

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 August 2025

DOCKET NUMBER: AR20240010980

APPLICANT REQUESTS:

- an upgrade of his under other than honorable conditions characterization of service for the period ending 8 June 2008
- a video or telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Army Review Boards Agency letter, 24 August 2021 – reflective of the applicant being informed that he was eligible for reconsideration of his previously submitted request for a discharge upgrade
- Appeal for Characterization Upgrade of Military Discharge, 22 September 2024 – reflective of a licensed psychologist's professional opinion concerning the circumstances surrounding the applicant's discharge noting his undiagnosed and untreated Post Traumatic Stress Disorder (PTSD); contributing factors are:
 - the loss of his brother due to gun violence
 - currently receiving treatment including Trauma-Focused Cognitive Behavioral Therapy and complying with applicable medication protocols for depression and anxiety
- Self-authored letter – reflective of the applicant's appeal to his current characterization of service noting that at the time of his separation he was suffering from undiagnosed PTSD due to the unexpected loss of his brother and the residual mental affects therein; recently graduate with a master's degree
- Self-authored letter (Ms. A_M_) – reflective of her support of the applicant's submitted request noting that she has witnessed his struggle with PTSD and at times inability to cope with emotional aftermath of life's experiences; she believes that his PTSD was a contributing factor to his behavior which resulted in his 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 would like to appeal his characterization of service based on the guidance noted in the Hagel Memorandum wherein persons with diagnosed PTSD are given liberal consideration in determining the appropriate discharge type. He contests that an upgrade of his discharge will restore his reputation, permit improved job prospects and access to educational opportunities.
3. A review of the applicant's service records reflects the following:
 - On 28 August 2001 – the applicant enlisted in the U.S. Army Reserve for 8 years with duty as a 71L (Administrative Specialist)
 - On 16 January 2002 – the applicant was released from active duty following his completion of Initial Active-Duty Training (IADT); item 24 (Character of Service) reflects: Uncharacterized; item 28 (Narrative Reason for Separation) reflects: Completion of Required Active Service, *see administrative note below*
 - On 13 September 2006 – the applicant reenlisted for 6 years
 - On 2 April 2008 – the applicant was recommended for separation prior to reaching his expiration term of service (ETS) date and that his service be characterized as under other than honorable conditions in accordance with Army Regulation (AR) 135-178, Chapter 12 (Abuse of Illegal Drugs)
 - On 4 May 2008 – the Commander, Headquarters 95th Division (IT) directed that the applicant be reduced from sergeant (SGT) to private (PVT) and separated from military service with an under other than honorable conditions characterization of service in accordance with AR 135-178, Chapter 12
 - On 9 May 2008 (Orders Number 08-130-00042) – the applicant was reduced from SGT to PVT effective 9 May 2008 and subsequently discharged on 8 June 2008 with an under other than honorable conditions characterization of service
 - On or about 9 February 2012 – the Army Discharge Review Board (ADRB) denied the applicant's request for an upgrade of his characterization of service noting that he was properly and equitably discharged

4. MEDICAL REVIEW:

- a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under other than honorable

conditions (UOTHC) to honorable. He contends he experienced an undiagnosed mental health condition, including PTSD, that mitigates his misconduct.

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:

- The applicant enlisted into the U.S. Army Reserve on 28 August 2001 and was released from IADT on 16 January 2002. He reenlisted on 13 September 2006.
- On 2 April 2008 the applicant was recommended for separation prior to reaching his ETS date and that his service be characterized as under other than honorable conditions in accordance with Army Regulation (AR) 135-178, Chapter 12 (Abuse of Illegal Drugs). The memorandum indicated the applicant tested positive for marijuana on 13 January 2008 during a unit urinalysis.
- On 9 May 2008 the applicant was reduced from SGT to PVT and subsequently discharged on 8 June 2008 with an under other than honorable conditions characterization of service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts the behaviors that led to his discharge were a result of his brother's death and his own struggle to cope with this experience. He indicated PTSD and "other mental health" as issues or conditions related to his request. The application included a letter from a psychologist dated 22 September 2024, which showed a request for reconsideration of the characterization of the applicant's discharge, and the author attributed symptoms of PTSD to the death of his brother due to gun violence. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed no records.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a condition or experience that mitigates his misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. The applicant provided a letter from a psychologist dated 22 September 2024, which provided an opinion that the circumstances surrounding the applicant's discharge were influenced by undiagnosed

