

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 September 2025

DOCKET NUMBER: AR20240012365

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show

- an upgrade of his general, under honorable conditions discharge to honorable
- his current legal name as shown on his Order Changing Name

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 of Support, undated
- Department of Veteran Affairs (VA) Letter, 1 May 2024
- Extract of Order Changing Name
- DD Form 214

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 following his return from Iraq in 2009, he began experiencing recurrent combat-related nightmares and persistent suicidal ideation. These symptoms progressively intensified, and he subsequently began experiencing intrusive visions during daytime hours, including while on duty. The onset of these symptoms occurred while stationed at Schofield Barracks, Hawaii, and persisted after his reassignment to Fort Riley, Kansas. He continued to experience daily suicidal thoughts and expressed concern that he might harm himself or others, resulting in his absence without leave. Upon his return, he was processed for separation due to this unauthorized absence. He was later diagnosed with post-traumatic stress disorder (PTSD) and major depressive disorder (MDD).
3. The applicant provides:

a. A letter from his former platoon sergeant while he was assigned to the 25th Infantry Division which noted the applicant informed him of the nightmares and suicidal thoughts. He reported this to his first sergeant and commanding officer. He further stated the applicant was an exceptional soldier and was selected for promotion ahead of his peers. The challenges did not occur until after he returned from Iraq.

b. A letter from the VA, dated 1 May 2024, certifies the applicant is receiving service connected compensation from the VA effective 1 December 2023, with a combined evaluation of 90 percent.

c. An extract from the Order Changing Name in the District Court of Franklin County, Kansas, shows the applicant's change of name from EEW to AEW; however, the page containing signature of judge and/or clerk of court is not included.

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

a. He enlisted in the Regular Army on 26 May 2005.

b. A DD Form 4 (Enlistment/Reenlistment Document) shows the applicant reenlisted for a period of five years for station of choice on 15 February 2008.

c. On 3 November 2009, he accepted nonjudicial punishment for one specification of absent without leave from 8 October 2009 to 21 October 2009, and one specification of false official statement. His punishment included reduction to the grade of specialist (SPC), E-4.

d. A Mental Health Evaluation memorandum, shows on 17 November 2009 the applicant underwent a mental health assessment. The evaluator recorded the applicant was diagnosed in accordance with Axis I, major depression, Axis II, deferred, and Axis III, asthma. The applicant was cleared for any administrative action deemed appropriate by command.

e. On 24 November 2009, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Chapter 14, Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) for commission of a serious offense. The specific reasons for his proposed recommendation were for his absence without leave, and false official statement. He acknowledged receipt on the same day.

f. On 24 November 2009, after consultation with legal counsel, he acknowledged the rights available to him and the effect of waiving said rights.

g. On 25 November 2009, his immediate commander initiated separation action

against the applicant for a commission of a serious offense. He recommended a general, under honorable conditions discharge.

h. On 30 November 2009, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation, under the provisions of Chapter 14, AR 635-200, paragraph 14-12c (2) (Commission of a Serious Offense). He would be issued a general, under honorable conditions discharge certificate.

i. On 1 December 2009, he was discharged from active duty with a general, under honorable conditions characterization of service. His DD Form 214 shows he completed 4 years, 5 months, and 23 days of active service. Block 18 (Remarks) shows he served in Iraq from 8 December 2007 to 28 February 2009. It also shows he was awarded or authorized:

- Army Achievement Medal
- Army Good Conduct Medal
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal with Campaign Star
- Army Service Ribbon
- Overseas Service Ribbon (2nd Award)

5. A review of the applicant's record confirms he an administrative entry was omitted from his DD Form 214. The entry will be added to his DD Form 214 as an administrative correction and will not be considered by the Board.

6. On 17 July 2013, the applicant was notified the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied his request for a change in the character and reason of discharge.

7. In reaching its determination, the Board can consider the applicants petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

8. 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 PTSD that 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) The applicant enlisted in the Regular Army on 26 May 2005; 2) On 3

November 2009, he accepted NJP for one specification of AWOL from 08 October 2009 to 21 October 2009 and one specification of false official statement; 3) The applicant served in Iraq from 8 December 2007 to 28 February 2009; 4) On 24 November 2009, the applicant's commander notified him of his intent to separate him under the provisions of AR 635-200, Chapter 14 due to going AWOL and making a false official statement; 5) The applicant was discharged on 1 December 2009, Chapter 14-12c(2)-Commission of a Serious Offense. His character of service was under honorable conditions (general). He completed 4 years, 5 months, and 23 days of net active service. 6) On 17 July 2013, the applicant was notified the Army Discharge Review Board (ADRB) that they reviewed the applicant's discharge but found it proper and equitable.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service and medical records. The VA's Joint Legacy Viewer (JLV) and hardcopy VA medical documentation 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 PTSD during his time in service that mitigates his misconduct. On 03 November 2009, the applicant presented acutely at the Emergency Department for a mental health evaluation following his return from 2 weeks of AWOL and developed SI/HI when he was told he would now receive 45 days of restriction. He was subsequently psychiatrically hospitalized and diagnosed with Adjustment Disorder with Disturbance of Emotions and Conduct. On 17 November 2009, following the applicant's release from a 13-day inpatient psychiatric hospitalization, the applicant underwent a mental status evaluation by a military mental health provider, who diagnosed him with Major Depression, Single Episode. However, he was deemed to meet retention requirements and was cleared for continued administrative actions from a mental health perspective. On 18 November 2009, the applicant arrived for a follow-up mental health appointment for Major Depression, while the applicant was in the process of separating from the military.

