

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 August 2025

DOCKET NUMBER: AR20240011149

APPLICANT REQUESTS:

- reinstatement to the rank of specialist (SPC)/E-4
- upgrade of his general, under honorable conditions discharge to honorable
- a telephonic/video appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Rating Decision letter, 25 April 2024
- Technical Training Center Award, 24 April 2006
- Identification Cards (x4)
- State of California Real Estate Salesperson License, 3 May 2022
- Two VA Letters, 26 March 2025

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 rank restoration to SPC and an upgrade of his general discharge to honorable.

a. He suffered head trauma following an assault by other Service Members. He believes it led to the onset of post-traumatic stress disorder (PTSD). He was not provided with proper medical treatment or mental health support following the incident. As a result, he turned to substance abuse to self-medicate. He further noted he was not afforded access to rehabilitation services during his time in service.

b. Prior to the assault, the applicant aspired to build a long-term career in the military. However, that goal was derailed when his chain of command failed to support him after the assault and his subsequent decline in mental health. Without a proper

diagnosis at the time, he struggled for years after his discharge, which significantly diminished his quality of life. For over two decades, he carried the shame and stigma of his discharge. Only recently, after a formal review of his medical history, was he accurately diagnosed with PTSD. He acknowledges responsibility for his past actions but explains that, at the time, he lacked the understanding and emotional capacity to cope with the trauma he experienced.

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

- a. He enlisted into the Regular Army on 29 February 2000.
- b. His DA Form 2-1 (Personnel Qualification Record) lists two promotions:
 - Private (PVT), E-1 – 29 February 2000
 - Private (PV2), E-2 – date illegible
- c. He served in Kosovo from November 2001 to May 2002.
- d. The available service record is void of the facts and circumstances surrounding the applicant's discharge processing.
- e. On 27 February 2003, he was discharged from active duty with an under general honorable conditions characterization of service. His DD Form 214 shows he completed 2 years, 11 months, and 29 days of active service with no lost time. Item 18 (Remarks) shows he served in Kosovo from November 2001 through May 2002. His rank and grade are listed as private/E-1. He was assigned separation code JKK and the narrative reason for separation listed as "Misconduct," under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c. It also shows he was awarded or authorized:
 - North Atlantic Treaty Organization Medal
 - National Defense Service Medal
 - Kosovo Campaign Medal
 - Army Service Ribbon
 - Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)

5. On 12 June 2025, the U.S. Army Criminal Investigation Division (CID) provided information for the processing of this case. CID conducted a search of the Army criminal files indexes regarding the applicant's claims of assault and provided a report of investigation (ROI). Following a company urinalysis on 29 August 2002, the applicant tested positive for tetrahydrocannabinol (THC), and subsequently admitted to purchasing marijuana and smoking marijuana while driving to Fort Drum, NY. He

accepted nonjudicial punishment and his punishment included reduction in rank from specialist to private.

6. On 12 June 2025, a copy the ROI was forwarded to the applicant for acknowledgment and/or response. The applicant responded in an email thread dated 13 June 2025. He reiterated:

- at the time of his discharge, he was immature
- he has been married for 18 years and has two teenage children
- he is active in his community and church
- he trains young men in physical fitness and the Armed Services Vocational Aptitude Battery (ASVAB)
- he has reached out to medical professionals
- he found records that shows he asked his chain of command for help
- after his assault he was not himself; he suffered with traumatic brain injury and undiagnosed PTSD
- the Army has assumed responsibility for his injuries
- he also provided two VA letters 26 March 2025, that show he is currently receiving 100% service-connected disability compensation.

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

8. 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.

9. 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.

10. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (general) discharge. He contends that he experienced PTSD that mitigates 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 29 February 2000; 2) The applicant served in Kosovo from November 2001 to May 2002; 3) On a CID Report of Investigation dated 30 September 2002, the applicant was described as testing positive for THC on 24 and 29 August 2002 urinalyses; 4) The full facts and circumstances of his discharge were unavailable for review; 5) The applicant was discharged on 27 February

2003, AR 635-200, paragraph 14-12C(2)- Misconduct. His character of service was under honorable conditions (general). He completed 2 years, 11 months and 29 days of net active service.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service records. The VA's Joint Legacy Viewer (JLV) and hardcopy VA medical records provided by the applicant were also reviewed. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts he experienced PTSD during his time in service that mitigates his misconduct. There is insufficient evidence that the applicant reported or was diagnosed with a mental health condition while on active service.

d. A review of JLV did not reveal any results. The applicant provided a 25 April 2024 hardcopy VA claim that described that the applicant was 50% VA service-connected for PTSD, which was effective as of 13 February 2024. In addition, the applicant provided a memorandum from the VA, dated 26 March 2025, that described the applicant as 100% VA service-connected for various unlisted health conditions.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence to support that the applicant experienced mental health conditions connected to his military service that may mitigate his misconduct. The applicant was documented by the VA as service-connected for PTSD. As a result, there is sufficient evidence for consideration for mitigation per the Liberal Consideration Policy.

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 during his time in service, which mitigates his misconduct. The applicant provided hardcopy documentation that he is currently VA service-connected for PTSD.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service. The applicant provided hardcopy documentation that he is currently VA service-connected for PTSD.

(3) Does the condition experience actually excuse or mitigate the misconduct? Yes, there is sufficient evidence of mental health symptoms occurring during his military service that impacted the reasons for his discharge. The applicant has been diagnosed with PTSD in connection with his military service by the VA. In addition, the applicant did engage in avoidant behavior during active service such as utilizing cannabis on a

number of occasions. These behaviors can be a natural sequelae to some mental health conditions, including PTSD. As a result, there is sufficient evidence for consideration for mitigation per the Liberal Consideration Policy.

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.

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 experienced PTSD during his time in service, which mitigates his misconduct.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service.

(3) Does the condition experience actually excuse or mitigate the misconduct? Yes, there is sufficient evidence of mental health symptoms occurring during his military service that impacted the reasons for his discharge.

3. One possible outcome was to grant relief based on the medical review finding sufficient evidence to support that the applicant experienced mental health conditions connected to his military service that may mitigate his misconduct.

4. The Board majority found insufficient evidence that the applicant reported or was diagnosed with a mental health condition while on active service. The Board further determined that the characterization of service the applicant received upon separation was not in error or unjust. As a result, there is no basis for granting the applicant's request.

5. 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	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
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 Army Board for Correction of Military Records (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 635-200 (Active Duty Enlisted Administrative Separations), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

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

b. A 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. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed. Paragraph 14-12c further states commission of a serious offense includes abuse of illegal drugs or alcohol.

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//