

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 September 2025

DOCKET NUMBER: AR20240011437

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 14 January 2011 to show:

- an upgrade of his under other than honorable conditions (UOTHC) characterization of service to honorable
- a change to his Separation Program Designator (SPD) Code and corresponding narrative reason, presumably more favorable
- an upgrade of his reenlistment code (RE)

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

- two DD Forms 293 (Application for Review of Discharge from the Armed Forces of the United States)
- Self-authored statement
- Behavioral Health Diagnoses, My Health My Resources (MHMR) of Tarrant County, dated 22 February 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:

a. He volunteered to deploy with a unit other than his own. He was straight out of advanced individual training and had no acclimation period. While deployed, he learned that the child he believed was his was not his child. His unit demanded he continue to pay child support which forced him to remain in a toxic, uncomfortable position. On his 2 week leave, he was accused of a domestic violence allegation.

b. Upon return from leave, he faced extreme demands physically, mentally, and emotionally. He began a downward spiral. His sleep deprivation, anxiety, anger, post-

traumatic stress disorder (PTSD), and mood disorder grew. He overslept his first court-martial and was required to stay overseas for two additional months to attend his second court-martial. Due to the nature of his discharge, he has not received the mental help he needs. Had his command helped when he desperately needed it, he would not be where he is today.

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

a. He enlisted in the Army National Guard of the United States on 20 December 2007.

b. He was ordered to active duty in support of Operation Iraqi Freedom (OIF), with service in Kuwait from 18 January 2010 to 25 December 2010.

c. The complete facts and circumstances surrounding his discharge are not available for review. However, he was discharged on 14 January 2011 under the provisions Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c, by reason of misconduct (serious offense), with a UOTHC characterization of service. He completed 1 year, 1 month, and 14 days of net active service this period. His DD Form 214 also contains the following entries:

- item 26 (Separation Code) – JKQ
- item 27 (Reentry Code) – RE-3
- item 28 (Narrative Reason for Separation) – “Misconduct-Serious Offense”

d. The Army Discharge Review Board (ADRB) reviewed the applicant's request for a discharge upgrade on 28 December 2011. After careful consideration, the Board determined the applicant was properly and equitably discharged. His request for relief was denied.

4. The applicant provides a document from MHMR of Tarrant County, dated 22 February 2024, which shows he has been diagnosed with Bipolar Disorder, Generalized Anxiety disorder, and PTSD.

5. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under other than honorable conditions (UOTHC) to honorable, a change to his SPD code, narrative reason for separation, and reenlistment code. He contends he experienced an undiagnosed mental health condition, including PTSD, that mitigates his misconduct.

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:

- The applicant enlisted into the Army National Guard on 20 December 2007, and he served in Kuwait from 18 January 2010 to 25 December 2010.
- The complete facts and circumstances surrounding his discharge are not available for review. However, he was discharged on 14 January 2011 under the provisions Army Regulation 635-200, paragraph 14-12c, by reason of misconduct (serious offense), with a UOTHC characterization of service. He completed 1 year, 1 month, and 14 days of net active service this period.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts, in summary, during deployment he learned he was not the father of his child, which was traumatic for him, and when he returned from leave, his physical, mental, and emotional states took a downward spiral. He indicated PTSD and "other mental health" as issues or conditions related to his request. The application included a list of diagnoses from 22 February 2024, which showed Bipolar Disorder, Generalized Anxiety Disorder, and PTSD. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed DoD in theater record of a mental health evaluation on 21 May 2010 where the applicant reported he was facing disciplinary action related to several periods of being late or absent. He denied any mental health symptoms and attributed his tardiness to "being a heavy sleeper." He discussed the domestic violence charge and his partner being unsure if the child was his, but he denied any need for counseling/therapy. It was determined that he was responsible for himself and his actions, and he was considered to be fit for duty. On 6 July 2010 he was evaluated for hypersomnia and reported getting six hours of sleep at night but also falling asleep during the day. His unit was advised to change his duty to "no driving or carrying a weapon," and referrals for a sleep study and to neurology were discussed. Follow up documentation on 10 September 2010 noted a renewal of his profile and that his unit had declined sending him to Germany for a neurology evaluation. He continued to report problems with falling asleep during the daytime. A Chapter physical examination was conducted on 10 January 2011, and there was no indication of any mental or physical health problems. The applicant initiated mental health treatment through the ER at the VA on 20 September 2012 and reported depressed mood for the past several years along with several psychosocial stressors. However, it was discovered that he was ineligible for services outside of an emergency, and he was provided with information on how to file a claim. The applicant applied to the VA homeless program in December 2024, and documentation through August 2025 showed he had utilized vocational rehabilitation and mental health services.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to fully opine on the change of his characterization of discharge because of the absence of the specific facts and circumstances surrounding his discharge processing.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. He provided a list from February 2024 of diagnoses, which included Bipolar Disorder, Generalized Anxiety Disorder, and PTSD. DoD records showed he reported excessive daytime sleepiness while in service, but there was no indication of any mental health diagnoses. VA records showed symptoms of depression dating back to 2012.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service. Records show that the applicant deployed to Kuwait from January to December 2010.

