

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 June 2025

DOCKET NUMBER: AR20240012063

APPLICANT REQUESTS: upgrade of his under honorable conditions (general) discharge.

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

DD Form 149 (Application for Correction of Military Record)

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 is requesting an upgrade of his discharge to honorable. He feels he has conducted himself sufficiently well to qualify for an upgrade.
  - b. He also feels that the circumstances leading to his discharge warrant the upgrade. He was experiencing some harassment and trauma which he feels was the reason he was discharged early, due to indebtedness.
  - c. He indicates that post-traumatic stress disorder (PTSD) and sexual assault/harassment are issues related to his request.
3. The applicant enlisted in the Regular Army on 29 January 1986.
4. A DA Form 2627 (Record of Proceedings under Article 15 of the Uniform Code of Military Justice (UCMJ)) shows the applicant accepted nonjudicial punishment (NJP) under Article 15 of the UCMJ on 30 October 1986, for using cocaine between on or about 21 July 1986 and 21 August 1986.

5. Multiple DA Forms 4856 (General Counseling Form) show the applicant was counseled on the following dates for the following misconduct:

- 30 October 1986, for use of cocaine between 21 July 1986 and 21 August 1986, as evidenced by a positive urinalysis taken on 21 August 1986, for which he will be enrolled in the Alcohol and Drug Abuse Program and a bar to reenlistment will be initiated
- 1 December 1986, for dishonored checks on 20 November 1986
- 16 December 1986, regarding pending bar to reenlistment for dishonored check notifications dated 28 November, 3 December, 5 December, and 8 December 1986, totaling \$225.14
- 18 December 1986, encouraging him to work hard and strive to improve himself to overcome deficiencies, for which he will be rewarded
- 5 January 1986, for receiving a letter of indebtedness from Signature Loan Company on 29 December 1986, in the amount of \$99.15
- 9 January 1987, regarding the applicant's request for an AER loan to accompany his bar to reenlistment packet
- 29 January 1987, regarding setting up a payment plan
- 29 January 1987, for keeping his head up despite prior problems and recognizing he was doing a fine job overall

6. A 2 February 1987 statement from the applicant's first sergeant shows the applicant was reported out of ranks at the 2 February 1987 scheduled formation and that he should be considered for elimination.

7. On 6 February 1987, the applicant was notified by his immediate commander of his initiation of action to separate him with a general discharge under honorable conditions under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 14, due to a pattern of misconduct. The proposed action was based on his use of cocaine, repeated failure to repair, financial irresponsibility in writing bad checks and not paying just debts, and unsatisfactory performance. He was advised of his right to consult with counsel and to submit statements in his own behalf.

8. On 6 February 1987, the applicant acknowledged receipt of notification of his proposed separation.

9. On 10 February 1987, the applicant acknowledged having been advised by his consulting counsel of the basis to accomplish his separation for a pattern of misconduct under the provisions of Army Regulation 635-200, chapter 14 and the rights available to him. He did not waive his right to counsel and indicated he was submitting statements in his own behalf. The applicant's submitted statement in his own behalf is not in his available records for review.

10. On 12 February 1987, the applicant's battalion commander recommended approval of his general discharge under the provisions of Army Regulation 635-200, chapter 14.

11. On 19 February 1987, the approval authority directed the applicant's general discharge under the provisions of Army Regulation 635-200, chapter 14 for misconduct.

12. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was given a general discharge under honorable conditions on 9 March 1987, under the provisions of Army Regulation 635-200, chapter 14, due to a pattern of misconduct, with corresponding Separation Code JKM. He was credited with 1 year, 1 month, and 11 days of net active service.

13. On 3 April 2025, the Army Review Boards Agency (ARBA) requested the applicant provide copies of any medical documents supporting his request and reflective of his PTSD, but he did not respond.

14. In the adjudication of this case, the Criminal Investigation Division (CID) provided a memorandum, 28 April 2025, which shows a search of the Army criminal file indexes revealed no harassment investigation pertaining to the applicant.

15. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his under honorable conditions (General) discharge. He contends PTSD and harassment 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 in the Regular Army on 29 January 1986.
- A DA Form 2627 (Record of Proceedings under Article 15 of the Uniform Code of Military Justice (UCMJ) shows the applicant accepted nonjudicial punishment (NJP) under Article 15 of the UCMJ on 30 October 1986, for using cocaine between on or about 21 July 1986 and 21 August 1986.
- Multiple DA Forms 4856 (General Counseling Form) show the applicant was counseled for repeated misconduct.
- A statement, 2 February 1987, from the applicant's first sergeant shows she was reported out of ranks at the 2 February 1987 scheduled formation and that he should be considered for elimination.
- On 6 February 1987, the applicant was notified by his immediate commander of his initiation of action to separate him with a general discharge under honorable conditions under the provisions of Army Regulation 635-200 (Personnel

Separations – Enlisted Personnel), chapter 14, due to a pattern of misconduct. The proposed action was based on his use of cocaine, repeated failure to repair, financial irresponsibility in writing bad checks and not paying just debts, and unsatisfactory performance. He was advised of his right to consult with counsel and to submit statements in his own behalf.

- On 9 March 1987, he was discharged under the provisions of Army Regulation 635-200, chapter 14, due to a pattern of misconduct with an under honorable conditions (General) characterization of service. His DD Form 214 shows he completed 1 year, 1 month, and 11 days of active service. He was assigned separation code JKM and reentry code 3 and 3C.

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 is requesting an upgrade of his discharge to honorable. He feels he has conducted himself sufficiently well to qualify for an upgrade. He also feels that the circumstances leading to his discharge warrant the upgrade. He was experiencing some harassment and trauma which he feels was the reason he was discharged early, due to indebtedness.

d. Due to the period of service, no active-duty electronic medical records were available for review.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected and has not been treated for any mental health or psychiatric condition. The applicant was provided with reentry outreach services in April 2013 when he was seen for the purpose of parole planning. He sought supportive services via the VA following his release from incarceration in June 2014, when he reported being homeless and living in a shelter. A note dated 21 September 2015, states the applicant signed into a clinic requesting a referral to a substance abuse program. He had already had two prior episodes of housing via the grant funded homeless program and was requesting a referral to another. The record shows repeated admissions into various transitional or shelter housing programs. Upon repeated screening assessments for admission into various housing programs, the applicant denied any history of having been "a victim of physical, verbal, or sexual abuse, neglect, or sexual exploitation". However, he does have a history of substance use, financial hardship, and homelessness.

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 contends PTSD and harassment 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. Although he mentioned harassment as related to his request, he did not provide any indication of the nature of the harassment and this advisor questions whether his repeated counseling for his various acts of misconduct are what he is referencing when he reports having been harassed.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There is insufficient evidence of any mitigating BH condition. There is no evidence of any in-service BH diagnoses, the VA has not service-connected the applicant for any BH condition, and the applicant has received support from the VA related to homelessness and substance use. There is no evidence of any psychiatric condition or diagnosis.

h. Per Liberal Consideration guidelines, his assertions of PTSD and harassment are sufficient to warrant consideration by the Board.

**BOARD DISCUSSION:**

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 found no error or injustice in the separation proceedings and designated character of service. The Board concurred with the medical advisor's review finding insufficient evidence the applicant had a behavioral health condition during military service that mitigates his discharge. Based on the short term of honorable service completed prior to a lengthy pattern of misconduct leading to the applicant's separation, the Board concluded that the characterization of service the applicant received upon separation was appropriate.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            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.

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. 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 (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) 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 (PTSD), traumatic brain injury (TBI), sexual assault, or sexual harassment. 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.

3. 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/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 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.

a. This guidance does not mandate relief, but rather provides standards and principles to guide BCM/NRs in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

4. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) or (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 14 (Separation for Misconduct) establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, use of illegal drugs, and convictions by civil authorities. 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 considered appropriate for a Soldier discharged under this chapter.

b. Chapter 3 (Character of Service and Description of Separation) provides:

(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.

(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.

5. Title 10, U.S. Code, section 1556 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.

//NOTHING FOLLOWS//