

IN THE CASE OF: ██████████

BOARD DATE: 7 August 2025

DOCKET NUMBER: AR20240012779

APPLICANT REQUESTS: an upgrade of his under honorable conditions (general) characterization of service; due to disability; and an appearance before the Board via video or telephone.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 293
- Psychiatric Evaluation and Progress Notes, dated 15 April 2024
- Department of Veterans Affairs (VA) Form 10-5345 (Request for and Authorization to Release Health Information), dated 20 September 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 not in the right state of mind. His mind was crippled, and he was dealing with post-traumatic stress disorder (PTSD) and other mental health conditions that he had no knowledge of at the time. He is disabled and wants to receive compensation and educational benefits.
3. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 19 March 2004.
 - b. He was reported absent without leave on 23 February 2005. His record is void of documentation showing his return to duty.
 - c. On 8 March 2005, he was notified by the Installation Provost Marshal that his installation privately owned vehicle (POV) driving privileges were suspended for a 12-month period due to possession/use of a controlled substance.

d. He received non-judicial punishment on 9 March 2005 for wrongfully possessing some amount of marijuana, on or about 8 March 2005, and for failure to go at the time prescribed to his appointed place of duty, on or about 30 January 2005. His punishment included reduction to private/E-1.

e. On 18 March 2005, he underwent a Mental Status Evaluation. The evaluating provider psychiatrically cleared him for any action deemed appropriate by command.

f. 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, prior to expiration term of service.

g. On 30 March 2005, he acknowledged receipt of the notification and endorsed that he was advised by counsel. However, his election of rights is not available for review.

h. His immediate commander formally recommended approval of the separation action.

i. The separation authority approved the recommended separation and directed the issuance of an under honorable conditions (general) characterization of service.

j. Accordingly, he was discharged on 18 April 2005 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 1 year and 24 days of net active service.

k. The Army Discharge Review Board considered his request for an upgrade of his character of service on 12 April 2006. After careful consideration, the Board determined he was properly and equitably discharged.

4. The applicant provides a psychiatric evaluation, dated 15 April 2024 and additional progress notes.

5. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (general) characterization of service to honorable and due to disability. On his DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD), and Other Mental Health Issues are related to his request. 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 19 March 2004, 2) he was reported absent without leave (AWOL) on 23 February 2005 and his record is void of documentation showing his return to duty, 3)

on 08 March 2005, PMO notified him that his driving privileges were suspended for a 12-month period due to possession/use of a controlled substance, 4) he received nonjudicial punishment (NJP) on 09 March 2005 for wrongfully possessing some amount of marijuana on or about 08 March 2005 and failure to go at the prescribed time to his appointed place of duty on or about 30 January 2005, 5) he underwent a Mental Status Evaluation on 18 March 2005 and was psychiatrically cleared for any action deemed appropriate by command, 6) the applicant was discharged on 18 April 2005 under the provisions of AR 635-200, paragraph 14-12b, by reason of misconduct, 7) his previous petition for relief to the ADRB for an upgrade of his character of service on 12 April 2006 was denied as it was determined that he was properly and equitably discharged.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. In-service medical records included as part of his application were reviewed. A Mental Status Evaluation (MSE) dated 18 March 2005 conducted for the purposes of consideration of separation due to misconduct shows all domains of the MSE were within normal limits. The provider documented that the applicant had the mental capacity to understand and participate in the proceedings, was mentally responsible, and met retention requirements of Chapter 3, AR 40-501. He was psychiatrically cleared for any administrative action deemed appropriate by command. Limited military medical records were available for review via JLV (5 in total). The applicant underwent a fitness for duty evaluation on 07 February 2005. It was documented that he reported getting into trouble because of decisions he makes, including going AWOL several times and not having military bearing. The evaluating provider documented that he reported experiencing some depressive symptoms but opined that they appeared to be related to his occupational problems. It was also documented that he expressed regret about past decisions and that he wanted to change his behavior and stay in the military. He was not diagnosed with a psychiatric condition and was deemed fit for duty.

