

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 August 2025

DOCKET NUMBER: AR20240010991

APPLICANT REQUESTS:

- upgrade of his under honorable conditions (general) discharge to honorable
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Medical Diagnoses Letter
- Department of Veterans Affairs (VA) Rating Letter

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 is requesting an upgrade of his discharge to reflect an honorable discharge. At the time of his enlistment, he was going through a period of undiagnosed post-traumatic stress disorder (PTSD) that interfered with his service. The applicant stated that his PTSD developed during his service in Iraq in support of Operation Iraqi Freedom.
3. The applicant provides:
 - a. A memorandum shows on 21 March 2024 the applicant's Psychiatric Clinical Nurse Specialist stated that the applicant has been under her care since 13 November 2023. He is being treated for the following diagnoses: Chronic PTSD, major depressive disorder, and insomnia. She further noted the applicant sees her for medication management approximately once monthly and they have made medication changes due to his conditions.

b. A VA letter dated 6 December 2023, shows the applicant is rated for service-connected disabilities at 70% PTSD with depression and 10% for right leg burn scar claimed as burns of the legs.

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

a. He enlisted in the U.S. Army Reserve (USAR) on 2 February 2001.

b. The applicant's service record is void of the facts and circumstances surrounding his discharge and his DD Form 214.

c. Orders 04-013-00061, dated 13 January 2004, are the orders for mobilization to Iraq in support of Operation Iraqi Freedom.

d. The applicant received a Combat Action Badge, permanent orders 150-42, dated 30 May 2006 for the period of service 7 April 2004 to 6 February 2005. He received this badge because he was actively engaging or being engaged by the enemy.

e. Orders 06-153-00083, dated 2 June 2006, discharged the applicant from the USAR with a general, under honorable conditions characterization of service with an effective date of 1 July 2006.

5. On 7 December 2009, the applicant was notified by the Army Discharge Review Board that he was properly and equitably discharged. Additionally, his request for a change in the character and/or reason of his discharge was denied.

6. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

7. In reaching its determination, the Board can consider the applicants petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

8. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under honorable conditions (general) to honorable. He contends he experienced an undiagnosed 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 2 February 2001, and he had orders for mobilization to Iraq dated 13 January 2004.
- The applicant received a Combat Action Badge dated 30 May 2006 for the period of service from 7 April 2004 to 6 February 2005.
- The applicant's service record is void of the facts and circumstances surrounding his discharge and his DD Form 214.
- The applicant was discharged on 2 June 2006.

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 he was going through a period of undiagnosed PTSD that interfered with his service, and he developed PTSD as a result of his deployment to Iraq. He indicated PTSD as an issue or condition related to his request. The application included a letter from a psychiatric nurse practitioner dated 21 March 2024, which stated the applicant had been under her care for PTSD, Major Depressive Disorder, and insomnia since 13 November 2023, and a VA statement of verification dated 6 December 2023 showed the applicant was 70% service connected for PTSD. 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 the applicant established care at the VA in May 2007, and he completed a Review PTSD Compensation and Pension (C&P) examination on 9 April 2013 where he was diagnosed with PTSD and reported treatment through a non-VA provider.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to fully opine on the change of his characterization of discharge because of the absence of the specific facts and circumstances surrounding his discharge processing.

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. VA records indicate he is 70% service connected for PTSD.

(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. Records show the applicant deployed to Iraq from April 2004 to February 2005.

(3) Does the condition or experience actually excuse or mitigate the discharge? NA. The applicant asserts PTSD as a mitigating factor in his discharge, and VA records document he is 70% service-connected for PTSD. However, in the absence of a separation packet, there is insufficient evidence to demonstrate a nexus between his PTSD and the condition or experience that generated his discharge. Without knowledge of the basis for separation, no opinion regarding mitigation under liberal consideration can be made. However, the applicant's assertion of undiagnosed PTSD as a mitigating factor, per Liberal Consideration, warrants consideration by the board.

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, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service.

2. The Board considered the following Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct.

(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.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant was experiencing PTSD due to his previous deployment, while on active service.

3. The Board concurred with the medical advisor's review finding there is insufficient evidence to demonstrate a nexus between his PTSD and the condition or experience that generated his discharge. The Board found there was insufficient evidence to fully opine on the change of his characterization of discharge because of the absence of the specific facts and circumstances surrounding his discharge processing.

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>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XX	XX	XX	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. Army Regulation 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. Army Regulation 135-178 (Enlisted Administrative Separations), sets policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted soldiers for a variety of reasons.

a. An honorable characterization is appropriate when the quality of the Soldier'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. If a soldier's service has been honest and faithful, it is appropriate to characterize that service as under honorable conditions. Characterization of service as general (under honorable conditions) is warranted when significant negative aspect of the Soldier's conduct or performance of duty outweighs positive aspects of the Soldier's military record.

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 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.

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, 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. 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.

7. 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.

//NOTHING FOLLOWS//