

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 July 2025

DOCKET NUMBER: AR20240011063

APPLICANT REQUESTS: in effect:

- upgrade of his under other than honorable conditions discharge
- change of the narrative reason

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

DD Form 149 (Application for Correction of Military Record), 8 August 2024

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 indicates on his DD Form 149, that post-traumatic stress disorder (PTSD) and intimate partner violence or domestic violence issues or conditions are related to his request.
3. A review of the applicant's service records show the following:
 - a. On 19 May 1982 he reenlisted in the regular Army, following an earlier period of honorable service from 8 August 1978 to 18 May 1982. He attained the rank of specialist 4 (SP4).
 - b. He accepted nonjudicial punishment on:
 - 12 November 1982, for three instances of failure to go to his place of duty at the prescribed time, one instance of absenting himself from his place of duty; he forfeited some pay for 1 month and was assigned extra duty
 - 8 February 1983, for two instances of failure to go to his place of duty at the prescribed time, two instances of failing to obey a lawful order; he was reduced to private first class (PFC), forfeited some pay for 1 month, and was given extra duty and restriction

c. DA Forms 4187 (Personnel Action) show his status was reported as:

- absent without leave (AWOL), 8 February 1983 to 9 March 1983 (29 days)
- present for duty, 9 March 1983 (1 day)
- AWOL, 9 March 1983 to 29 March 1983 (20 days)
- confinement, 29 March 1983 to 26 April 1983 (29 days)

d. On 8 March 1983 a court-martial charge was preferred against him. An incomplete DD Form 458 shows he was charged with being AWOL from 8 February 1983 to an unspecified date.

e. On 10 April 1983, he was advised of the basis for the contemplated trial by court-martial, the maximum permissible punishment, the possible effects of an under other than honorable conditions discharge, and the procedures and rights available to him. After receiving legal counsel, he voluntarily requested discharge, in lieu of trial by court-martial, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10. He was charged with AWOL, disobeying a lawful order, and failure to honor a debt. He did not submit a statement in his own behalf.

f. On 26 April 1983, the separation authority approved his request for discharge in lieu of trial by court-martial and directed his reduction to the lowest grade.

g. On 29 April 1983, he was discharged. His DD Form 214 reflects he was discharged under the provisions of Army Regulation 635-200, chapter 10 with an under other than honorable conditions characterization of service. He completed 1 year, 3 months, and 9 days of net active service this period. He had a total of 79 days' time lost this period.

4. There is no evidence indicating he applied to the Army Discharge Review Board for an upgrade 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. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under other than honorable conditions discharge. He asserts experiencing PTSD and intimate partner domestic violence while on active service, which mitigate his misconduct. 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

enlisted in the Regular Army on 8 August 1978; 2) The applicant accepted nonjudicial punishments between November 1982-February 1983 for repeated failure to be on time to his place of duty, repeated failing to obey a lawful order, and absenting himself from his place of duty; 3) On 8 March 1983, a court-martial charge was preferred against the applicant for being AWOL; 4) On 29 April 1983, the applicant was discharged, Chapter 10 with an under other than honorable conditions characterization of service.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the applicant's available military service records. The VA's Joint Legacy Viewer (JLV) was also examined. No additional medical records were provided for review

c. The applicant asserts he experienced PTSD and intimate partner domestic violence while on active service, which mitigate his misconduct. There is insufficient evidence the applicant reported or diagnosed with a mental health condition including PTSD, while on active service.

d. A review of JLV provided insufficient evidence the applicant has been diagnosed with a service-connected mental health condition including PTSD, and he does not receive any service-connected disability for a mental health condition including PTSD. There is insufficient evidence the applicant reported to the VA experiencing intimate partner violence during his active service. He has been actively engaged with the VA since 2024, predominantly for assistance with housing.

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

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced PTSD and intimate partner domestic violence, which mitigate his misconduct.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD and intimate partner domestic violence during his active service, which mitigate his misconduct.

(3) Does the condition or experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant was experiencing PTSD or intimate partner domestic violence, while on active service. The applicant did engage in avoidant behavior such as going AWOL, which could be a natural sequela to PTSD and domestic violence. However, the presence of misconduct is not sufficient

evidence of the presence of a mitigating mental health condition or experience during active service. However, the applicant contends he was experiencing a mental health condition and experience which mitigates his misconduct, and per Liberal Consideration, his contention is sufficient for the Board's consideration.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the short term of honorable service completed prior to the pattern of misconduct leading to the applicant's separation and the following findings outlined in the medical review:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes.

(2) Did the condition exist or experience occur during military service? Yes.

(3) Does the condition or experience actually excuse or mitigate the misconduct?
No,

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

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	: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.

//SIGNED//

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. Section 1556 of Title 10, U.S. 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.
3. Army Regulation 635-200 (Personnel Separation – Enlisted Personnel), in effect at the time, set 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.

- a. Chapter 3-7 provided:

(1) An honorable discharge is a separation with honor. The 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. Only the honorable characterization may be awarded a member upon completion of his/her period of enlistment or period for which called or ordered to active duty or active duty training or where required under specific reasons for separation unless an entry level status separation (uncharacterized) is warranted.

(2) 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

b. Chapter 10 stated a member who has committed an offense or offenses, the punishment of which under the UCMJ and the Manual for Court Martial, 1969 (Revised Edition) includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The discharge request may be submitted after court-martial charges are preferred against the member, or, where required, after referral, until final actions by the court-martial convening authority.

c. An under other than honorable discharge certificate normally is appropriate for a member who is discharged for the good of the service. However, the separation authority may direct a General Discharge Certificate if such is merited by the member's overall record during the current enlistment.

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 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. The acting Under Secretary of Defense for Personnel and Readiness provided clarifying guidance on 25 August 2017, which expanded the 2014 Secretary of Defense memorandum, that directed the BCM/NRs and DRBs to give liberal consideration to veterans looking to upgrade their less-than-honorable discharges by expanding review of discharges involving diagnosed, undiagnosed, or misdiagnosed mental health

conditions, including PTSD; traumatic brain injury; or who reported sexual assault or sexual harassment.

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/NR) 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.

//NOTHING FOLLOWS//