

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 September 2025

DOCKET NUMBER: AR20250006632

APPLICANT REQUESTS:

- upgrade of his under other than honorable conditions discharge to honorable
- change the narrative reason to a more favorable designation

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

- DD Form 149 (Application for Correction of Military Record), 20 April 2024
- three letters of support from other Servicemembers

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 his issues were all alcohol related. He was consuming excessive amounts of alcohol to cope with undiagnosed post-traumatic stress disorder due to multiple combat tours. He was not given an opportunity for rehabilitation until he was already pending separation from the active Army.
3. The applicant provides three letters from Servicemembers:
  - a letter from ST\_\_\_\_, noting he completed 4 years of honorable service and reenlisted in Iraq where he suffered psychological injuries
  - a letter from Sergeant (SGT) JS\_\_\_\_, noting he was the only generator mechanic who had two deployments to Iraq, the second of which he lost a friend on a convoy which created a great deal of stress on him
  - a letter from JL\_\_\_\_, who noted the applicant became withdrawn from the other Soldiers due to the stress of the battlefield in Iraq
4. A review of the applicant's service record shows the following:

a. On 16 March 2009, the applicant reenlisted in the Regular Army for a period of 3 years, following an initial period of honorable service of 4 years, 8 months, and 1 day. He attained the rank of specialist (SPC).

b. He served in Iraq from:

- 17 November 2005 through 17 November 2006
- 1 April 2008 through 5 May 2009

c. He was counseled on diverse occasions for multiple failures to obey lawful orders, insubordination, indecent conduct with a civilian female in the barracks, drunk and disorderliness on post, failure to go, and failure to report.

d. On 24 February 2010, he was reprimanded by the Commanding Officer, 589th Signal Company. The memorandum of record reflects he was accused of rape by a female acquaintance on the night of 2 March 2008 through the early morning of 3 March 2008. On 12 December 2009, he was accused of accessory to trespassing after another female acquaintance with false identification was found in his barracks room. Although the female did not pursue the charge and the results of the investigation proved inconclusive, his actions and associations on the night were unacceptable and reflected poorly on he and his unit.

e. A Criminal Investigation Division (CID) Report of Investigation (ROI), dated 12 March 2010, reflects he and two other Soldiers were the subject of investigation for suspicion of rape of a civilian female on 7 March 2010, while assigned to 589th Signal Company. The ROI contains witness reports, statements, and the report of the CID Investigating Officer.

f. He accepted nonjudicial punishment:

- company grade on 25 February 2010, for failure to go and he was reduced to private first class (PFC), forfeited some pay and was given 14 days of restriction and extra duty
- Field Grade (FG) on 29 April 2010 for failure to go and failure to obey a lawful order; he received a suspended reduction to private first class (PFC), forfeited some pay and he was given 45 days of restriction and extra duty
- FG on 17 July 2010 for failure to go and he was reduced to private (PVT), given a suspended forfeiture some pay, and he was given 30 days of extra duty
- FG on 19 November 2010, for dereliction of duty on two occasions, and indecent sexual conduct with a female (7 March 2010), and he was given a suspended forfeiture of some pay, and received he 45 days of restriction and extra duty

g. On an unspecified date, his commander notified him he was initiating action to separate him under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c for commission of a serious offense, advised him of his rights, and noted he was recommending he receive an under other than honorable conditions characterization of service. The reasons noted were he committed an indecent sexual act, was derelict in performance of his duties, failed to report on diverse occasions, was drunk and disorderly, and violated a lawful general order.

h. On 19 January 2011, he acknowledged receipt of the notification, he elected his rights, and he provided a conditional waiver through counsel, electing to waive his administrative separation board, contingent upon receiving no less than an under honorable conditions (General) discharge.

i. On an unspecified date, the office of the staff judge advocate notified him to appear before an administrative separation board; he acknowledged this notification.

j. On 16 May 2011, the Board met and after hearing witnesses and reviewing evidence, the Board recommended he be separated with an under other than honorable conditions characterization of service.

k. On 3 June 2011, the commanding general approved the findings of the administrative separation board and directed his separation with an under other than honorable conditions characterization of service.

l. On 23 June 2011, he was discharged. His DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects he was discharged under the provisions of Army Regulation 635-200, paragraph 14-12c for misconduct (serious offense) with an under other than honorable conditions characterization of service. He completed 6 years, 11 months, and 9 days of net active service this period.

5. On 6 June 2013, the Army Discharge Review Board denied his application for an upgrade of his discharge, finding it was both proper and equitable.

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

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 and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was separated for misconduct under the provisions of Army Regulation 635-200, chapter 14-12c (Commission of a Serious Offense) for committing an indecent sexual act, dereliction of his duties, failure to report on diverse occasions, drunk and disorderly, and violation of a lawful general order. The Board determined his separation proceedings were in accordance with regulatory guidance and found no error or injustice. Therefore, the Board determined his narrative reason for separation and characterization of service was proper and equitable.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	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 correction of the records of the individual concerned.

X //Signed//

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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 (Active Duty Enlisted Administrative Separations), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.
  - a. 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. 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. Paragraph 14-12c further states commission of a serious offense includes abuse of illegal drugs or alcohol.
3. 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.
4. 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.

5. 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/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//