

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 August 2025

DOCKET NUMBER: AR20240012886

APPLICANT REQUESTS: upgrade of his under other than honorable conditions (UOTHC) discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Letter
- Military Records
- Letter from Department of Veterans Affairs (VA)
- Letters of Support
- Letter from Doctor
- Medical Records

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 pertinent part:

- He suffers from post-traumatic stress disorder (PTSD)
- He believes his service, while in the Army, was 100 percent in body and mind
- He takes full responsibility for his actions
- These incidents occurred before he was diagnosed with PTSD, which he did not know he was going through
- He believes he should receive the upgrade because PTSD was not known after the war or when he was discharged
- His personality had begun to change, and he was in denial
- His enlistment meant everything to him
- He let himself down but believes he earned full benefits
- He still conducts himself in a high manner and has raised his family as a Soldier

3. The applicant provides and his service record shows:

- On 25 September 1989, he enlisted in the Army and on 1 November 1989 he entered active duty in the Regular Army
- On 1 June 1990, permanent orders were published awarding him the Air Assault Badge
- On 26 April 1991, permanent orders were published awarding him the Combat Infantryman Badge
- On 19 June 1991, a Criminal Investigation Division report was completed showing the applicant had a positive urinalysis for use of cocaine and marijuana
- On 1 July 1991, the applicant's commander preferred a charge of wrongful use of cocaine and a charge of wrongful use of marijuana against the applicant
- On 12 July 1991, the applicant, after consulting with counsel, requested discharge for the good of the service in lieu of trial by court-martial
- On 23 July 1991, the appropriate approval authority approved the applicant's request for discharge and directed he be separated with an UOTHC discharge
- On 26 July 1991, the applicant was discharged for the good of the service, his character of service was UOTHC, his separation code was JFS, and his reentry code was 3
- On 7 June 2024, his doctor wrote a letter stating the applicant had been under the doctor's care and was diagnosed with service connected PTSD
- On 12 June 2024, he received a letter from the VA acknowledging receipt of his request for VA benefits
- The applicant provides letters of support

4. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under other than honorable conditions discharge. The applicant contends his request is related to his experience of 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 01 November 1989; 2) The applicant completed a 6 month and 28 day combat deployment to Southwest Asia; 3) On 19 June 1991, the applicant was positive for use of cocaine and marijuana during a routine urinalysis; 4) On 01 July 1991, the applicant was referred for a special court martial for: One specification of wrongful use of cocaine and one specification of wrongful use of marijuana; 5) The applicant was discharged on 26 July 1991, Chapter 10, by reason of for the good of the service. His character of service was under other than honorable conditions. The applicant completed 1 year, 8 months, and 26 days net active service this period.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the applicant's available military and medical service

records. The VA's Joint Legacy Viewer (JLV) and the applicant's provided hardcopy medical documentation was also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts he experienced PTSD while on active service, which mitigates his misconduct. There is insufficient evidence that the applicant reported or was diagnosed with a mental health condition while on active service.

d. A review of JLV did not reveal any results. There is insufficient evidence that the applicant is VA service-connected for any mental health condition. The applicant provided a hardcopy memorandum from Cook County Health, dated 07 June 2024, which reported that the applicant had been under medical care for PTSD. No additional information regarding the origin or course of the applicant's PTSD was available for review.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence to support 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 misconduct? Yes, the applicant asserts he experienced PTSD, which mitigates his misconduct. The applicant provided a hardcopy memorandum, dated 07 June 2024, describing that the applicant had been medically treated for PTSD by Cook County Health.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service, which mitigates his misconduct. The applicant provided a hardcopy memorandum describing that the applicant had been medically treated for PTSD by Cook County Health. However, there was insufficient information that the applicant's PTSD treatment was connected to his military service. In addition, there was insufficient documentation of treatment or diagnosis of any mental health conditions during his military service.

(3) Does the condition or experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report that the applicant has been diagnosed with PTSD attributed to the applicant's military service, at this time. There is evidence that the applicant was deployed to an active combat zone while serving in the military. In addition, during his time in service, the applicant engaged in avoidant and self-medicating behavior such as utilizing drugs. This type of behavior can be a natural sequelae to PTSD. However, the presence of misconduct is not sufficient evidence of a mental health condition. 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:

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, the record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was punished for wrongful use of cocaine and marijuana. The Board also concurred with the Agency Medical Advisor that there was insufficient evidence to support the applicant had a condition or experience that mitigates his misconduct. The Board concluded that the characterization of service the applicant received upon separation was not in error or unjust.

2. The Board considered the following Kurta questions:

a. Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced PTSD, which mitigates his misconduct. The applicant provided a hardcopy memorandum, dated 07 June 2024, describing that the applicant had been medically treated for PTSD by Cook County Health.

b. Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service, which mitigates his misconduct. The applicant provided a hardcopy memorandum describing that the applicant had been medically treated for PTSD by Cook County Health. However, there was insufficient information that the applicant's PTSD treatment was connected to his military service. In addition, there was insufficient documentation of treatment or diagnosis of any mental health conditions during his military service.

c. Does the condition or experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report that the applicant has been diagnosed with PTSD attributed to the applicant's military service, at this time. There is evidence that the applicant was deployed to an active combat zone while serving in the military. In addition, during his time in service, the applicant engaged in avoidant and self-medicating behavior such as utilizing drugs. This type of behavior can be a natural sequelae to PTSD. However, the presence of misconduct is not sufficient evidence of a mental health condition. 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 VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            GRANT FULL RELIEF

:            :            :            GRANT PARTIAL RELIEF

:            :            :            GRANT FORMAL HEARING

XXX        XXX        XXX        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. Army Regulation 635-200 (Personnel Separations – Active Duty Enlisted Administrative Separations) sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

a. 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 and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

c. 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to AD.

d. A discharge under other than honorable conditions is an administrative separation from the Service under conditions other than honorable. It may be issued in lieu of trial by court martial.

e. A Soldier who requests discharge as prescribed in chapter 10 may be discharged under other than honorable conditions if he/she has been afforded the opportunity (not less than 72 hours) to consult with a consulting counsel.

(1) The Soldier must certify in writing that he/she understands that he/she may receive a discharge under other than honorable conditions.

(2) The Soldier must understand the adverse nature and possible consequences of such a discharge.

(3) The Soldier must personally sign a request for discharge. A conditional request is not permitted.

(4) The consulting counsel will sign as a witness, indicating that he/she is a commissioned officer of The Judge Advocate General's Corps. A Soldier may waive consultation with a consulting counsel. Counsel will prepare a statement to this effect that will be attached to the file; the Soldier will state that the right to counsel has been waived.

f. A Soldier who has committed an offense or offenses, the punishment for which under the UCMJ and the Manual for Courts-Martial includes a bad conduct or dishonorable discharge, may submit a request for discharge in lieu of trial by court-martial.

3. Army Regulation 635-5-1 (Personnel Separations – Separation Program Designator (SPD) Codes), in effect at the time, prescribes the specific authorities, reasons for separating Soldiers from active duty, and the SPD codes to be entered on DD Form 214. It shows code JFS is used for discharge for the good of the service.

4. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) table 3-1 (U.S. Army reentry eligibility codes) states:

a. RE-1: Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army.

b. RE-3: Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation or disqualification is waiverable.

c. RE-4: Applies to: Person separated from last period of service with a nonwaiverable disqualification.

d. RE-4R: Applies to: A person who retired for length of service with 15 or more years active federal service.

5. 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 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.

6. 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 (TBI); 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. 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.

7. 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 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.

8. 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//