

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 May 2025

DOCKET NUMBER: AR20240010563

APPLICANT REQUESTS: Upgrade of his under other than honorable conditions discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement:
 - He submitted a request for a discharge upgrade but does not want nothing else, just simply an honorable discharge for personal pride
 - He is currently receiving Veterans Affairs (VA) benefits
 - He served honorably his first enlistment but fell short during his second; this is a source of great shame for him
- Character Letter J.H. states:
 - He served in Schweinfurt, Germany and deployed to Kosovo with the applicant from 1999 to 2003
 - The applicant was an exemplary scout throughout their service together, earned considerable respect from both his peers and superiors
 - The applicant deployed to Iraq 2003 to 2004 in support of Operation Iraqi Freedom; his commitment and bravery during such challenging times further exemplified his dedication and the quality of his service
 - They were neighbors in the barracks, traveled around Europe together, and the applicant was the best man at his wedding in 2002
 - For these reasons and more; he supports a discharge upgrade to honorable; the applicant's entire service trajectory, especially under challenging circumstances in Iraq, underscores why this recognition is not only justified but deserved

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 would like a discharge upgrade to honorable as a matter of pride; he does not want anything else because he already receives VA benefits. He was under extreme stress after finding out about the tragic deaths of his girlfriend and daughter from a car accident. He was denied emergency leave and is ashamed of how he responded and want to make his family proud.

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

a. He enlisted in the Regular Army on 13 May 1999; he reenlisted on 18 April 2002, for three years.

b. He had foreign service in Germany from 10 October 1999 until his discharge.

c. The complete facts and circumstance related to the applicant's discharge are not available for review however, his DD Form 214 shows:

- He was discharged on 20 November 2003, under other than honorable conditions under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 10 for "In Lieu of Trial by Court-Martial", Separation Code KFS and Reentry Code of 4
- He completed 4 years, 6 months, and 8 days net active service this period; with 9 days of lost time this period
- He was awarded or authorized:
 - National Defense Service Medal
 - Army Service Ribbon
 - Overseas Service Ribbon

4. There is no evidence the applicant applied to the Army Discharge Review Board for review of his discharge within that 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. On 28 March 2025, the applicant was notified by the Army Review Boards Agency that he was required to provide a copy of medical documentation to support his claim of issue of Post-Traumatic Stress Disorder (PTSD) and Other Mental Health (OMH). The applicant was provided 30 days to submit supporting documentation with a suspense of 29 April 2025. The applicant responded via email on 2 April stating, "It all seems in order. Do you need anything else from me?"

7. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his under other than honorable conditions (UOTHC) discharge to honorable. He contends 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 13 May 1999 and reenlisted on 18 April 2002.
- He had foreign service in Germany from 10 October 1999 until his discharge.
- The complete facts and circumstances related to the applicant's discharge are not available for review. However, his DD Form 214 shows he was discharged on 20 November 2003, under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 10, "In Lieu of Trial by Court-Martial" under other than honorable conditions (UOTHC) with separation code KFS and reentry code 4.

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, he would like a discharge upgrade to honorable as a matter of pride; he does not want anything else because he already receives VA benefits. He was under extreme stress after finding out about the tragic deaths of his girlfriend and daughter in a car accident. He was denied emergency leave by his commanding officer. He is ashamed of how he responded and only wants to make his family proud.

d. Active-duty electronic medical records available for review do not evidence any behavioral health treatment records. The applicant did not submit any hardcopy medical documentation from his time in service.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 50% service connected, including 40% for impaired hearing and 10% for tinnitus. He is not service connected for any behavioral health condition. However, the record shows an extensive substance abuse history, with the applicant having 8 inpatient admissions between January 2015 to June 2022 related to substance induced psychiatric conditions. His most recent medication management appointment on 28 February 2025, shows he lives in shelter housing and is being treated via multiple psychotropic medications and Suboxone to manage his cravings and substance use.

f. Based on the information available for review, this Agency Behavioral Health Advisor is unable to opine regarding mitigation without the specific facts and circumstances that led to his discharge.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserted 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? Unable to opine regarding mitigation without the specific facts and circumstances that led to his separation. However, there is no evidence of an in-service BH condition, the applicant is not service connected for a mental health condition, and much of the medical record appears to indicate substance related or induced psychiatric conditions.

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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and medical review, the Board concurred with the advising official opine based on the information available for review, this Agency Behavioral Health Advisor is unable to opine regarding mitigation without the specific facts and circumstances that led to his discharge.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserted 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? Unable to opine regarding mitigation without the specific facts and circumstances that

led to his separation. However, there is no evidence of an in-service BH condition, the applicant is not service connected for a mental health condition, and much of the medical record appears to indicate substance related or induced psychiatric conditions.

2. The Board determined the facts and circumstances are absent, the Board found that all due proves protections were afforded the applicant and that the processing of his separation was done within regulatory guidelines and standards. The Board considered the applicant's character letters of support attesting to his integrity and worthiness for an upgrade. The Board found the applicant has not demonstrated by a preponderance of evidence an error or injustice warranting the requested relief, specifically an upgrade of the under other than honorable conditions (UOTHC) discharge to honorable. Therefore, the Board denied relief.

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.

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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. 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.

3. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised post-traumatic stress disorder (PTSD) criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

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 DRBs and BCM/NRs when considering requests by Veterans for modification of their

discharges due in whole or in part to: mental health conditions, including PTSD, traumatic brain injury, sexual assault, or sexual harassment. 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. The guidance further describes evidence sources and criteria and requires boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

4. Section 1556 of Title 10, United States Code, 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

5. Army Regulation 635-8 (Separation Processing and Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clearcut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. Block 12a; Date Entered Active Duty This Period. Data sources are enlistment contract(s), initial order to active duty, active duty order, previously issued DD Forms 214, DA Form 1506 (Statement of Service – For Computation of Length of Service for Pay Purposes), and a complete review of the Soldier's official record. Enter the beginning date of the continuous period of active duty for issuance of this DD Form 214, for which a DD Form 214 was not previously issued.

6. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), in effect at the time, sets forth the basic authority for the separation of enlisted personnel states:

a. 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 the acceptable conduct and performance of duty for Army personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. 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. Under Other Than Honorable Conditions states a discharge under other than honorable conditions are an administrative separation from the service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, homosexuality, security reasons, or for the good of the service.

d. 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.

//NOTHING FOLLOWS//