d. A review of JLV shows the applicant is 100% service-connected through the VA for Psychosis, Disorganized Schizophrenia, effective 16 May 2024. He underwent a VA Compensation and Pension (C&) examination on 17 January 2025 showing he met criteria for Schizophrenia. Regarding the onset of symptoms, he reported he started having auditory hallucinations in adolescence and some depression and anxiety but never got treatment for it. It was documented that he had several prior inpatient psychiatric hospitalizations starting in 2008 and most recently as 2024 due to suicide attempt due to command hallucinations and Chronic Paranoid Schizophrenia. The

evaluating provider documented that “Schizophrenia is a psychosis that is a presumptive condition for service connection. Thus, the Schizophrenia is at least as likely as not incurred or caused during military service.

e. The applicant provided a psychiatric evaluation dated 15 April 2024 as part of his application. The applicant’s psychiatric history was briefly summarized, noting he had a recent psychiatric admission from 09 through 24 March 2024 for disorganized and paranoid ideation in the context of having recently moved. It was also documented that he had a history of several prior psychiatric hospitalizations for disorganization and was prescribed Haldol (antipsychotic) and Sertraline (antidepressant) and has carried a diagnosis of Schizophrenia. The provider appeared to have copies of his previous psychiatric treatment records indicating that he reported to his previous providers that he began experiencing symptoms in adolescence, noting auditory hallucinations, and were compounded by alcohol and cannabis use (though he had been sober for 2 years at the time of the evaluation). A psychiatry progress note dated 25 July 2024 shows his diagnosis as Chronic Paranoid Schizophrenia.

f. The memorandum recommending the applicant for separation dated 09 March 2005 documented the following reasons for the recommended action: received numerous counseling statements for failure to be at his appointed place of duty, disobeying a noncommissioned officer, absence without leave, wrongful possession of a controlled substance, receiving a field grade Article 15 for wrongful possession of a controlled substance, and leaving his appointed place of duty.

g. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence that the applicant has been diagnosed and 100% service-connected through the VA for Schizophrenia, which is a potentially mitigating BH condition. This Advisor contends that the totality of the applicant’s misconduct is mitigated by his diagnosis of Schizophrenia. However, as it pertains to his request for medical disability, there is insufficient evidence that he failed medical retention standards IAW AR 40-501 while in-service and thus a referral to DES is not warranted.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant has been diagnosed and 100% service-connected through the VA for Schizophrenia.

(2) Did the condition exist or experience occur during military service? Yes, the applicant has been diagnosed and 100% service-connected through the VA for Schizophrenia.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. Review of records shows the applicant has been diagnosed and 100% service-connected through the VA for Schizophrenia. As there is an association between disorganized thinking and planning, motivation, difficulty with authority figures, self-medicating with substances, and symptoms of psychosis, there is a nexus between the applicant's misconduct of going AWOL, disrespect of an NCO, failure to go at the prescribed time to his appointed place of duty, possession/use of marijuana, and his diagnosis of Schizophrenia. As such, BH mitigation is supported.

Regarding his request for medical disability, there is insufficient evidence that the applicant failed medical retention standards IAW AR 40-501, Chapter 3 while in the military. The available in-service medical records were void of any BH diagnosis or treatment history and documented that he met medical retention standards. Furthermore, the available military medical records did not document that he was reporting or exhibiting any symptoms consistent with an active psychotic process (i.e., hallucinations, delusions, etc.). Although he has been diagnosed and service-connected through the VA for Schizophrenia, it is of note that VA examinations are based on different standards and parameters, they do not address whether a medical condition met or failed Army retention criteria or if was a ratable condition during the period of service. Therefore, a VA disability rating does not imply failure to meet Army retention standards at the time of service or that a different diagnosis rendered on active duty is inaccurate. A subsequent diagnosis of Schizophrenia through the VA is not indicative of a misdiagnosis or other injustice at the time of service. His VA records show he was granted service connection for the condition in 2024, approximately 19 years after his discharge, with the earliest date of diagnosis of Schizophrenia documented as 2008/2009. As there is insufficient evidence in his military medical records documenting symptoms consistent with an active psychotic process in-service or showing that he failed medical retention standards due to a BH condition, a referral to the Disability Evaluation System (DES) is not warranted.