d. A review of JLV revealed that the applicant was connected with the VA, beginning on 25 March 2013, primarily for physical concerns. He began his connection with VA mental health services beginning on 16 August 2013 with the intention of becoming service connected for PTSD. He was diagnosed with PTSD, Chronic and Depression NOS. There was insufficient documentation of any consistent VA mental health treatment for these conditions. The applicant is currently 90% VA service-connected for various physical and mental health conditions that includes 70% for PTSD.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence to support the applicant had a mental health condition or experience that mitigates his misconduct. The applicant was psychiatrically

hospitalized and briefly treated for Major Depression, Single Episode, immediately before his administrative discharge. In addition, the applicant is currently VA service-connected for PTSD as a result of his previous deployment. As a result, there is sufficient evidence for consideration for partial mitigation for some of the applicant's misconduct per the Liberal Consideration Policy.

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 PTSD during his time in service, which mitigates his misconduct. The applicant was briefly diagnosed and psychiatrically hospitalized for Major Depression immediately before his discharge, following his misconduct. In addition, the applicant was diagnosed and service connected by VA mental health for PTSD.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service. The applicant was briefly diagnosed and psychiatrically hospitalized for Major Depression immediately before his discharge, following his misconduct. In addition, the applicant was diagnosed and service connected by VA mental health for PTSD.

(3) Does the condition experience actually excuse or mitigate the misconduct? Partially, there is sufficient evidence the applicant was diagnosed with and briefly treated for Major Depression. The applicant is now also VA service-connected for PTSD as a result of his previous deployment. The applicant did engage in avoidant behavior during active service such as going AWOL. This type of avoidant behavior can be a natural sequelae to some mental health conditions, including PTSD. However, there is no nexus between the applicant's mental health conditions including PTSD and his charge of making a false statement in that: 1) This manner of misconduct is not a part of the diagnosis or natural sequelae of most mental health conditions including PTSD; 2) Most mental health conditions, including PTSD, do not impact one's ability to distinguish right from wrong. Yet, the applicant contends he experienced mental health condition or experience while on active service, which mitigates his misconduct. The applicant's contention alone is sufficient for consideration per the Liberal Consideration Policy.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy and regulation.

- Upgrade his General Discharge to Honorable: Grant. The Board concurred with the medical advisory official who opined that there is sufficient evidence to support the applicant had a mental health condition or experience that mitigates his misconduct. The Board noted that he was psychiatrically hospitalized and briefly treated for Major Depression immediately before his administrative discharge. In addition, the applicant is currently VA service-connected for PTSD as a result of his previous deployment. Therefore, the granted determined the applicant's request warranted relief.
- Amend his DD Form 214 for Name Change: Grant. The Board found sufficient evidence to correction of the applicant's name pursuant to the Court Ordered Name Change and granted 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 misconduct? Yes, the applicant asserts he experienced PTSD during his time in service, which mitigates his misconduct. The applicant was briefly diagnosed and psychiatrically hospitalized for Major Depression immediately before his discharge, following his misconduct. In addition, the applicant was diagnosed and service connected by VA mental health for PTSD.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service. The applicant was briefly diagnosed and psychiatrically hospitalized for Major Depression immediately before his discharge, following his misconduct. In addition, the applicant was diagnosed and service connected by VA mental health for PTSD.

(3) Does the condition experience actually excuse or mitigate the misconduct? Partially, there is sufficient evidence the applicant was diagnosed with and briefly treated for Major Depression. The applicant is now also VA service-connected for PTSD as a result of his previous deployment. The applicant did engage in avoidant behavior during active service such as going AWOL. This type of avoidant behavior can a natural sequelae to some mental health conditions, including PTSD. However, there is no nexus between the applicant's mental health conditions including PTSD and his charge of making a false statement in that: 1) This manner of misconduct is not a part of the diagnosis or natural sequelae of most mental health conditions including PTSD; 2) Most mental health conditions, including PTSD, do not impact one's ability to distinguish right from wrong. Yet, the applicant contends he experienced mental health condition or experience while on active service, which mitigates his misconduct. The applicant's contention alone is sufficient for consideration per the Liberal Consideration Policy.

The Board concluded there was sufficient 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>	
XX	XX	XX	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 issuing a DD Form 214 for the period ending on 1 December 2009 to show in:

- Item 1 (Name - Last, First, Middle): to reflect the name listed on the Court Order
- Item 24 (Character of Service): Honorable

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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's records shows his DD Form 214 omitted administrative entries in the Remarks block. As a result, amend the DD Form 214 by adding in item 18 the entry "Continuous Honorable Active Service from 20050526 to 20080214."

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. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) states an honorable discharge is a separation with honor. 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. Paragraph 3-7b (General Discharge) states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

3. Army Regulation 635-8 (Separation Processing and Documents), currently in effect, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. Block 1 (Name) states compare original enlistment contract or appointment order and review official record for possible name changes. If a name change has occurred list other names of record in Block 18 (Remarks).

4. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) 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.

5. 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 DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD, traumatic brain injury, 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. The guidance further describes evidence sources and criteria and requires boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

6. 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 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.

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 based on 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.

7. Section 1556 of Title 10, United States Code, 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//