- He served overseas in the following: Bosnia from 8 March to 17 September 2000; Kuwait/Iraq from 1 April to 1 September 2003 and 26 January to 18 March 2004.
- He was AWOL five times for a total of 228 days.
- On 8 April 2005, he accepted nonjudicial punishment for AWOL from 25 January 2005 to 31 March 2005. His punishment included reduction to private (SGT)/E-5.
- DD Form 458 (Charge Sheet) shows court martial charges were preferred on 29 August 2005 due to AWOL.
- Applicant was discharged on 10 February 2006, under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 10. His DD Form 214 (Report of Separation from Active Duty) shows his service was characterized as UOTHC, in lieu of trial by court-martial, with separation code KFS and RE code 4.
- On 29 October 2009, the applicant was notified the Army Discharge Review Board (ADRB) denied his request for an upgrade of his discharge.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states before his trouble he was always a good soldier and made Staff Sergeant in under six years. He knows he has Post Traumatic Stress Disorder (PTSD). He served in the 3rd Armored Cavalry Regiment as an Armor Crewman. He deployed to Bosnia and twice to Iraq. He served in combat with the

enemy, and even served as bait for a Navy Seal Team who were hunting insurgents that were attacking American convoys. His unit was repeatedly attacked (almost nightly) by enemy rocket-propelled grenades (RPG's) and gunfire. His PTSD caused him to have major anxiety with thoughts of dying. When he deployed to Iraq the second time his wife took his children, cleared out his house at Fort Carson and left him nothing but his clothes. He received no notice from her, he just found her gone. Several times, he requested leave from his unit so he could find his children, but the Army denied his requests. He also asked for a referral to mental health, but the Army had a 30 day wait list to see a doctor or therapist. He left without permission because he was worried since his wife had a substance abuse problem and he discovered she moved in with a man he did not know who was living with his children. He requests an upgrade so he can get Veteran Affairs (VA) benefits for the PTSD he contracted while in Iraq.

d. Active-duty electronic medical records available for review do not contain any behavioral health documentation and the applicant did not provide any hardcopy medical documentation from his time in service.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 10% service connected for tinnitus but not for any behavioral health condition. On 12 August 2024, the applicant participated in an initial mental health evaluation due to excessive alcohol use and a history of blacking out. He reported a prior history of residential rehabilitation treatment in 2012 due to alcoholism and no other substance abuse or mental health treatment despite 15 to 20 years of problematic drinking. He was diagnosed with Alcohol Use Disorder with Alcohol Induced Mood Disorder. On 11 February 2025, the applicant started individual substance abuse treatment due to his daily alcohol abuse and the problems it caused in his romantic relationship. During a follow-up session on 26 February 2025, he was diagnosed with Cannabis Dependence, Alcohol Abuse, and Insomnia. The record evidences ongoing participation in substance abuse treatment with his most recent encounter on 3 July 2025; his diagnoses remains unchanged.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a behavioral health condition during military service that mitigates his discharge.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts PTSD and OMH as related to his request.

(2) Did the condition exist or experience occur during military service? No. There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. Overall, there is insufficient evidence of any mitigating BH condition. There is no evidence of any in-service BH diagnoses, and the VA has not service-connected the applicant for any BH condition. The VA electronic record shows the applicant has participated in substance abuse treatment and is diagnosed with Cannabis Dependence, Alcohol Abuse, and Insomnia. Substance abuse in the absence of another mitigating BH condition does not provide mitigation of his misconduct.

h. Per Liberal Consideration guidelines, his assertion of PTSD and OMH is sufficient to warrant consideration by the Board.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, a minority of the Board found relief was warranted, and a majority of the Board found that relief was not 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 charged with being AWOL on five occasions, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board found no error or injustice in the separation proceedings and designated characterization of service. The Board noted the applicant's length of absence and concurred with the medical advisor's review finding insufficient evidence the applicant had a behavioral health condition during service that mitigated his misconduct. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was not in error or unjust.

2. The Board considered the following Kurta questions:

a. Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts PTSD and OMH as related to his request.

b. Did the condition exist or experience occur during military service? No. There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service.

c. Does the condition or experience actually excuse or mitigate the discharge? No. Overall, there is insufficient evidence of any mitigating BH condition. There is no evidence of any in-service BH diagnoses, and the VA has not service-connected the applicant for any BH condition. The VA electronic record shows the applicant has participated in substance abuse treatment and is diagnosed with Cannabis Dependence, Alcohol Abuse, and Insomnia. Substance abuse in the absence of another mitigating BH condition does not provide mitigation of his misconduct.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	XXX	GRANT FORMAL HEARING
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, 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. AR 635–200 Active Duty Enlisted Administrative Separations, in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) states 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. Paragraph 3-7b (General Discharge) states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 10 of this regulation states an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

3. 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//