

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 February 2024

DOCKET NUMBER: AR20230005168

APPLICANT AND HER COUNSEL REQUEST: her DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 2 February 2021 by amending:

- Block 24 (Character of Separation)
- Block 26 (Separation Code)
- Block 27 (Reentry Code)
- Block 28 (Narrative Reason for Separation)

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

- DD Form 293 (Application for the Review of Discharge)
- Self-Authored Statement
- DD Form 214
- Medical Records
- Certificates/Awards
- Four Letters of Support
- Resume
- Medical Evaluation Board (MEB) Documents (24 pages)

FACTS:

1. The applicant and her counsel marked on the DD Form 293 she requested action on her character of service, separation code, reentry code, and narrative reason for separation. She further marked post-traumatic stress disorder (PTSD) and sexual assault/harassment as conditions related to her request. Counsel further noted the applicant was a victim of military sexual trauma (MST) and suffered from PTSD. The court-martial was not able to fully or fairly consider this. All of her alleged misconduct was the result of the anger and anxiety that resulted from the applicant's trauma. Prior to being a victim of MST, the applicant's service was exemplary, with numerous awards and recognition. The applicant's self-authored statement further noted:

a. In 2018, she was sexually assaulted in her barracks room at Fort Sam Houston, TX. She blamed herself for a long time believing she could have done things differently

and avoided it if she would not have invited him in or she should not have flirted with him. She should have said “no” more firmly or should not have frozen but has since learned that sexual assault is never the victim’s fault. She believed she could trust the person. She could not tell anyone for some time but seeing him caused her great anxiety. She also believes females in the military are alienated, distrusted, and kept at arm’s length because men in the military are frightened of the fact that they may have charges of sexual harassment brought against them.

b. Before the Army, she had become distrusting of those around her. She was sexually abused at a young age. It was reported, but nothing in the legal system was brought forward and it was then she learned that if she spoke up, nothing would be done, and she would not be heard. When she first joined the Army, she had a male Soldier sending her pornography and then begged her not to report it. He even had his friends reach out to her and beg her not to report it. She was sexually harassed by another Soldier while in training after they went out on a date. He asked her if she would perform any of his fantasies with him or someone else.

c. She was also harassed by a male noncommissioned officer (NCO) in the workplace in addition to a civilian coworker which created a hostile work environment. After all the incidents, it was easy to see why she did not report the rape and she held it in. She did not trust men she worked with and felt the military did not care. She began drinking heavily and sought psychiatric care multiple times but did not feel she was improving. She was going into a fast downward spiral and did not feel like she had anyone, nor did she feel like anyone cared. She finally sought help as she was leaving the military and was diagnosed with PTSD. She believes most of her healing has been done following her discharge. She can now speak freely and does not feel alienated or trapped.

2. The applicant and her counsel provide:

a. Her medical records which counsel identifies as related to PTSD and MST for the period from approximately 15 May 2019 through 22 May 2019.

b. The applicant’s certificates and awards include:

- Two Certificates of Achievement for work performance
- Three Certificates of Achievement for supporting Armed Services Blood Donor Program
- Certificate of Appreciation for participation in Defense and Veterans Brain Injury Center research study
- Certificate of Volunteer Work for participation in Sound the Alarm even
- Three Certificates of Completion for military training

c. Four letters of support describe the applicant as hard working, intelligent, a great Soldier, generous, caring, donates her money and volunteers her time, takes care of her family, made it her personal mission to assist others in class, dependable, responsible, honest, and courteous. She attends, mentors, and coaches Muay Thai and promotes self-confidence, discipline, self-awareness, patience, mind/body therapy for all ages. She is a keen leader who maintains her professionalism. An upgrade of her discharge was recommended. Letters of support were written by:

- Mr. EJE Jr. (father)
- Mr. ZP (former class leader)
- Sergeant First Class (retired) TMC (former shop foreman)
- DEST (Owner, CMT Gym)

d. The applicant's resume, available for review by the Board, shows her work history from time in the military through present, in her current role as a Field Engineering Specialist.

