

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 August 2025

DOCKET NUMBER: AR20240011874

APPLICANT REQUESTS: an upgrade of his under honorable conditions (general) characterization of service.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- letter, Department of Veterans Affairs (VA), dated 25 July 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 a young Soldier with a sick wife, and he made bad financial decisions. He has since made a complete turnaround. He loved serving his country. He notes post-traumatic stress disorder (PTSD) and other mental health as conditions related to his request.

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

a. He enlisted in the Regular Army on 30 August 1996.

b. He was formally counseled on 23 occasions between 7 June 1997 and 23 September 1998. Areas of emphasis covered in the counseling include:

- failure to repair on multiple occasions
- unacceptable duty performance
- indebtedness on multiple occasions
- driving his privately owned vehicle (POV) without insurance or a license
- disobeying a lawful order
- intending harm to another Soldier

- disobeying a verbal order
- exceeding body fat standards on multiple occasions
- Army Physical Fitness Test failure on multiple occasions

c. He received non-judicial punishment on 29 September 1998 for dishonorably failing to pay a debt, on or about 11 August 1998 and for failing to go at the time prescribed to his appointed place of duty, on or about 3 August 1998. He was reduced to private/E-2. His appeal of his punishment was denied.

d. He was formally counseled on four occasions between 6 October and 21 October 1998. Areas of emphasis covered in the counseling include:

- disobeying a lawful order
- driving his POV without a valid driver's license on multiple occasions
- indebtedness
- failure to obey a direct order

e. On 16 November 1998, his commander notified him of his intent to separate him under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12b, by reason of patterns of misconduct.

f. He was advised by consulting counsel of the basis for the contemplated action to separate him and its effects; of the rights available to him; and the effects of any action by him waiving his rights. In an attached statement, he noted his wife could not work due to a chronic illness, and he was distressed about his finances.

g. His chain of command recommended approval, with his service characterized as under honorable conditions (general).

h. On 17 February 1999, the separation authority approved the recommended separation and directed the issuance of an under honorable conditions (general) characterization of service.

i. Accordingly, he was discharged on 24 February 1999 under the provisions of Army Regulation 635-200, paragraph 14-12b, by reason of misconduct. His character of service was under honorable conditions (general). He completed 2 years, 5 months, and 25 days of net active service.

4. The applicant provides a benefits letter from the VA, dated 25 July 2024, which shows he has a 100 percent (%) permanent and total service-connected disability rating.

5. The Board should consider the applicant's overall record in accordance with the published equity, injustice, or clemency determination guidance.

6. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (general) discharge. He contends that he experienced mental health conditions including posttraumatic stress disorder (PTSD) that mitigate 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) The applicant enlisted in the Regular Army on 30 August 1996; 2) The applicant was formally counseled by his command on 23 occasions between 07 June 1997 and 23 September 1998 and on 4 occasions between 06 October 1998 and 21 October 1998, primarily for: A) Failure to report to his place of duty, B) Unacceptable duty performance, C) Writing bad checks/having continued outstanding debts, D) Driving his privately owned vehicle without a license, E) Disobeying a lawful order, F) Intending to harm another soldier, G) Exceeding body fat standards, H) Repeatedly failing the Army Physical Fitness Test, I) Failing to maintain proper sanitation, and J) Making a false statement; 3) He accepted NJP on 29 September 1998, for failing to pay a debt and failing to go to his place of duty at the time prescribed; 3) The applicant was discharged on 24 February 1999, Chapter 14-12b, misconduct. His character of service was under honorable conditions (general). He completed 2 years, 5 months, and 25 days of net active service.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service records. The VA's Joint Legacy Viewer (JLV) and hardcopy VA medical records provided by the applicant were also reviewed. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts he experienced mental health conditions including PTSD related to his wife's continued medical difficulties. There was insufficient evidence that the applicant was diagnosed or treated for any mental health disorders or symptoms during his time in service.

