

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 August 2025

DOCKET NUMBER: AR20240012170

APPLICANT REQUESTS: an upgrade of his under other than honorable character of service and a personal appearance hearing before the Board via video or telephone.

APPLICANT'S SUPPORTING DOCUMENT 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, in effect:

a. He invites the Board to review his case and medical records for mental health at Camp Lejeune in 2001 for a psychological evaluation diagnosis of borderline personality disorder. He enlisted in the military with good intentions. Due to stress, fear, and training, he resorted to substance abuse alcohol, and drugs. He was young and had no prior experience with substance abuse before joining the Army. At the time, he was an easily influenced kid and was introduced to drugs and alcohol by his peers and he has suffered with this for years after departing from the military. He regrets the mistakes he made as a youth. He was diagnosed with borderline personality disorder at Camp Lejeune before he departed from the Army after they attempted to send him to a Marine hard labor camp. He had a breakdown that landed him on suicide watch. He struggled for years to find out later that he has a borderline personality disorder and post-traumatic stress disorder.

b. He was not ready to handle life as a paratrooper artilleryman. It's been a long battle with mental health. He asked for help but did not receive it while he was in the military. He was just labeled as trash and thrown out on the curb. He has a son who recently enlisted in the U.S. Army Reserve, a father who served in the Army in Vietnam, and a grandfather who served in the Army in World War I. He wants to clear his name and find understanding for all that he suffered while in the Army. As he looks back, it's

easy to recognize the injustice that was done. He doesn't wish that on any young Soldier considering he allowed his son to join. He asks that the Board consider reviewing his case as well as listen to his story of what transpired. He lives with the shame of this every day of his life and feels that this was not just a case of bad conduct, it was a case of poor leadership. He is just one of many who fell through the cracks of misguided Soldiers.

3. The applicant enlisted in the Regular Army on 25 January 2000. He served in military occupational specialty 13B (Cannon Crewmember).

4. Evidence shows the applicant received disciplinary action(s) in the forms of:

a. Summarized Record of Proceedings Under Article 15, Uniform Code of Military Justice (UCMJ), 7 February 2001, for making to First Sergeant R.J., an official statement, which statement was totally false and was then known by him to be so false on 30 January 2001. The punishment consisted of extra duty and restriction for 14 days.

b. Commanding General Article 15, dated 11 May 2001, for being disrespectful in deportment toward Staff Sergeant C.M.M. Jr, a noncommissioned officer, by walking away from him and shaking his head while he was speaking to him on 27 April 2001 and failing to go at the time prescribed to his appointed place of duty x 4 (27 April 2001 x 3 and 28 April 2001). The punishment consisted of reduction to E-2, forfeiture of \$272 pay per month for one month (suspended), and extra duty for 14 days.

c. Electronic copy of the DD Form 2624 (Specimen Custody Document – Drug Testing), dated 14 August 2001, reflects the applicant tested positive for Cocaine 197 during a command directed urinalysis testing conducted on 6 August 2001.

d. Field Grade Article 15, dated 20 August 2001, for missing movement 21 July 2001 and for being absent without leave (AWOL) 21 July 2001 until his return on 5 August 2001. The punishment consisted of reduction to E-1, forfeiture of \$584 pay per month for two months, and extra duty for 45 days.

e. Record of Trail by Summary Court-Martial, dated 18 September 2001, for going AWOL. The punishment consisted of forfeiture of 2/3 pay per month for one month and confinement for 29 days.

f. Numerous negative counseling statements for various actions of misconduct and performance.

5. On 25 October 2001, the applicant underwent a mental status evaluation in conjunction with separation actions. The psychologist noted the applicant had the mental capacity to understand and participate in the separation proceedings, was

mentally responsible, and met the retention standards of Army Regulation (AR) 40-501 (Standards of Medical Fitness). There was no evidence of any psychiatric condition which would have warranted disposition through medical channels. The applicant was psychiatrically cleared for any administrative action deemed appropriate by his command.

6. On 5 November 2001, the applicant's company commander informed the applicant that he was initiating action to separate him for under the provisions of AR 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c(2), abuse of illegal drugs, with a characterization of service of other than honorable. His commander cited the applicant's wrongful use of cocaine, making a false official statement, missing movement, disrespect to a noncommissioned officer, being AWOL, and numerous instances of failure to repair.

7. On the same day, the applicant acknowledged receipt of notification of the basis for the contemplated action to separate him from service.

8. On 7 November 2001, after consulting with counsel, he waived consideration of his case by an administrative separation board, waived counsel for representation and submitted no statements on his behalf. He acknowledged that he may expect to encounter substantial prejudice in civilian life if a general under honorable conditions discharge was issued to him. He further acknowledged if he received an under other than honorable conditions discharge, he may be ineligible for many or all benefits as a veteran under both Federal and State laws.