e. The applicant's MEB packet includes (24 pages):

- DA Form 3822 (Report of Mental Status Evaluation), dated 20 September 2018 – evidence of mental disease of sufficient severity to warrant disposition through medical channels
- DA Form 3947 (MEB Proceedings), dated 17 October 2018 – other specified trauma and stressor related disorder, did not meet standard, refer to Physical Evaluation Board
- DA Form 7652 (Commander's Performance and Functional Statement), dated 1 October 2018 – indicated applicant was pending separation under Chapter 14 due to misconduct and continuous disrespectful behavior
- Standard Form 600 (Chronological Record of Medical Care) – 7 pages, separation evaluation, dated 20 September 2018
- Medical Evaluation Report (Narrative Summary), dated 17 October 2018

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

a. She enlisted in the Regular Army on 24 May 2016.

b. On 1 November 2019, she was convicted by a general court-martial for one specification of being disrespectful in language towards an NCO on or about 12 March 2019 by saying "you need to hurry the f__ up with my packet, you are taking f__ forever," one specification of wrongfully destroying by striking against a bathroom counter an Apple iPhone 7 on or about 17 February 2019, damage in the sum of about \$500, the property of Airman Basic MDT, and one specification of unlawfully strangling Airman Basic MDT on the neck with her hands on or about 17 February 2019. Her

sentence included forfeiture of all pay and allowances, confinement for 6 months, and a bad conduct discharge.

c. On 13 February 2020, the convening authority approved the sentence and except for that part of the sentence extending to the bad conduct discharge, ordered the sentence executed.

d. Certificate of Completion of Appellate Review, dated 25 November 2020, after Article 71(c) was complied with, the sentence was affirmed and ordered the bad conduct discharge executed.

e. On 5 February 2021, she was discharged from active duty with a bad conduct discharge. Her DD Form 214 shows she completed 4 years, 5 months, and 6 days of active service with 97 days of lost time. She was assigned separation code JJD and the narrative reason for separation listed as "Court-Martial (Other)," with reentry code 4. It also shows she was awarded or authorized:

- Army Certificate of Achievement (9th Award)
- Army Achievement Medal
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Army Service Ribbon

4. On 4 October 2023, 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 and a law enforcement report (LER) was provided, LER [REDACTED] dated 9 April 2019. The LER indicated the applicant reported she was sexually assaulted by a male, active-duty Soldier; however, she did not know his last name nor the unit he was assigned to. The applicant declined to provide further details and was informed the office would have to close the investigation and could reopen the investigation if she elected to provide more information in the future.

5. On 11 October 2023, the responsive documents from CID were forwarded to the applicant's counsel for acknowledgment and/or response. A letter from counsel, dated 11 December 2023 was provided in rebuttal which noted the following:

a. The report concerns a 2018 sexual assault perpetrated by a fellow soldier and his client is the victim of this assault.

b. After the assault, his client felt hopeless and believed that nobody would understand or support her. So, she attempted to move forward on her own. However, she was not able to do so successfully, as the trauma she suffered caused her to

become angry, anxious, and distrustful. This affected her on-duty performance and eventually caused instances of substandard behavior.

c. At the urging of others, his client reported the assault in April 2019, but she was still distrusting, nervous, and consumed by anxiety. As she faced questioning by CID regarding the sexual assault, she experienced extreme anxiety, elected to file a restricted report and did not share key facts about the assault. Like many who experience sexual assault in the military, she felt re-victimized by the reporting process. Regrettably, the lack of complete evidence forced the Special Victims' Prosecutor to opine that no probable cause existed.

d. The trauma she suffered in the Army exacerbated the effects of the earlier trauma she suffered when she was the victim of sexual abuse as a child.

e. During her brief time in the Army, the applicant endured several instances of inappropriate behavior by her male coworkers. This is unfortunate and fed her distrust for others.

f. At the time of her court-martial, the applicant was fearful of being re-victimized by explaining and re-living her assault in court. Unfortunately, this meant that her assault and past history of sexual abuse were not fully and fairly considered by the court.

g. Had his client explained her history of abuse to the court, it would have mitigated her conduct and possibly served as a partial or complete defense to the charges. The trauma she suffered had a direct effect on her military bearing and inability to follow procedure. All of the alleged misconduct stems from her history of trauma and resultant mental health conditions.

h. It should also be noted that, prior to the sexual assault, the applicant was regularly commended, receiving both medals and certificates in recognition for her accomplishments and abilities. After her assault, the applicant's behavior and outlook radically changed, ultimately leading to her court-martial.