and untreated PTSD resulting from traumatic events experienced during his military service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service, and he attributed this to the unexpected death of his brother due to gun violence.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. The applicant provided a letter from 2024 that reported symptoms of PTSD and that the applicant had engaged in trauma-focused treatment, and the applicant discussed the traumatic experience of his brother's death. Substance use is a common self-medicating strategy for avoiding uncomfortable emotions related to trauma exposure and could be an attempt to avoid negative emotions, but the presence of misconduct is not sufficient evidence of a mental health condition. However, the applicant contends he was experiencing mental health condition or an experience that mitigated his misconduct, and per Liberal Consideration his contention is sufficient for the board's consideration.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that 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 and noted that applicant was discharged due to the illegal use of drugs. However, notwithstanding the medical advisory opinion, the Board determined that due to the applicant's post service accomplishments and medical issues, they found sufficient evidence to warrant relief and granted his request.

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 asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. The applicant provided a letter from a psychologist dated 22 September 2024, which provided an opinion that the

circumstances surrounding the applicant's discharge were influenced by undiagnosed and untreated PTSD resulting from traumatic events experienced during his military service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service, and he attributed this to the unexpected death of his brother due to gun violence.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. The applicant provided a letter from 2024 that reported symptoms of PTSD and that the applicant had engaged in trauma-focused treatment, and the applicant discussed the traumatic experience of his brother's death. Substance use is a common self-medicating strategy for avoiding uncomfortable emotions related to trauma exposure and could be an attempt to avoid negative emotions, but the presence of misconduct is not sufficient evidence of a mental health condition. However, the applicant contends he was experiencing mental health condition or an experience that mitigated his misconduct, and per Liberal Consideration his contention is sufficient for the board's consideration.

The Board concluded there was sufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

3. ADMINISTRATIVE NOTE: A review of the applicant's service record shows he is authorized a reissue of a DD Form 214 for the period ending 16 January 2002 to show the characterization of service as honorable. Provide the applicant with a copy of the correction, and record the correction in the applicant's official military personnel record.

4. 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XX	XX	XX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
			DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant 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 8 June 2008 to show in item 24 (Character of Service): General Discharge

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.

ADMINISTRATIVE NOTE:

1. A review of the DD Form 214 is sufficient to make a correction without action by the Board (U.S. Army Reserve Soldier completing Initial Entry Training).
2. Reissue the applicant's DD Form 214 to correct his DD Form 214 for the period ending 16 January 2002 to show the characterization of service as honorable. Provide the applicant with a copy of the correction, and record the correction in the applicant's official military personnel record.

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) 635-200 (Personnel Separations – Enlisted Personnel) sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of soldiers for a variety of reasons. Chapter 14, Section V (Other Acts or Patterns of Misconduct) provides that Soldiers are subject to action per this section for the following:

a. Section III (Acts or Patterns of Misconduct)

- discreditable nature with civil or military authorities
- discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct

b. Paragraph 3-7 (Types of Administrative Discharges/Character of Service) 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
- 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
- an Other Than Honorable Conditions discharge is an administrative separation from the service under conditions other than honorable; may be used for misconduct, for security reasons or for the good of the service

c. Paragraph 4-5 (Characterization of Service) provides that A Soldier being separated upon expiration of enlistment or fulfillment of service obligation will be awarded a character of service of honorable, unless the soldier is in entry-level status and service is uncharacterized.

3. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

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.

4. 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 PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC 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.

5. 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 (TBI); 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.

6. AR 135-178 (Enlisted Administrative Separations), Chapter 12 (Misconduct) provides that the characterization of service normally will be Under Other Than Honorable Conditions, but characterization as General (Under Honorable Conditions) may be warranted under the guidelines in chapter 2, section III.

a. For soldiers who have completed entry level status, characterization of service as Honorable is not authorized unless the soldier's record is otherwise so meritorious that any other characterization clearly would be inappropriate. In such cases, separations for misconduct with an Honorable characterization will be approved by the separation authority. As an exception, the separation authority will approve separations with service characterized as Honorable when the sole evidence of misconduct is command-directed urinalysis results, which cannot be used for characterization of service, or when an administrative discharge board has recommended separation with an Honorable characterization of service.

b. Paragraph 12-1 (Basis) provides that discharge action normally will be based upon commission of a serious offense. However, relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more disciplinary infractions or incidents of other misconduct and processed for discharge under minor disciplinary infraction or a pattern of misconduct. First-time drug offenders. Soldiers in the grade of (SGT) and above, and all soldiers with 3 or more years of total military service Regular and Reserve will be processed for discharge upon discovery of a drug offense. Characterization of service normally will be Under Other Than Honorable Conditions.

7. 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 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.

//NOTHING FOLLOWS//