

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 June 2025

DOCKET NUMBER: AR20240011551

APPLICANT REQUESTS: upgrade of his under honorable conditions (General) discharge to honorable

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)
- Department of Veterans Affairs (VA) Summary of Benefits Letter, dated 11 August 2022
- VA Decision Letter, dated 4 November 2021
- Personal Statement, dated 10 April 2024
- Hanford Police Department Name Search Memorandum, dated 29 February 2024
- Mother's Obituary, dated 24 May 2008
- Father's Obituary, dated 24 July 2023
- Birth Certificates (daughter and son), dated 18 January 2012 and 6 January 2014, respectively
- Aaronic priesthood Ordination, dated 1 March 2020
- 141st Installation of Officers for Masonic Year 2020
- Letters of Recommendation (2)

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 his discharge was due in part and in whole to mental health conditions, including post-traumatic stress disorder (PTSD). The approximate date the error or injustice was discovered was on 13 February 2024, through a telephone call with the Education Department of the VA. He found the error or injustice with the General Under Honorable Conditions of his service and that he could not receive benefits.

3. The applicant enlisted in the Regular Army on 22 November 2005.
4. On 25 November 2008, he received a Field Grade Article 15, for at or near Fort Drum, New York, wrongfully using marijuana between 2 September 2008 and 1 October 2008 and 8 July 2008 and 6 August 2008. The punishment imposed included reduction to the grade of private/E-1, forfeiture of \$673.00 pay per month for two months, 45 days of extra duty and restriction, and an oral reprimand.
5. On 30 October 2008, a DA Form 3822-R (Report of Mental Status Evaluation), shows the applicant was evaluated by a psychiatrist and was cleared for any administrative action deemed appropriate by command.
6. On 4 December 2008, the applicant's commander notified him, that he was initiating actions to separate him under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 14-12c, for commission of a serious offense. The reason for the recommendation was due to him wrongfully using marijuana.
7. On 4 December 2008, the applicant consulted with legal counsel and acknowledged he had been advised of the basis for the contemplated separation action. Following his consultation, the applicant stated that he would not submit a statement in his own behalf.
8. The applicant's commander formally recommended his separation under the provisions of Army Regulation 635-200, Chapter 14-12c, for misconduct.
9. Consistent with the chain of command's recommendations, the separation authority approved the recommended discharge on 15 December 2008 and directed the issuance of a General Discharge Certificate.
10. The applicant was discharged on 23 December 2008. His DD Form 214 confirms he was discharged under the provisions of Army Regulation 635-200, paragraph 14-12c, for Misconduct (Drug Abuse). He completed 3 years, 1 month, and 2 days of net active service this period.
11. The applicant provides:
 - a. VA Decision Letter, dated 4 November 2021, which shows his evaluation for PTSD at 30% disabling was increased to 100% effective 15 January 2021.
 - b. Personal Statement, dated 10 April 2024, describing his personal character, reasons for his past experiences and actions, his military service with details of main

events that transpired (passing of his mother and deployment), his achievements of his post military service, and his future goals.

c. His parents obituaries, children's birth certificates, and Aaronic Priesthood Ordination, which shows he was ordained to the office of priest in the Aaronic Priesthood in The Church of Jesus Christ of Latter-day Saints.

d. Two letters of recommendation. Both letters contends he has worked through his challenges in life, describes his great strides to improve his personal and family life, his induction in the Freemasonry, his strong work ethic, taking on new challenges, never tested positive on any of his random drug tests since his discharge, and how an upgrade of his discharge would make him feel whole and also assist in his pursuit for higher education.

e. Two DeVry University Memoranda. Both show his classes and grade point average.

12. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

13. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (General) discharge to honorable. He contends he experienced PTSD, which 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) He enlisted in the Regular Army on 22 November 2005; 2) The applicant deployed to Afghanistan from 02 February 2006-20 May 2007; 3) On 25 November 2008, the applicant received a Field Grade Article 15 for wrongfully using marijuana on two occasions; 4) The applicant was discharged on 23 December 2008, Chapter 14-12c- Misconduct (Drug Abuse). He completed 3 years, 1 month, and 2 days of net active service this period.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) and VA documentation provided by the applicant were also examined.

c. The applicant asserts he was experiencing PTSD as a result of his deployment, which mitigates his misconduct. There is evidence the applicant was seen for one appointment at behavioral health services for stress related to a personal issue on 08 May 2006, and he was diagnosed with an Adjustment Disorder with anxious mood.