6. By regulation (AR 635-200), a member will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial. The appellate review must be completed, and the affirmed sentence ordered duly executed.

7. By regulation (AR 635-8), 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 28 (Narrative Reason for Separation) is

based on regulatory or other authority and can be checked against the cross reference in AR 635-5-1 (Separation Program Designator (SPD) Codes).

8. By regulation (AR 635-5-1), provides separation program designator (SPD) codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The narrative reason for the separation will be entered in block 28 of the DD Form 214 exactly as listed in Tables 2-2 and Tables 2-3 of the regulation. Table 2-3 (Enlisted Personnel) lists for SPD code JJD, the narrative reason as, "Court-Martial (Other)" in accordance with AR 635-200.

9. 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.

10. MEDICAL REVIEW:

a. Background: The applicant is requesting her DD Form 214 be amended to change her character of separation, separation code, reentry code and narrative reason for separation. She contends PTSD and MST are mitigating factors in the misconduct that led to her discharge.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Below is a summary of information pertinent to this advisory:

- Applicant enlisted in the Regular Army on 24 May 2016.
- On 1 November 2019, she was convicted by a general court-martial for one specification of being disrespectful in language towards an NCO on or about 12 March 2019 by saying "you need to hurry the f__ up with my packet, you are taking f__ forever," one specification of wrongfully destroying by striking against a bathroom counter an Apple iPhone 7 on or about 17 February 2019, damage in the sum of about \$500, the property of Airman Basic MDT, and one specification of unlawfully strangling Airman Basic MDT on the neck with her hands on or about 17 February 2019. Her sentence included forfeiture of all pay and allowances, confinement for 6 months, and a bad conduct discharge.
- On 5 February 2021, she was discharged from active duty with a bad conduct discharge.
- On 4 October 2023, 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 and a law enforcement report (LER) was provided, LER [REDACTED] dated 9 April 2019. The LER indicated the applicant reported she was sexually assaulted by a male, active-duty Soldier; however, she did not know his last name nor the unit he was assigned to. The applicant declined to provide further details and was

informed the office would have to close the investigation and could reopen the investigation if she elected to provide more information in the future.

- This report was provided to counsel. See supporting documents for counsel's response.

c. Review of Available Records Including Medical:

The Army Review Boards Agency (ARBA) Behavioral Health (BH) Advisor reviewed this case. Documentation reviewed included the applicant's completed DD Form 293, ABCMR Record of Proceedings (ROP), documents from her service record and separation, as well as a self-authored statement, medical records, certificates/awards, four letters of support, resume, and MEB documents. The VA electronic medical record and DoD health record were reviewed through Joint Longitudinal View (JLV). Lack of citation or discussion in this section should not be interpreted as lack of consideration.

d. The applicant and her counsel assert that the applicant was a victim of military sexual trauma (MST) and suffered from PTSD. They report that the "court martial was not able to fully or fairly consider this." They asserted that all of her misconduct was a result of anger and anxiety secondary to her trauma and that prior to her MST, she had exemplary service, gaining numerous awards and recognition. In her self-authored statement that applicant shared more about the impact of her MST, to include self-blame after the fact, as well as her experiences with childhood sexual abuse, how that was handled and how that taught her to be distrusting of others. She reported that in addition to the military sexual assault, she was also sexually harassed by more than one soldier to include an NCO. The applicant asserts that given these experiences, her coworkers had created a hostile work environment and it was therefore not easy to report the rape, so instead she held it in. She reported seeking psychiatric care numerous times but did not feel she was improving. Please see her supporting documents for further information.