d. A review of JLV revealed that the applicant connected with VA physical health care beginning on 18 April 2012 and was medically referred to mental health on 21 February 2023, where he was treated for the diagnosis other trauma and/or stressor related disorder. He attended his final documented VA mental health appointment on 26 December 2023 for the treatment of major depressive disorder, recurrent, mild. He was officially discharged from VA mental health monitoring due to resolution of symptoms on 31 March 2025. The applicant underwent a VA compensation and pension (C&P) examination on 28 January 2023 that resulted in the diagnosis of other specified trauma

and stressor-related disorder that was attributed to the traumatic birth of his son while he was in active service. The applicant is currently 100% VA service-connected for various physical conditions as well as 30% VA service-connected for neurosis.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence beyond self-report the applicant has been diagnosed with other specified trauma and stressor-related disorder through a VA C&P examination and VA service-connected neurosis that may partially mitigate some of the applicant's misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced mental health conditions including PTSD during his time in service, which mitigates his misconduct. The applicant is currently VA service-connected for neurosis and was diagnosed with other specified trauma and stressor-related disorder through a VA C&P examination due to a stressor that occurred during his time in service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions including PTSD while on active service. The applicant is currently VA service-connected for neurosis and was diagnosed with other specified trauma and stressor-related disorder through a VA C&P examination due to a stressor that occurred during his time in service.

(3) Does the condition experience actually excuse or mitigate the misconduct? Partially, the applicant asserts that he experienced mental health conditions including PTSD while on active service, which mitigate his misconduct. The applicant is currently VA service-connected for neurosis and was diagnosed with other specified trauma and stressor-related disorder through a VA C&P examination due to a stressor that occurred during his time in service. The applicant did engage in avoidant and erratic behavior during active service on a number of occasions such as failing to follow orders, having difficulties with duty performance, and problems with maintaining hygiene and fitness. These behaviors can be a natural sequelae to some mental health conditions, including PTSD. However, there is no nexus between the applicant's reported mental health conditions and the applicant's misconduct of intending to harm a fellow service member, driving without a license, nor writing checks with insufficient funds in that: 1) these types of misconduct are not a part of the natural history or sequelae of most mental health conditions including PTSD and; 2) most mental health conditions including PTSD broadly do not impact one's ability to distinguish right from wrong and act in accordance with the right. Yet, the applicant contends he experienced a mental health condition or

experience while on active service that mitigates his misconduct, and the applicant's contention is sufficient for consideration per the Liberal Consideration Policy.

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. The Board reviewed and concurred with the medical advisor's review finding insufficient evidence to support the applicant claim due to the totality of his records and multiple misconducts during his period of service to include over 23 counseling statements and an nonjudicial punishment. In addition the medical advisory noted, that although there was some mitigation, there is no nexus between the applicant's reported mental health conditions and the applicant's misconduct of intending to harm a fellow service member, driving without a license, nor writing checks with insufficient funds. Therefore, the Board determined there was no error or injustice in the characterization of service he received at the time of his discharge 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:

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(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions including PTSD while on active service. The applicant is currently VA service-connected for neurosis and was diagnosed with other specified trauma and stressor-related disorder through a VA C&P examination due to a stressor that occurred during his time in service.

(3) Does the condition experience actually excuse or mitigate the misconduct? Partially, the applicant asserts that he experienced mental health conditions including PTSD while on active service, which mitigate his misconduct. The applicant is currently

VA service-connected for neurosis and was diagnosed with other specified trauma and stressor-related disorder through a VA C&P examination due to a stressor that occurred during his time in service. The applicant did engage in avoidant and erratic behavior during active service on a number of occasions such as failing to follow orders, having difficulties with duty performance, and problems with maintaining hygiene and fitness. These behaviors can be a natural sequelae to some mental health conditions, including PTSD. However, there is no nexus between the applicant’s reported mental health conditions and the applicant’s misconduct of intending to harm a fellow service member, driving without a license, nor writing checks with insufficient funds in that: 1) these types of misconduct are not a part of the natural history or sequelae of most mental health conditions including PTSD and; 2) most mental health conditions including PTSD broadly do not impact one’s ability to distinguish right from wrong and act in accordance with the right. Yet, the applicant contends he experienced a mental health condition or experience while on active service that mitigates his misconduct, and the applicant’s contention is sufficient for consideration per the Liberal Consideration Policy.

The Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant’s characterization of service

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	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.

8/18/2025

XCHAIRPERSON
[REDACTED]

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 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. 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.

4. 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.

5. 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//