

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 June 2025

DOCKET NUMBER: AR20240011398

APPLICANT REQUESTS: upgrade of his under other than honorable conditions discharge to honorable.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record), 22 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 application that post-traumatic stress disorder (PTSD) and sexual assault or harassment are issues and conditions related to his request. He states a correction is justified because his behavior during service was largely impacted by unresolved trauma. He was subjected to violent attacks not adequately addressed, which led to his PTSD. The change is key to his rehabilitation and future contributions to society.
3. A review of the applicant's service records show the following:
 - a. On 20 August 1990, he enlisted in the Regular Army for 4 years and 16 weeks. He attained the rank of specialist 4.
 - b. Supplementary nonjudicial punishment, dated 22 March 1993, reflects he was reduced to the rank of private first class as the result of a positive laboratory result for wrongful use of cocaine on 8 February 1993.
 - c. Court-martial charge(s) were preferred against the applicant for violation of the Uniform Code of Military Justice. The DD Form 458 (Charge Sheet), his request for discharge in lieu of trial by court-martial under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), chapter 10, and the separation authority approval memorandum are not available for review.

d. Orders issued by Headquarters, U.S. South Army, dated 3 June 1993, reflect he was reassigned to Army Transition point, Fort Jackson, SC for separation processing with an effective date of discharge 29 June 1993.

e. On 29 June 1993, he was discharged. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10, with an under other than honorable conditions characterization of service. He completed 2 years, 10 months, and 10 days of net active service this period 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. On 31 March 2025, the Chief, Case Management Division requested the applicant provide medical and/or behavioral health documents to give him an opportunity to support his issues; however, he did not respond.

6. 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.

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of under other than honorable conditions (UOTHC) characterization of service to honorable. On his DD Form 149, the applicant indicated that Posttraumatic Stress Disorder (PTSD) and Sexual Assault/Harassment are related to his request. More specifically, the applicant stated that his behavior during service was largely impacted by unresolved trauma and that he was subjected to violent attacks that were inadequately addressed, which he believes led to undiagnosed PTSD. 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 20 August 1990, 2) a Record of Supplementary Action Under Article 15, UCMJ signed 22 March 1993 shows he was reduced to the rank of private first class as the result of a positive laboratory result for wrongful use of cocaine on or about 08 February 1993, 3) Court-martial charge(s) were preferred against the applicant for violation of the Uniform Code of Military Justice. The DD Form 458 (Charge Sheet), his request for discharge in lieu of trial by court-martial under the provisions of AR 635-200, chapter 10, and the separation authority approval memorandum are not available for review, 4) the applicant was discharged on 29 June 1993 under the provisions of AR 635-200, Chapter 10, with an under other than honorable conditions characterization of service.

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 military medical records available for review.

d. A review of JLV shows the applicant is not service-connected through the VA for any conditions. JLV is void of any VA medical documentation aside from one social work note showing he participated in group psychoeducation as part of the Healthcare for Veterans Re-Entry program at the Charlotte Correctional Institute on 31 March 2025.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence that the applicant was a victim of Military Sexual Trauma (MST), which is a potentially mitigating event. However, as the specific facts and circumstances that led to his discharge are unavailable for review, BH mitigation is unclear.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant reported a history of MST.

(2) Did the condition exist or experience occur during military service? Yes, the applicant reported a history of MST.

(3) Does the condition or experience actually excuse or mitigate the discharge? Unclear. There were no medical records available for review and he provided no medical documentation supporting his assertion of PTSD. On his application, the applicant indicated he was a victim of MST which he asserted contributed to his behavior in-service due to the unresolved trauma. Under Liberal Consideration, the applicant's self-assertion of MST alone is sufficient to establish that the applicant was a victim of MST. Regarding misconduct that was documented in his records, it is of note that substance use is often a self-medicating behavior, used to avoid and mask symptoms, and this can be associated with the natural history and sequelae of numerous disorders and events, to include trauma due to MST. As there is an association between substance use and trauma, there is a nexus between his history of MST and use of cocaine. Thus, BH mitigation would be supported for that documented episode of misconduct. However, as the specific facts and circumstances that led to his discharge are unavailable for review, a nexus cannot be established between his history

of MST and the reason for discharge. Thus, BH mitigation as it pertains to the reason for discharge is unclear.

g. Regarding applicant's assertion of PTSD, while there is no evidence to support this diagnosis, applicant's self-assertion of PTSD alone merits 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 partial relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests as well as the medical advisor's review. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. Although the exact reason for the applicant's pending court-martial, the Board noted his prior misconduct in the wrongful use of cocaine. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board noted the applicant's contention of having PTSD and a Military Sexual Trauma (MST) and concurred with the medical advisor's review that there is sufficient evidence that the applicant was a victim of a MST, which is a potentially mitigating event. Therefore, the Board determined the evidence of record was sufficient to warrant partial relief in the form of a general discharge. The Board found no error or injustice with the applicant's charges to clear the applicant of any wrongdoing and therefore denied so much of his request pertaining to a fully honorable discharge.

2. Based upon the misconduct leading to the applicant's separation and the following recommendation found in the medical review related to the liberal consideration:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant reported a history of MST.

(2) Did the condition exist or experience occur during military service? Yes, the applicant reported a history of MST.

(3) Does the condition or experience actually excuse or mitigate the discharge? Unclear. There were no medical records available for review and he provided no medical documentation supporting his assertion of PTSD. On his application, the applicant indicated he was a victim of MST which he asserted contributed to his behavior in-service due to the unresolved trauma. Under Liberal Consideration, the

applicant's self-assertion of MST alone is sufficient to establish that the applicant was a victim of MST. Regarding misconduct that was documented in his records, it is of note that substance use is often a self-medicating behavior, used to avoid and mask symptoms, and this can be associated with the natural history and sequelae of numerous disorders and events, to include trauma due to MST. As there is an association between substance use and trauma, there is a nexus between his history of MST and use of cocaine. Thus, BH mitigation would be supported for that documented episode of misconduct. However, as the specific facts and circumstances that led to his discharge are unavailable for review, a nexus cannot be established between his history of MST and the reason for discharge. Thus, BH mitigation as it pertains to the reason for discharge is unclear.

g. Regarding applicant's assertion of PTSD, while there is no evidence to support this diagnosis, applicant's self-assertion of PTSD alone merits consideration by the board.

The Board concluded there was insufficient evidence of an error or injustice warranting amending the applicant's characterization of service to fully honorable.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 29 June 1993, to show in item 24 (Character of Service) "Under Honorable Conditions (General)".

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains upgrading his characterization of service to an honorable discharge.

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. 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 Separations – 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.

3. 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.

4. 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.

5. 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), on 25 July 2018, 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 court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

//NOTHING FOLLOWS//