e. The applicant's engagement with health care, to include mental health, can be found in her electronic health record (EHR). The applicant's EHR shows the applicant first engaged in mental health care on 18 May 2017 for a Command Directed Behavioral Health Evaluation (CDBHE) after displaying erratic behavior at work and disrespecting her chain of command (diagnosed with an adjustment disorder). During this evaluation she denied MST nor history of sexual abuse, but it was noted "SM had been known to be a very high functioning Soldier and the recent change has been worrisome." She returned to care in 2018, with concerns around attention and concentration (eventually diagnosed with ADHD). She was consistently engaged in care from 2018 through discharge. She engaged in individual therapy, group therapy, case management, substance use disorder clinical care (SUDCC), medication management, intensive outpatient therapy (IOP), and three inpatient psychiatric stays. She was diagnosed with problem related to unspecified psychosocial circumstances, alcohol abuse with alcohol induced mood disorder, other recurrent depressive disorders, PTSD – unspecified,

alcohol dependence – uncomplicated, suicidal ideation, adjustment disorder with anxiety, ADHD – combined type, and anxiety disorder.

f. Her supporting documents and service records also contained relevant medical information. The applicant was seen for a separation mental status evaluation (MSE) on 20 September 2018 (record of this evaluation is also in her EHR with an associated encounter note). The applicant was found to have the mental capacity to understand and participate in the proceedings. That said, she was diagnosed with other specified trauma and stressor related disorder, was noted as currently engaged in IOP, was restricted from access to firearms, was prohibited from alcohol use, and it was specifically noted that her mental health condition was a mitigating factor in the alleged behavior leading to administrative separation. During this evaluation, the provider determined she was as at the medical readiness decision point, hence triggering evaluation for a Medical Evaluation Board (MEB). Her supporting documents also included the applicant's MEB packet. Her MEB proceedings show that her other specified trauma and stressor related disorder did not meet medical retention standards and she was recommended for a referral to the Physical Evaluation Board (PEB) on 24 October 2018. The DES Commander's Performance and Functional Statement summarizes her misconduct (to that point) which was a pending chapter 14 separation due to her continued lack of customs and courtesies towards peers, senior NCOs and Officers. The applicant appears to have entered a holding period where decisions were being made between separation and MEB. During that time, additional misconduct occurred. There is no evidence of another MSE prior to trial, though the applicant was seen for a "medicolegal" assessment on 24 June 2019. However, the results of this type of assessment are not put in the medical record, nor was a copy available in the supporting documents. Given she participated in the court martial, this advisor presumes she was cleared for administrative processes.

g. The applicant and counsel included medical records which the counsel identified as relating to PTSD and MST for the period of 15 -22 May 2019. In an encounter from 16 May 2019 (also found in her EHR) she reported that she was sexually assaulted in her barracks in 2017, which caused her childhood sexual abuse trauma to affect her again. Her EHR noted that she submitted a restricted report in March of 2019. She noted deciding in March of 2019 to make it unrestricted but ended up opting out of pursuing changes as she "didn't want to go through all of that." The applicant's supporting documents also included evidence from CID that in 2019 she reported the sexual assault however the case was closed, due to lack of information given by the applicant. See counsel's statement for additional context on her experience of these events.

h. Per the applicant's VA EHR, she is not service connected. She has not been engaged in any mental health care through the VA and she holds no mental health diagnoses with the VA. However, given the characterization of her discharge, she would not typically be eligible for VA benefits. Through review of JLV, this applicant did have

“Community Health Summaries and Documents” available. Her summary indicated that she’s been diagnosed with PTSD and ADHD. No other medical records from her time post discharge were provided.

i. It is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a mitigating condition and experience during her time in service. Clemency and/or upgrade is supported, though her condition and experience would only mitigate some, but not all of the misconduct she was discharged for.