(3) Does the condition or experience actually excuse or mitigate the discharge? NA. The applicant asserts PTSD and other mental health as a mitigating factors in his discharge, and he provided a list of diagnoses from 2024. DoD records showed he was treated for excessive daytime sleepiness. However, in the absence of a separation packet, there is insufficient evidence to demonstrate a nexus between his mental health condition and the condition or experience that generated his discharge. Without knowledge of the basis for separation, no opinion regarding mitigation under liberal consideration can be made. However, the applicant's assertion of an undiagnosed mental health condition as a mitigating factor, per Liberal Consideration, warrants 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 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. 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.

- Upgrade to Character of Service of UOTHC to Honorable: Deny. The Board concurred with the medical advisory official that there is insufficient evidence to

change of his characterization of service. The Board noted that the applicant was separated due to a commission of a serious offense. The Board noted that although there is an absence of the specific facts and circumstances surrounding his discharge, the Board determined that there was no error or injustice and that his record is presumed to be correct based on the information available. Therefore, the Board determined the evidence did not warrant a change to his character of service and denied relief.

- Change his SPD Code: Deny. The Board concurred with the medical advisory official that there is insufficient evidence to change of his SPD Code. The Board noted that the applicant was separated due to a commission of a serious offense. The Board noted that although there is an absence of the specific facts and circumstances surrounding his discharge, the Board determined that there was no error or injustice and that his record is presumed to be correct based on the information available. Therefore, the Board determined the evidence did not warrant a change to his SPD Code and denied relief.
- Change to Narrative Reason for Separation: Deny. The Board concurred with the medical advisory official that there is insufficient evidence to change of his narrative reason for separation. The Board noted that the applicant was separated due to a commission of a serious offense. The Board noted that though there is an absence of the specific facts and circumstances surrounding his discharge, the Board determined that there was no error or injustice and that his record is presumed to be correct based on the information available. Therefore, the Board determined the evidence did not warrant a change to his narrative reason for separation and denied relief.
- Change RE Code: Deny. The Board concurred with the medical advisory official that there is insufficient evidence to change of his reenlistment code. The Board noted that the applicant was separated due to a commission of a serious offense. The Board noted that although there is an absence of the specific facts and circumstances surrounding his discharge, the Board determined that there was no error or injustice and that his record is presumed to be correct based on the information available. Therefore, the Board determined the evidence did not warrant a change to his reenlistment code and denied relief.

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 asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. He provided a list from February 2024 of diagnoses, which included Bipolar Disorder, Generalized Anxiety Disorder, and PTSD. DoD records showed he reported excessive daytime sleepiness while in service, but there was no indication of any mental health diagnoses. VA records showed symptoms of depression dating back to 2012.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service. Records show that the applicant deployed to Kuwait from January to December 2010.

(3) Does the condition or experience actually excuse or mitigate the discharge? NA. The applicant asserts PTSD and other mental health as a mitigating factors in his discharge, and he provided a list of diagnoses from 2024. DoD records showed he was treated for excessive daytime sleepiness. However, in the absence of a separation packet, there is insufficient evidence to demonstrate a nexus between his mental health condition and the condition or experience that generated his discharge. Without knowledge of the basis for separation, no opinion regarding mitigation under liberal consideration can be made. However, the applicant's assertion of an undiagnosed mental health condition as a mitigating factor, per Liberal Consideration, warrants consideration by the board.

The Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service, narrative reason for separation, SPD code and RE Code.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XX	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 (USC), 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 Army Board for Correction of Military Records (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, USC, 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 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, and reviews to ABCMR applicants prior to adjudication.

3. 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. The ABCMR is not an investigative body and decides cases based on the evidence presented in the military records provided and the independent evidence submitted with the application.

4. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-1 provides a list of RE codes.

- RE code "1" applies to Soldiers completing their term of active service, who are considered qualified for enlistment if all other criteria are met
- RE code "2" is no longer in use but applied to Soldiers separated for the convenience of the government, when reenlistment is not contemplated, who are fully qualified for enlistment/reenlistment
- RE code "3" applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, whose disqualification is waivable – they are ineligible unless a waiver is granted
- RE code "4" applies to Soldiers separated from their last period of service with a non-waivable disqualification

5. Army Regulation 635-5-1 (Separation Program Designator (SPD Codes) provides the specific authorities, reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. Separation code "JKQ" is the appropriate code to assign to Soldiers involuntarily separated under the provisions of Army Regulation 635-200, Chapter 14, Paragraph 14-12c, by reason of commission of a serious offense.

6. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

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. 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.

c. 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, conviction by civil authorities, desertion, or absences without leave. Action would be taken to separate a member for misconduct when it was clearly established that rehabilitation was impracticable or was unlikely to succeed. A discharge under other than honorable conditions was normally considered appropriate. However, the separation authority could direct a general discharge if such were merited by the Soldier's overall record.

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 (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) 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; traumatic brain injury; sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. 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.

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