9. On 15 November 2001, his battalion and brigade commanders recommended he receive an under other than honorable discharge.

10. On 20 November 2001, the separation authority directed that the applicant be separated under the provisions of AR 635-200, paragraph 14-12c(2), misconduct-abuse of illegal drugs, and that he be discharged with an other than honorable discharge certificate.

11. On 11 December 2001, he was discharged in accordance with the separation authority's decision. His DD Form 214 shows he completed 1 year, 10 months, and 17 days of net active service. It further shows in:

- Item 18 (Remarks), he had not completed his first full term of service
- Item 24 (Character of Service), his service was characterized as under other than honorable conditions
- Item 25 (Separation Authority) AR 635-200, paragraph 14-12c(2)
- Item 27 (RE Code), the entry "4"
- Item 28 (Narrative Reason for Separation), the entry Misconduct

12. On 29 November 2016, the applicant applied to the Army Discharge Review Board to upgrade his discharge. After carefully examining the applicant's record of service the Board determined the characterization of his discharge was both proper and equitable and voted unanimously not to grant relief in the form of an upgrade of the characterization of his service to general under honorable conditions.

15. 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 something more favorable. 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 Regular Army on 25 January 2000.
- The applicant received disciplinary action for the following: making a false statement (2 February 2001), being disrespectful in department by walking away from an NCO (27 April 2001), testing positive for cocaine (6 August 2001), missing movement and being AWOL (21 July 2001), and numerous counseling statements for various actions of misconduct and performance.
- On 5 November 2001, the applicant's company commander informed the applicant that he was initiating action to separate him for under the provisions of AR 635-200, paragraph 14-12c(2), abuse of illegal drugs, with a characterization of service of other than honorable. His commander cited the applicant's wrongful use of cocaine, making a false official statement, missing movement, disrespect to an NCO, being AWOL, and numerous instances of failure to repair.
- The applicant was discharged on 11 December 2001 and completed 1 year, 10 months, and 17 days of net active service.

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 he was diagnosed with Borderline Personality Disorder and had a breakdown that landed him on suicide watch, and he has struggled with this condition and PTSD for years. He indicated PTSD and "other mental health" as issues or conditions related to his request. A Report of Medical Examination and a Report of Medical History dated 17 October 2001 showed no indication of any psychiatric symptoms or diagnoses, and the applicant was deemed qualified for service. A Mental Status Evaluation dated 25 October 2001 showed no evidence of any psychiatric condition, which would warrant disposition through medical channels, and the applicant was psychiatrically cleared for any administrative action deemed appropriate by command. The application did not contain any additional mental health records. 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 community care summaries showing the applicant had a prescription history for anxiety medications in 2012; stimulant medication in 2025; and antidepressant medication in 2025. Records showed diagnoses of PTSD and ADHD, but there was no documentation available for review.

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

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. A Report of Mental Status Evaluation from October 2001 showed no indication of any mental health symptoms or diagnoses. A review of JLV showed community summaries (2012 and 2025) with diagnoses of PTSD and ADHD, and the applicant had a medication history, which included an anxiolytic, antidepressant, and stimulant.

(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.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. The applicant did not include any mental health records post-discharge, but there was indication of diagnoses of PTSD and ADHD. However, there was no documentation of symptoms or treatment. There is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service. However, the applicant contends he had a mental health condition or an experience that mitigated his misconduct, and per Liberal Consideration his contention is sufficient for the board's consideration.

#### 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 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, available military records and the medical review, the Board noted the extensive misconduct the applicant received, including for using cocaine, being absent without leave, lying, and for disrespect. The Board concurred with the medical advisory opinion that there is insufficient evidence to support that the applicant had a condition or experience that mitigates his misconduct. Therefore, the Board determined, there was no error or injustice 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. A Report of Mental Status Evaluation from October 2001 showed no indication of any mental health symptoms or diagnoses. A review of JLV showed community summaries (2012 and 2025) with diagnoses of PTSD and ADHD, and the applicant had a medication history, which included an anxiolytic, antidepressant, and stimulant.

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3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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 is 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. AR 635-200 sets forth the basic authority for the separation of enlisted personnel.
  - a. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs,

convictions by civil authorities and desertion or absence without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. Army policy states that an under other than honorable conditions discharge is normally considered appropriate for a Soldier discharged for misconduct. However, a discharge under honorable conditions (general) or an honorable discharge may be granted.

b. Paragraph 3-7a provides that 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.

c. Paragraph 3-7b provides that 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.

3. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records 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 Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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. Section 1556 of Title 10, United States Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the 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.

5. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

//NOTHING FOLLOWS//