

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 August 2025

DOCKET NUMBER: AR20240013325

APPLICANT REQUESTS:

- in effect, reconsideration of his prior request for an upgrade of his under other than honorable conditions discharge to honorable
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Report of Separation from Active Duty)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20130002896 on 7 November 2013.

2. The applicants states he seeks a discharge upgrade on the grounds of experiencing sexual harassment, also listed as military sexual trauma (MST), during military service, which led to post-traumatic stress disorder (PTSD) and additional mental health conditions. His service-related conditions have significantly restricted his ability to pursue employment opportunities. An upgraded discharge status would provide critical support in overcoming those limitations and facilitate access to broader career options.

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

a. He enlisted in the Regular Army on 12 July 1977.

b. His DA Form 2-1 (Personnel Qualification Record) reflects the applicant was absent without leave (AWOL) from 14 February 1979 through 19 February 1979, and an additional day of AWOL on 26 June 1979.

c. The applicant accepted nonjudicial punishment on five separate occasions, as follows:

- 22 August 1978 – one specification of failure to be at his appointed place of duty and one specification of assaulting another Soldier by pushing him with his hands; his punishment of forfeiture of \$100.00 for one month (suspended)
- undated – the suspended portion of the applicant's punishment of forfeiture of \$100.00 for one month was vacated and executed; reason not listed
- 24 October 1978 – one specification of failure to obey a lawful order from a superior noncommissioned officer to unload a truck
- 17 April 1979 – two specifications of failure to obey a lawful order from a superior noncommissioned officer, one specification of AWOL, one specification of breaking restriction three specifications of failure to be at this appointed place of duty
- 21 June 1979 – one specification of failure to be at his appointed place of duty and one specification of being AWOL for 2 days

d. On 28 February 1979, the applicant was arrested and charged with aggravated assault for stabbing another Soldier several times with a large knife and then fleeing the scene. As a result of this incident, the applicant's promotion to private first class (PFC)/E-3 was blocked and his chain of command recommended he be considered for separation from the Army due to his frequent acts of misconduct.

e. On 27 April 1979, the applicant's unit commander notified him of his intent to initiate action to separate him from the service under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), paragraph 14-33b, for frequent incidents of a discreditable nature with civil or military authorities. Specifically, the commander cited the applicant's charges for several offenses from traffic violations to carrying an unregistered firearm and aggravated assault. She noted the applicant had been counseled numerous times about these charges and his poor attitude. The applicant not only involved himself with civilian authorities but carried his misconduct into his job and military life.

f. On 2 May 1979, after consultation with legal counsel, the applicant requested consideration of his case and a personal appearance before a board of officers, requested counsel, indicated he would submit statements in his own behalf, and indicated he understood the ramifications of the separation action.

g. On 3 July 1979, the applicant appeared before an administrative separation board. The board carefully considered the evidence before it and found that the applicant had been involved in frequent incidents of a discreditable nature with military and civil authorities. As a result, the board recommended the applicant be eliminated from the military service for reason of misconduct because of frequent incidents of a

discreditable nature with military and civil authorities and furnished an under other than honorable conditions discharge certificate. The convening authority approved the findings and recommendation of the board.

h. On 19 July 1979, the separation authority approved the applicant's separation action with the issuance of an under other than honorable conditions discharge and reduced to the lowest enlisted grade.

i. His Standard Form 88 (Record if Medical Examination) and his Standard Form 93 (Report of Medical History) show that there were no disqualifying mental or physical defects sufficient to warrant disposition through medical channels.

j. On 1 August 1979, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 shows he completed 2 years and 13 days of active service with 7 days of lost time.

4. On 14 February 2012, the ABCMR rendered a decision in Docket Number AR2013002896. The evidence shows the applicant was properly and equitably discharged in accordance with the regulations in effect at the time. There is no indication of procedural errors which would have jeopardized his rights. All requirements of law and regulation were met, and the rights of the applicant were fully protected throughout the separation process. Further, the applicant's discharge accurately reflects his overall record of service.

5. On 11 June 2025, the U.S. Army Criminal Investigation Division (CID) provided information for the processing of this case. CID conducted a search of the Army criminal files indexes regarding the applicant's claims regarding MST and no records were found.

6. There is no evidence the applicant has applied to the Army Discharge Review Board for review of her discharge within that board's 15-year statute of limitations.

7. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

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

9. MEDICAL REVIEW:

a. Background: The applicant is requesting reconsideration of his prior request for an upgrade of his under other than honorable conditions discharge to honorable. He contends PTSD, OMH, and harassment (MST) 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 12 July 1977.
- His DA Form 2-1 (Personnel Qualification Record) reflects the applicant was absent without leave (AWOL) from 14 February 1979 through 19 February 1979, and an additional day of AWOL on 26 June 1979.
- Applicant accepted nonjudicial punishment on five separate occasions, as follows:
 - 22 August 1978 – one specification of failure to be at his appointed place of duty and one specification of assaulting another Soldier by pushing him with his hands; his punishment of forfeiture of \$100.00 for one month (suspended)
 - undated – the suspended portion of the applicant's punishment of forfeiture of \$100.00 for one month was vacated and executed; reason not listed
 - 24 October 1978 – one specification of failure to obey a lawful order from a superior noncommissioned officer to unload a truck
 - 17 April 1979 – two specifications of failure to obey a lawful order from a superior noncommissioned officer, one specification of AWOL, one specification of breaking restriction, and three specifications of failure to be at the appointed place of duty
 - 21 June 1979 – one specification of failure to be at his appointed place of duty and one specification of being AWOL for 2 days
- On 28 February 1979, the applicant was arrested and charged with aggravated assault for stabbing another Soldier several times with a large knife and then fleeing the scene.
- On 27 April 1979, the applicant's unit commander notified him of his intent to initiate action to separate him from the service under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), paragraph 14-33b, for frequent incidents of a discreditable nature with civil or military authorities. Specifically, the commander cited the applicant's charges for several offenses from traffic violations to carrying an unregistered firearm and aggravated assault. She noted the applicant had been counseled numerous times about these charges and his poor attitude. The applicant not only involved himself with civilian authorities but carried his misconduct into his job and military life.

- On 1 August 1979, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 shows he completed 2 years and 13 days of active service with 7 days of lost time.
- On 14 February 2012, the ABCMR rendered a decision in Docket Number AR2013002896 and denied his request for an upgrade.

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 seeks an upgrade on the grounds of experiencing sexual harassment (MST) during military service, which led to post-traumatic stress disorder (PTSD) and additional mental health conditions. His service-related conditions have significantly restricted his ability to pursue employment opportunities. An upgraded discharge status would provide critical support in overcoming those limitations and facilitate access to broader career options.

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. JLV shows the applicant participated in two brief therapy sessions, on 17 April 2025 and 8 May 2025, he was diagnosed with Adjustment Disorder related to current issues. He participated in a discharge therapy session on 23 July 2025, since he indicated he was not interested in therapy only in upgrading his discharge status. He was provided with a resource to assist with the process of seeking an upgrade.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is minimal but sufficient evidence, based solely on his assertion, the applicant experienced harassment that partially mitigates his misconduct. However, his more serious offenses of physical assault of another Soldier, carrying an unregistered firearm, and aggravated assault with a weapon would not be mitigated by any of his asserted conditions/experience.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts the mitigating experience of sexual harassment – MST as well as PTSD and OMH.

(2) Did the condition exist or experience occur during military service? Yes. The applicant asserts experiencing sexual harassment while in service but did not provide any indication of the nature of the harassment, when it occurred, or by whom.

(3) Does the condition or experience actually excuse or mitigate the discharge? Partially. Given the association between MST and avoidance, his misconduct of repeated AWOL's and FTR would be mitigated by his experience of harassment. In addition, given the association between MST and difficulty with authority, his breaking restriction and failure to obey lawful orders would be mitigated. However, his more serious offense of physically assaulting another Soldier, carrying an unregistered firearm, and aggravated assault with a deadly weapon would not be mitigated by any of his asserted conditions. Assault is not a natural history or sequela of MST, PTSD, or OMH. In addition, none of the asserted conditions/experience impact the ability to distinguish right from wrong and act in accordance with the right. Although the applicant's contention of sexual harassment/MST is disheartening, his overall service record shows an ongoing pattern of behavior of a discreditable nature. The totality of the service record and the misconducts do not warrant an upgrade of the characterization of service.

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 applicant was separated for misconduct with the commander citing a frequent misconduct on multiple occasions. In addition, the Board concurred with the medical advisory official who states his more serious offenses of physical assault of another Soldier, carrying an unregistered firearm, and aggravated assault with a weapon would not be mitigated by any of his asserted conditions/experience. Therefore, the Board found no error or injustice in the separation proceedings and designated characterization of service assigned during separation. Based on a preponderance of the evidence, the Board concluded that the characterization of service the applicant received upon separation was appropriate.

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 the mitigating experience of sexual harassment – MST as well as PTSD and OMH.

(2) Did the condition exist or experience occur during military service? Yes. The applicant asserts experiencing sexual harassment while in service but did not provide any indication of the nature of the harassment, when it occurred, or by whom.

(3) Does the condition or experience actually excuse or mitigate the discharge? Partially. Given the association between MST and avoidance, his misconduct of repeated AWOL's and FTR would be mitigated by his experience of harassment. In addition, given the association between MST and difficulty with authority, his breaking restriction and failure to obey lawful orders would be mitigated. However, his more serious offense of physically assaulting another Soldier, carrying an unregistered firearm, and aggravated assault with a deadly weapon would not be mitigated by any of his asserted conditions. Assault is not a natural history or sequela of MST, PTSD, or OMH. In addition, none of the asserted conditions/experience impact the ability to distinguish right from wrong and act in accordance with the right. Although the applicant's contention of sexual harassment/MST is disheartening, his overall service record shows an ongoing pattern of behavior of a discreditable nature. The totality of the service record and the misconducts do not warrant an upgrade of the characterization of service.

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:

<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 as a basis for amendment of the ABCMR decision rendered in Docket Number AR20130002896 on 7 November 2013.

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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. 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.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), 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.

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//