Later on, 17 July 2008, the applicant was again seen at behavioral health services. He was reporting suicidal ideation, and he was engaged in self-harm behavior. The applicant was also involved in violent behavior toward his roommate in the barracks. He described a history of depression during his childhood and exposure of traumatic events during his deployment and symptoms of PTSD along with alcohol abuse/dependence. The applicant was diagnosed with PTSD, Depression, and Alcohol Dependence. He was recommended for inpatient psychiatric treatment. The applicant was discharged from civilian psychiatric treatment and evaluated by outpatient behavioral health services on 22 July 2008. He had reported using alcohol and marijuana to self-medicate his negative emotions. He was diagnosed with an Adjustment Disorder with disturbance of emotions and conduct and alcohol and cannabis abuse. He was recommended for continued individual therapy and substance abuse treatment, and he was referred to psychiatry for psychiatric medication. The applicant did not continue in regular individual therapy, but he did attend medication management appointments. Later on, 23 September 2008, the applicant was escorted to behavioral health services after he made suicidal comments following a counseling session with his Command. The applicant denied being currently suicidal, but he did feel leaving the military was in his best interest.

d. He was again diagnosed with an Adjustment Disorder with disturbance of emotions and conduct, and he was recommended to continue to attend his medication management appointments. Due again to reported suicidal ideations, on 02 October 2008, the applicant was readmitted into inpatient psychiatric treatment till 09 October 2008. He was evaluated at outpatient behavioral health service upon discharge and again diagnosed with an Adjustment Disorder. The applicant denied any suicidal ideation, and he was looking forward to block leave and leaving the Army. He underwent a Mental Status Evaluation as part of his administrative separation proceedings on 30 October 2008. He was diagnosed with an Adjustment Disorder, however, this condition was determined to meet the retention requirements of Chapter 3, AR 40-501. The applicant was cleared from a psychiatric perspective for administrative actions deemed appropriate by Command.

e. A review of JLV provided evidence the applicant began to engage with the VA in 2011. In 2012, he was diagnosed with service-connected PTSD related to his combat deployment. Later in 2021, the applicant was determined to be 100% disabled as a result of his service-connected PTSD.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a condition or experience that mitigates his misconduct.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant asserts he experienced PTSD which mitigates his misconduct. There is evidence the applicant has been diagnosed by the VA with service-connected PTSD. The applicant was also intermittently diagnosed with PTSD while on active service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD that mitigates his misconduct while on active service. There is evidence the applicant has been diagnosed by the VA with service-connected PTSD. The applicant was also intermittently diagnosed with PTSD while on active service.

(3) Does the condition/experience actually excuse or mitigate the discharge? Yes, there is sufficient evidence beyond self-report the applicant was experiencing PTSD while on active service. The applicant did use illegal drugs, which can be an avoidant behavior and a natural sequelae to PTSD. Therefore, per Liberal Consideration, the applicant's misconduct, which led to his discharge is mitigable.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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. Upon review of the applicant's petition and available military records, the Board noted that Army Regulation 635-200, Chapter 14-12c, provides for separation when a Soldier commits a serious offense, and wrongful use of controlled substances constitutes such misconduct.

2. However, Department of Defense guidance and Army policy recognize that conditions such as PTSD may mitigate misconduct when directly related to combat service. The medical advisory opinion establishes a nexus between the applicant's combat-related PTSD and his wrongful use of marijuana. The Board concurred with the advisory opinion and finds that the applicant's misconduct was mitigated by his medical condition. In light of this mitigating factor, the Board agreed that the characterization of service as under honorable conditions (general) is unjust. The applicant's overall record of service, including combat deployment, supports a more favorable characterization. Therefore, the Board granted relief to upgrade the applicant's character of service to honorable.

3. 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 asserts he experienced PTSD which mitigates his misconduct. There is evidence the applicant has been diagnosed by the VA with service-connected PTSD. The applicant was also intermittently diagnosed with PTSD while on active service.

b. Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD that mitigates his misconduct while on active service. There is evidence the applicant has been diagnosed by the VA with service-connected PTSD. The applicant was also intermittently diagnosed with PTSD while on active service.

c. Does the condition/experience actually excuse or mitigate the discharge? Yes, there is sufficient evidence beyond self-report the applicant was experiencing PTSD while on active service. The applicant did use illegal drugs, which can be an avoidant behavior and a natural sequelae to PTSD. Therefore, per Liberal Consideration, the applicant's misconduct, which led to his discharge is mitigable.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Honorable
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change

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 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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. Paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) 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 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. It states that action will be initiated to separate a Soldier for misconduct when it was clearly established that rehabilitation was impracticable or unlikely to succeed. Paragraph 14-12c (Commission of a Serious Offense) applied to commission of a serious military or civil offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense. First time offenders below the grade of sergeant, and with less than 3 years of total military service, may be processed for separation as appropriate.

5. On 3 September 2014 the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) 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. 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.

//NOTHING FOLLOWS//