

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 June 2025

DOCKET NUMBER: AR20240011224

APPLICANT REQUESTS:

- In effect, reconsideration of his previous requests to upgrade his character of service to honorable and change the regulatory separation authority from chapter 10 (Discharge for the Good of the Service) to chapter 6 (Separation Because of Dependency or Hardship), Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel)
- Permission to appear personally before the Board, via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20120005629, on 27 September 2012.

2. The applicant states:

- He feels the correction to show a separation based on hardship should have been done right from the start
- He points out that he excelled while on active duty, even during basic combat training; at this point in his life, he has no family and would like to be buried in a Veteran's cemetery
- Additionally, due to his post-traumatic stress disorder (PTSD), he needs to get help with counseling from the Department of Veterans Affairs (VA); unfortunately, he does not meet VA's service requirements for Veterans' benefits; (on his application, the applicant has checked the box for "PTSD")
- The applicant notes he joined the Army shortly after his mother passed in order to help pay his parent's mortgage; despite his efforts to be stationed near his home, the Army sent him to Germany

- While the applicant was in Germany, his father's health continued to deteriorate, and he suffered a stroke; the applicant's half-sister tried to position herself to take ownership of his parent's property and failed to tell the applicant the status of his father's medical condition
- Because of his half-sister's actions, he was unable gain approval for emergency leave, so he used his own leave time to return home
- After arriving, he brought his father for one of his medical checkups; the doctor told the applicant that the applicant's father had lung cancer and only had 30 days to live
- Although the applicant contacted the Red Cross, he was unable to get emergency leave fast enough
- As an aside, the applicant points out he was young and had been placed in a terrible position, but he still feels he made the right call; he was a good Soldier, but it was peacetime, and his father was on his death bed
- Additionally, the applicant had a manipulative older sister who was trying to assume ownership of his parent's home; family had to come first, so he stayed with his father until shortly after his father died; as a result, he ended up being AWOL (absent without leave) for about 50 days
- After his father's death, the applicant turned himself in at Fort Devens, MA and was eventually discharged; he discloses that, during this period, he developed some pretty serious PTSD
- Ultimately, he was able to get his character of service upgraded from under other than honorable conditions to a general discharge under honorable conditions
- The applicant states, "I am not looking to make any kind of fortune here, but I deal with a ton of counseling from this whole scenario and I have no family... I would like to receive my flag and get buried in the Veterans' cemetery..."
- He concludes by stating, "the whole situation with my father was not going to resolve and I tried everything through normal official channels to rectify it without luck. In the end, I stood by my family and my home because it was peace time and I was putting nobody in danger by staying except my own reputation"

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

- On 2 February 1988, the applicant enlisted into the Regular Army for 3 years; upon completion of initial entry training, the Army awarded him military occupational specialty 12C (Bridge Specialist); effective 1 August 1988, he was promoted to private (PV2)/E-2
- Orders assigned him to an engineer battalion in Germany, and he arrived, on or about 23 August 1988
- On 2 June 1988, the applicant's unit changed his duty status from ordinary leave to AWOL; effective 2 July 1988, he was dropped from unit rolls

- On 26 July 1988, the applicant surrendered himself to military authority at Fort Devens, MA; military authority transferred the applicant to the Personnel Control Facility (PCF) at Fort Dix, NJ
- On 3 August 1989, the PCF preferred court-martial charges against the applicant for having been AWOL, from 2 June to 26 July 1989 (54 days)
- On 3 August 1989, after consulting with counsel, the applicant requested separation under chapter 10 (Discharge for the Good of the Service), Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel)
 - In his request, the applicant affirmed no one had coerced him to make this decision and he was making this request under his own free will
 - He acknowledged he was guilty of the charge preferred against him; he elected to submit a statement in his own behalf
- In his statement, the applicant noted had been on active duty for almost 2 years, and while his duty performance had not been exceptional, his leadership never had to initiate disciplinary action against him
 - The applicant explained that he had gone home on leave and, near the end of his leave, his father's doctor disclosed the applicant's father might have cancer; soon after confirming the cancer diagnosis, the applicant's father died; his father's medical condition was why the applicant had gone AWOL
 - After making funeral arrangements and taking care of the house his father had left him, he began to realize his mistake by being AWOL, so he turned himself in at Fort Devens
 - He asked the separation authority for a general discharge under honorable conditions so he could further his education
- On 4 August 1989, the applicant departed Fort Dix on excess leave
- On 25 August 1989, the separation authority approved the applicant's request and directed his under other than honorable conditions discharge; on 13 September 1989, orders separated the applicant accordingly
- The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 1 year, 5 months and 18 days of his 3-year enlistment contract, with one period of lost time; the form additionally reflects the following:
 - Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) – Army Service Ribbon and two marksmanship qualification badges
 - Item 25 (Separation Authority) – Chapter 10, AR 635-200
 - Item 26 (Separation Code) – "KFS"
 - Item 27 (Reenlistment (RE) Code) – RE-3, RE-3B, and RE-3C

