

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 August 2025

DOCKET NUMBER: AR20240010446

APPLICANT REQUESTS:

- Upgrade of his general, under honorable conditions discharge
- 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)
- DD Form 214 (Report of Transfer or Discharge)

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 was having separation anxiety. His mother had a complicated pregnancy and was hospitalized for three months in the summer of 1972. He had a hard time with his duties worried about his mother. He is homeless and correcting his discharge status will allow him to have additional benefits and eventually become self-sufficient. Furthermore, as a black/native American he experienced a lot of racism during his tour of duty.

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

a. He enlisted in the US Army Reserve Control Group delayed entry on 6 April 1972. He entered the Regular Army on 1 June 1972.

b. He received non-judicial punishment on 13 October 1972, for on or about 14 September 1972, without authority, absent himself from his unit and did remain so absent until on or about 10 October 1972. He was reduced to private/E-1.

c. His record is void of the complete facts and circumstances that led to his separation. However, his service record contains a DD Form 214 that shows he was discharged under honorable conditions on 28 June 1973, under the provisions of Department of the Army Message 242110Z dated September 1971. He completed 1 year and 2 days net service this period. It also shows:

- Separation program number (SPN) 21U
- Separation for failure to demonstrate adequate potential for promotion advancement
- 26 days lost time from 14 September – 9 October 1972

4. There is no evidence the applicant applied to the Army Discharge Review Board for review of his discharge within the board's 15-year statute of limitations.

5. 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.

6. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his general, under honorable conditions (general) characterization of service. On his DD Form 149, the applicant indicated Other Mental Health Issues are related to his request. More specifically, the applicant contends he experienced separation anxiety due to his mother having a complicated pregnancy which resulted in her being hospitalized for three months in the summer of 1972. Furthermore, it was noted that the applicant experienced a lot of racism during his tour of duty. 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 entered the Regular Army on 01 June 1972, 2) he received nonjudicial punishment (NJP) on 13 October 1972 for absencing himself from his unit from on or about 14 September 1972 until on or about 10 October 1972. He was reduced to private/E-1. 3) his record is void of the complete facts and circumstances that led to his separation. His DD Form 214 shows he was discharged under honorable conditions on 28 June 1973, under the provisions of Department of the Army Message 242110Z dated September 1971. He completed 1 year and 2 days net service this period. His DD Form 214 also shows: Separation program number (SPN) 21U, Separation for failure to demonstrate adequate potential for promotion advancement, with 26 days lost time from 14 September – 9 October 1972.

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. 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 military medical records available for review.

d. A review of JLV shows the applicant is not service-connected through the VA for any conditions. A BH Compensation and Pension (C&P) note dated 22 May 2007 shows the applicant was diagnosed with Adjustment Disorder with Anxiety, Chronic, which was attributed to his ongoing medical problems. Review of his VA medical records show he was diagnosed with Anxiety Disorder Not Otherwise Specified in 2013, which was attributed in part to events that occurred post-discharge, in addition to some depressive symptoms associated with feelings of not fitting in and an increase in racial segregation. The provider also documented a history of two incidents of military-related trauma, (i.e., a Soldier with a chain who was physically beating people, noting he was tackled before reaching the applicant. A separate event was noted as his plane almost going down when coming back from ██████████. A psychiatry note dated 04 February 2013 documented he was granted Social Security Disability (SSD) for PTSD which was attributed to his civilian service in law enforcement. He also reported he was in the process of seeking disability through the VA for PTSD [*Advisor's note: there were no VA Rating decision letters available for review*]. A VA Social Work Comprehensive Assessment dated 29 March 2024 for the Healthcare for Homeless Veterans (HCHV) program documented that he reported a history of treatment for PTSD which was related to his civilian career in law enforcement. PTSD was added to his VA problem list in JLV in 2021.

e. 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 misconduct. VA records show the applicant has been diagnosed with PTSD, which is a potentially mitigating BH condition; however, the available records indicate his diagnosis was associated with his service in civilian law enforcement and there is insufficient documentation showing his diagnosis was, at least in part, attributed to military-related trauma. His VA diagnoses of Anxiety Disorder NOS and Adjustment Disorder with Anxiety, Chronic were not attributed to his military service. However, he contends that his misconduct was related to Other Mental Health Issues, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his misconduct was related to 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? Unclear. There were no military medical records available for review and the applicant is not service-connected through the VA for any conditions. While there is documentation in his VA medical records showing he reported a history of some military-related trauma, the available documentation attributed his diagnosis of PTSD to his service in civilian law enforcement. His diagnoses of Anxiety Disorder NOS and Adjustment Disorder, Chronic through the VA were not attributed to military service. Furthermore, the specific facts and circumstances surrounding his discharge were not available for review, thus, even if a diagnosis of PTSD or Other Mental Health Issues was presumed to be relevant at the time of discharge, a nexus could not be established between the reason for discharge and a BH condition. Thus, given the lack of clarity regarding relatedness of military-related trauma to his diagnosis of PTSD and the lack of information surrounding his discharge, BH mitigation is unclear.

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 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 absent without leave from 14 September 1972 to 10 October 1972, a period of 26 days. The Board found no error or injustice in the separation proceedings and designated characterization of service. In addition, the Board concurred with the medical advisor's review noting that a nexus could not be established between the reason for discharge and a BH condition and therefore, there was insufficient evidence the applicant had a condition or experience 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 and denied relief.

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 discharge? Yes, the applicant contends his misconduct was related to 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? Unclear. There were no military medical records available for review and the applicant is not service-connected through the VA for any conditions. While there is documentation in his VA medical records showing he reported a history of some military-related trauma, the available documentation attributed his diagnosis of PTSD to his service in civilian law enforcement. His diagnoses of Anxiety Disorder NOS and Adjustment Disorder, Chronic through the VA were not attributed to military service. Furthermore, the specific facts and circumstances surrounding his discharge were not available for review, thus, even if a diagnosis of PTSD or Other Mental Health Issues was presumed to be relevant at the time of discharge, a nexus could not be established between the reason for discharge and a BH condition. Thus, given the lack of clarity regarding relatedness of military-related trauma to his diagnosis of PTSD and the lack of information surrounding his discharge, BH mitigation is unclear.

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.

8/13/2025

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 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. Army Regulation (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. 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.

3. AR 600-200 (Enlisted Personnel Management System), Chapter 4, then in effect, set forth policy and prescribed procedures for denying reenlistment under the QMP. That program was based on the premise that reenlistment was a privilege for those whose performance, conduct, attitude, and potential for advancement met Army standards. It was designed to enhance the quality of the career enlisted force, selectively retain the best qualified Soldiers to 30 years of active duty, deny reenlistment to non-progressive and nonproductive Soldiers, and encourage Soldiers to maintain their eligibility for further service. Department of the Army (DAPE-MPP) Message Number 242110Z, dated September 1971, extended the provisions of the QMP to allow for the early separation of Soldiers in the grades of E-1 and E-2 who had failed to demonstrate adequate potential for promotion advancement.

4. AR 635-200 (Personnel Separations – Enlisted Personnel), then in effect, 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. Whenever there is doubt, it is to be resolved in favor of the individual.

5. AR 635-5 (Personnel Separations – Separation Documents) prescribes the separation documents that will be furnished each individual who is separated from the Army. Separation Program Number shows SPN 21U was "Enlisted Personnel - Separation for failure to demonstrate adequate potential for promotion advancement" and that the authority for discharge under this separation program number was DA message DAPE-MPP 242110Z September 1971.

6. 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//