

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 June 2025

DOCKET NUMBER: AR20240011395

APPLICANT REQUESTS:

- upgrade of his under honorable conditions discharge (general)
- change the narrative reason from drug abuse to another designation
- a video or telephone hearing with the Board

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

DD Form 149 (Application for Correction of Military Record), 5 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 states he was dealing with depression due to a parental divorce. This was compounded by his grandfather's health as he was in a diabetic coma. To deal with the depression, he drank to excess and had a short period of marijuana use. He served honorably until depression took hold of him.
3. A review of the applicant's service records show the following:
 - a. On 4 October 1984, he enlisted in the Regular Army for 3 years. He attained the rank of private first class (PFC).
 - b. A urinalysis custody report dated 11 November 1985; shows he provided a urine sample which later tested positive for Tetrahydrocannabinol (THC).
 - c. On 19 December 1985, he accepted nonjudicial punishment (NJP) for failing to go to his place of duty and received a suspended reduction to private 2, forfeiture of some pay and extra duty for 14 days.

d. On 10 January 1986, he accepted NJP for wrongfully using marijuana on or about 15 November 1985. He was reduced to private/E-1, forfeited some pay and received extra duty for 45 days.

e. On 23 January 1986, he underwent a medical exam and gave a report of medical history. He reported he was in good health, and he was not taking medication.

f. On the same date, he underwent a mental status evaluation, and the examining psychiatrist found he met retention requirements, and he had the capacity to understand and participate in the separation proceedings.

g. On 24 January 1986, he was counseled for a positive urinalysis result for THC which he provided on 15 November 1985 (should reflect 11 November 1985).

h. On 4 February 1986, his unit received results of a urinalysis showing a sample he submitted on 6 January 1986 tested positive for THC.

i. On 12 February 1986, he accepted NJP for wrongfully using marijuana on or about 6 January 1986. He forfeited some pay and received extra duty.

j. On 18 February 1986, he acknowledged his commander's notification of contemplated action to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 14-12c, for misconduct and he elected his rights. He understood he may expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions were issued to him. He waived his right to submit statements in his own behalf.

j. On the same date, his commander recommended his discharge for misconduct-abuse of illegal drugs, based upon two instances of positive tests for THC, and NJP for use of marijuana.

k. On 3 March 1986, the separation authority approved his discharge.

l. On 12 March 1986, he was discharged. His DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects he was discharged under provisions of Army Regulation 635-200, chapter 14-12c with an under honorable conditions (general) characterization of service for misconduct-drug abuse. He completed 1 year, 5 months, and 9 days of net active service with no time lost.

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 service record in accordance with the published equity, injustice, or clemency determination guidance.

6. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his under honorable conditions (general) discharge and a change in the narrative reason from drug abuse to a more favorable designation. He selected OMH on his application as related to his request.

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:

- Applicant enlisted into the Regular Army on 4 October 1984.
- A urinalysis custody report dated 11 November 1985; shows he provided a urine sample which tested positive for Tetrahydrocannabinol (THC).
- On 19 December 1985, he accepted nonjudicial punishment (NJP) for failing to go to his place of duty.
- On 10 January 1986, he accepted NJP for wrongfully using marijuana on or about 15 November 1985.
- On 12 February 1986, he accepted NJP for wrongfully using marijuana on or about 6 January 1986.
- On 18 February 1986, his commander recommended discharge for misconduct-abuse of illegal drugs, based upon two instances of positive tests for THC, and NJP for use of marijuana.
- Applicant was discharged on 12 March 1986 under the provisions of Army Regulation 635-200, chapter 14-12c, with an under honorable conditions (general) characterization of service for misconduct - drug abuse. His DD Form 214 (Certificate of Release or Discharge from Active Duty) confirms he was assigned separation code JKK and RE code 3. He completed 1 year, 5 months, and 9 days of net active service with no time lost.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states he was dealing with depression due to a parental divorce. This was compounded by his grandfather's health as he was in a diabetic coma. To deal with the depression, he drank to excess and had a short period of marijuana use. He served honorably until depression took hold of him.

d. Due to the period of service no active-duty electronic medical records were available for review. The applicant provides hardcopy medical documentation of a physical examination for the purpose of separation dated 23 January 1986, where he

denied any mental health concerns including disrupted sleep, depression, anxiety, or nervousness. His PULHES was "111111" indicating no psychiatric concerns. On the same date, he underwent a mental status evaluation, and was not diagnosed with any BH condition, met retention standards, and had the capacity to understand and participate in the separation proceedings.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 60% service connected for various medical conditions but there is no evidence of service connection for any BH condition. A note dated 3 April 2025 indicates he was referred to a primary care mental health integration clinic by his medical provider due to his self-reported anxiety and depression due to pain, since the applicant is currently on FMLA due to back pain. The record shows the applicant has participated in four sessions with a focus on learning relaxation techniques and coping skills.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a behavioral health condition during military service that mitigates his discharge.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant selected OMH on his application as related to his request.

(2) Did the condition exist or experience occur during military service? No. There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. Although the applicant selected OMH on his application as related to his request, there is no evidence of any in-service BH diagnoses, and the VA has not service-connected the applicant for any BH condition. In addition, he did not provide any medical documentation substantiating any BH diagnosis. The VA electronic medical record shows the applicant recently sought mental health support, nearly 40 years post military service, for the purpose of addressing his current issues related to back pain. In his personal statement, the applicant states parental divorce and his grandfather's health as the cause of his depression and repeated misconduct. While these can be significant personal stressors, they are not sufficient to meet diagnostic criteria for depression.

h. Per Liberal Consideration guidelines, his assertion of OMH on his application is sufficient to warrant consideration by the Board.

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 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 discharge? Yes.

(2) Did the condition exist or experience occur during military service? No.

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

the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service and/or narrative reason for separation.

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.

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 (Army Board for Correction of Military Records) 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. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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. 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.

4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time (20 July 1984), set policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of enlisted members for a variety of reasons.

a. 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.

b. Chapter 14 established policy and prescribed procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, convictions by civil authorities, and abuse of illegal drugs. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter.

c. Paragraph 14-12c. Under this paragraph members were subject to separation for commission of a serious offense. Commission of a serious military or civil offense, in the specific circumstances of the offense warranted separation and a punitive discharge, would be authorized for the same or a closely related offense under the MCM. Abuse of illegal drugs. First time drug offenders, grades E-5-E-9 would be processed for separation upon discovery of a drug offense. Second time drug offenders, grades E-1 to E-9 would be process for separation after the second offense.

5. 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.

6. 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.

7. 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//