- Item 28 (Narrative Reason for Separation) – "For the Good of the Service – In Lieu of Court-Martial"
- On 2 March 2000, the applicant petitioned the Army Discharge Review Board (ADRB) requesting an upgraded character of service and a change in the reason for separation to show hardship; following a records review hearing, the ADRB voted to upgrade the applicant to a general discharge under honorable conditions
- On 29 October 2012, the applicant requested the ABCMR to change his character of service to honorable and his separation code to reflect a hardship discharge; on 27 September 2012, the Board denied the applicant's requests

4. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting reconsideration of his previous requests to upgrade his character of service to honorable and change the regulatory separation authority from Chapter 10 to Chapter 6, AR 635-200. On the DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD) is related to his request. 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) on 02 February 1988 the applicant enlisted in the Regular Army, 2) court-martial charges were preferred against the applicant on 03 August 1989 for having been absent without leave (AWOL) from 02 June to 26 June 1989. After consulting with counsel, the applicant requested separation under chapter 10, AR 635-200, 3) the applicant was discharged on 13 September 1989 under the provisions of Chapter 10, AR 635-200, with a separation code of KFS, and reentry code of RE-3, RE-3B, and RE-3C, 4) the applicant's previous petition(s) for relief to the ADRB on 02 March 2000 and ABCMR on 29 October 2012, were denied.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. There were no in-service medical records available for review.

d. The applicant is not service-connected through the VA for any conditions.

e. In his self-authored statement to the Board, the applicant stated that after his father was diagnosed with cancer, he was unable to secure official leave, so he went AWOL for about 50 days. After his father passed away, he stated he voluntarily turned himself in. The applicant said he spent some time in Federal Prison at Ft. Dix and then

was separated. The applicant contends he developed PTSD during the whole period. The applicant provided a letter dated 23 February 1999 authored by his father's treating physician who confirmed that his father was terminally ill under his care. Due to his father's deteriorating condition, the applicant went AWOL. It was documented that his father subsequently passed away on 29 June 1989 and after the funeral arrangements, cremation, and legal entanglements were completed, he voluntarily surrendered to military personnel.

f. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a condition or experience during his time in service that mitigated his misconduct. However, he contends that his misconduct was related to PTSD, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his misconduct was related to PTSD.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There were no in-service medical records available for review and he provided no medical documentation supporting his assertion of PTSD. In absence of documentation supporting his assertion, there is insufficient evidence to establish his misconduct was related to or mitigated by PTSD and insufficient evidence to support an upgrade based on BH mitigation. However, he contends that his misconduct was related to PTSD, and, per liberal guidance, his assertion is sufficient to warrant 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 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. The evidence of record shows that court-martial charges were preferred against the applicant for being AWOL during the period 2 June through 26 July 1989. Such misconduct was punishable under the Uniform Code of Military Justice with a punitive discharge. Following the preferral of charges, the applicant consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board reviewed and concurred with the opinion of the medical advisor, noting that there is insufficient evidence to establish that the applicant had a condition or experience during his time in service that mitigated his misconduct. The Board determined that the applicant's discharge was appropriate under the circumstances and found no error or injustice in the case.

2. The Board considered the following Kurta questions under liberal consideration:

a. Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends his misconduct was related to PTSD.

b. Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

c. Does the condition or experience actually excuse or mitigate the discharge? No. There were no in-service medical records available for review and he provided no medical documentation supporting his assertion of PTSD. In absence of documentation supporting his assertion, there is insufficient evidence to establish his misconduct was related to or mitigated by PTSD and insufficient evidence to support an upgrade based on BH mitigation. However, he contends that his misconduct was related to PTSD, and, per liberal guidance, his assertion is sufficient to warrant the Board's consideration.

3. 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:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20120005629, on 27 September 2012.

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, USC, section 1556 (Ex Parte Communications Prohibited) 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 applicant's (and/or their counsel) prior to adjudication.

2. Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, prescribed policies and procedures for the administrative separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) stated an honorable discharge was separation with honor.

(1) Issuance of an honorable discharge certificate was appropriate when the quality of the Soldier's service generally met the standards of acceptable conduct and performance of duty or was otherwise so meritorious that any other characterization would clearly be inappropriate.