Regarding applicant's assertion of PTSD, while there is no evidence to support this diagnosis, applicant's self-assertion of PTSD alone merits consideration by the board.

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 noted that applicant's multiple disciplinary actions for

drug use, failing to go to his place of duty, and for being absent without authority. The Board determined that his characterization of service at the time of his separation was not in error or unjust. In addition, the Board reviewed and concurred with the medical advisor's review finding that there is insufficient evidence in his military medical records documenting symptoms consistent with an active psychotic process in-service or showing that he failed medical retention standards due to a BH condition, and that a referral to the Disability Evaluation System (DES) is not warranted. The Board determined there was insufficient evidence to change the characterization of service he received at the time of his discharge or that he should have been discharged due to a disability 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 has been diagnosed and 100% service-connected through the VA for Schizophrenia.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. Review of records shows the applicant has been diagnosed and 100% service-connected through the VA for Schizophrenia. As there is an association between disorganized thinking and planning, motivation, difficulty with authority figures, self-medicating with substances, and symptoms of psychosis, there is a nexus between the applicant's misconduct of going AWOL, disrespect of an NCO, failure to go at the prescribed time to his appointed place of duty, possession/use of marijuana, and his diagnosis of Schizophrenia. As such, BH mitigation is supported.

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

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:

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.

8/13/2025

X 

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 (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. Title 10, USC, Section 1203 provides for the physical disability separation of a member who has less than 20 years of service and a disability rating at less than 30 percent (%).

4. Title 38, USC, Sections 1110 and 1131, permit the Department of Veterans Affairs (VA) to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

a. The Army rates only conditions determined to be physically unfitting at the time of discharge which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career.

b. The VA does not have authority or responsibility for determining physical fitness for military service. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge, to compensate the individual for loss of civilian employability. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

5. 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. The regulation provides 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.

6. Army Regulation 40-501 (Standards of Medical Fitness) governs medical fitness standards for enlistment, induction, appointment (including officer procurement programs), retention, and separation (including retirement). Once a determination of physical unfitness is made, the physical evaluation board (PEB) rates all disabilities using the Veterans Affairs Schedule for Rating Disabilities (VASRD).

a. Chapter 2, provides physical standards for enlistment, appointment, and induction with the purpose to ensure members medically qualified are medically capable of completing required training, adapt to a military environment without geographical limitations, perform duties without aggravation of existing physical defects or medical conditions.

b. The standards in Chapter 2 are applicable to individuals who enlist in the Regular Army - for medical conditions or physical defects pre-dating original enlistment, standards are applicable for enlistee's first 6 months of active duty. It states that enlisted Soldiers identified within the first 6 months of active duty with a condition that existed prior to service, that does not meet the physical standards, may be separated following an evaluation by an Entrance Physical Standards Board, under the provisions of Army Regulation 635-200, Chapter 5; for Reserve Component and Army National Guard Soldiers.

7. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) establishes the Army Disability Evaluation System (DES) and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. It states, in part:

a. Only the unfitting conditions or defects and those that contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability. The mere presence of impairment does not, in and of itself, justify a finding of unfitness because of physical disability.

b. The PEB-appointed counsel advises the Soldier of the Informal PEB (IPEB) findings and recommendations and ensures the Soldier knows and understands his or her rights. The Soldier records his or her election to the PEB on the DA Form 199 and has 10 calendar days from the date of receiving the PEB determination to make the election, submit a rebuttal, or request an extension.

8. 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.

9. 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.

10. 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//