(2) Where there were infractions of discipline, commanders were to consider the extent thereof, as well as the seriousness of the offense. Separation authorities could furnish an honorable discharge when the Soldier's subsequent honest and faithful service over a greater period outweighed the disqualifying entries found in his/her record. It was the pattern of behavior, and not the isolated instance, which commanders should consider as the governing factor.

b. Paragraph 3-7b (General Discharge). A general discharge was a separation under honorable conditions and applied to those Soldiers whose military record was satisfactory, but not sufficiently meritorious to warrant an honorable discharge.

c. Section II (Secretarial Authority), paragraph 5-3 (Policy). Separation under this paragraph was the Secretary of the Army's prerogative. The separation of any Soldier of the Army under this authority was based on Secretary of the Army determination that separation was in the best interests of the Army.

d. Chapter 6 (Separation Because of Dependency or Hardship). Soldiers of the Active Army and the Reserve Components serving on active duty could be discharged or released from active duty because of genuine dependency or hardship.

(1) Dependency existed when death or disability of a member of a Soldier's (or spouse's) immediate family caused that member to rely upon the Soldier for principal care or support.

(2) Hardship existed when, in circumstances not involving death or disability of a member of the Soldier's (or spouse's) immediate family, separation from the service would materially affect the care or support of the family by alleviating undue and genuine hardship.

(3) Separation from the service of soldiers because of dependency was to be granted when all the following circumstances existed:

- Conditions arose or were aggravated to an excessive degree since the Soldier's entry on active duty
- Conditions were not of a temporary nature
- Every reasonable effort was made by the Soldier to alleviate the dependency or hardship conditions without success
- Separation from active military service of the Soldier was the only readily available means of eliminating or materially alleviating the dependency or hardship conditions

(4) Soldiers had to apply for a dependency or hardship separation and submit documentary evidence in the form of affidavits. At a minimum, the affidavits needed to show the nature of the hardship condition, and what the Soldier intended to do to alleviate it; an affidavit or statement by or on behalf of the Soldier's dependents substantiating the dependency or hardship claim; and affidavits by at least two agencies or individuals, other than members of the Soldier's family, substantiating the dependency or hardship claim.

e. Chapter 10 (Discharge for the Good of the Service) applied to Soldiers who had committed an offense or offenses for which the punishment under the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial (MCM) included a punitive (i.e. bad conduct or dishonorable) discharge.

(1) Soldiers could voluntarily request discharge upon the preferral of court-martial charges; commanders were responsible for ensuring such requests were personal decisions, made without coercion, and following access to counsel. The Soldier was to be given a reasonable amount of time to consult with counsel prior to making his/her decision.

(2) The Soldier was required to make his/her request in writing, which certified he/she had been counseled; understood his/her rights; could receive an under other than honorable conditions character of service; and recognized the adverse nature of such a character of service.

3. AR 635-5 (Separation Documents), in effect at the time, prescribed policies and procedures for DD Form 214 preparation. The regulation stated the narrative reason for separation was tied to the Soldier's regulatory separation authority; the regulation directed DD Form 214 preparers to AR 635-5-1 (Separation Program Designators (SPD)) for the appropriate entries in items 26 (Separation (Separation Program Designators (SPD) Code) and 28 (Narrative Reason for Separation)). For item

27 (Reenlistment Code), the regulation referred preparers to AR 601-210 (Regular Army and Army Reserve Enlistment Program).

4. AR 635-5-1, in effect at the time, stated Soldiers separated in accordance with chapter 10, AR 635-200 were to receive an SPD of "KFS" and have the narrative reason for separation: "For the Good of the Service – In Lieu of Court-Martial" entered on their DD Form 214.

5. AR 601-210 (Regular Army and Army Reserve Enlistment Program), in effect at the time, covered eligibility criteria, policies, and procedures for the Active Army and RC enlistment program.

a. Table 3-6 (Armed Forces RE Codes, Regular Army RE Codes) included the following list of the RE codes:

- RE-1 – Soldiers completing their term of active service who were considered qualified to reenter the U.S. Army; they were qualified for enlistment if all other criteria were met
- RE-3 – Soldiers who were not considered fully qualified for reentry or continuous service at time of separation, but their disqualification could be waived
- RE-3B – Soldiers with lost time during their last period of service needed a waiver to reenter the Armed Forces
- RE-3C – Soldiers with over 4 months of service who did not meet the basic eligibility pay grade requirements of AR 601-280 (Army Reenlistment Program)

b. Table 4-1 (Waivable Moral and Administrative Disqualifications).
Line N (Disqualification) states prior service applicants with lost time over 15 days, incurred during their last period of service, required a waiver to reenter the Regular Army.

6. 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.

7. 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 Discharge Review Boards (DRBs) and Board for Correction of Military/Naval Records (BCM/NRs) when considering requests by Veterans for modification of their discharges

due in whole or in part to: mental health conditions, including Post Traumatic Stress Disorder (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 to 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.

8. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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 on the basis of 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.

9. AR 15-185 (Army Board for Correction of Military Records (ABCMR)), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence

is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

c. Paragraph 2-11 (ABCMR Hearings) states applicants do not have a right to a hearing before the ABCMR; however, the Director or the ABCMR may grant a formal hearing.

//NOTHING FOLLOWS//