Kurta Questions:

(1) Does any evidence state that the applicant had a condition or experience that may excuse or mitigate a discharge? Yes. The applicant was diagnosed with numerous mental health conditions during her time in service, to include PTSD. In addition, the applicant asserted a sexual assault as well as sexual harassment, which was reported.

(2) Did the condition exist, or experience occur during military service? Yes, the MSTs, PTSD, and other mental health occurred during her time in service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Partial. Per liberal consideration guidelines, her assertion alone is worthy of consideration by the Board. That said, there is sufficient evidence of a mitigating mental health condition as well as a mitigating experience.

j. Her service and treatment records reflect a significant change in presentation and behavior by the applicant starting after her asserted assault in 2017, given she was viewed as a high functioning, highly intelligence and high-speed Soldier. The applicant’s EHR from her time in service supports significant mental health concerns, starting after the asserted rape, to include an eventual diagnosis of a trauma related disorder. The applicant was in the MEB/PEB process for the trauma related disorder starting in 2018, which predated the misconduct that led to her discharge but was approximately concurrent with her initial administrative separation process for a chapter 14. Her separation MSE, pertaining to the chapter 14, stated that her mental health was a mitigating factor in her misconduct. The applicant acquired additional charges while waiting for an MEB vs. chapter, though no new MSE was conducted (it appears there was a medicolegal evaluation, but results were not included).

k. In addition, there is also evidence of the applicant reporting her sexual assault in 2019 to CID, as well as an explanation from both the applicant and her counsel on why she waited to report and eventually chose a restricted report. It is incredibly common for survivors to never report, and her and her counsel’s account of her thought processes at the time are consistent with many survivor’s fears, responses, and experiences.

I. Use of disrespectful language, lack of customs, and courtesies destroying of property, and assault/strangulation of another soldier all occurred after her MST and are associated with her discharge. Acting out in anger and with irritability, and difficulty with authority, such as use of disrespectful language, lack of customs and courtesies, slamming a counter/breaking items, are behaviors associated with trauma and PTSD. There is a nexus between some of these symptoms/experiences and this misconduct. However, acting out with violence is not consistent with the natural history and sequelae of PTSD or MST. At a minimum, partial mitigation is supported with a narrative reason for separation change to Secretarial Authority.

BOARD DISCUSSION:

1. The Board carefully considered the applicant's request, the supporting documents, the applicant's service record, a medical review, and the published Department of Defense guidance for consideration of discharge upgrade requests based on clemency and or liberal consideration. The Board considered the applicant's statement, her record of service to include any deployments, the frequency and nature of her misconduct, the reason for her separation, and whether to apply clemency and/or liberal consideration. The Board considered the applicant's PTSD and MST claim and the review and conclusions of the ARBA Medical Advisor.
2. The Board found sufficient evidence of in-service mitigating factors and concurred with the conclusion of the medical advisory official regarding her misconduct being partially mitigated by PTSD and MST. The Board recommends granting partial relief by upgrading the applicant's character of service to "under honorable conditions (general)" and denying the remaining portions of the applicant's request.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing, in block 24 (Character of Service) the entry, "under honorable conditions (general)."

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to making any other records corrections.

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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. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 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 the 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. Paragraph 3-7c (Under Other Than Honorable Conditions) states a discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, homosexuality, security reasons, or for the good of the service.

d. Paragraph 3-11 (DD Form 259A (Bad Conduct Discharge Certificate) states a member will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial. The appellate review must be completed and the affirmed sentence ordered duly executed.

2. Title 10, U.S. Code, section 1552, provides that the Secretary of a Military Department may correct any military record of the Secretary's Department when the Secretary considers it necessary to correct an error or remove an injustice. With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under the UCMJ, action to correct any military record of the Secretary's Department may extend only to correction of a record to reflect actions taken by reviewing authorities under the UCMJ or action on the sentence of a court-martial for purposes of clemency. Such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that Military

3. Army Regulation 635-5 (Separation Processing and Documents) 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. The information entered thereon reflects the conditions as they existed at the time of separation. Block 28 (Narrative Reason for Separation) is based on

regulatory or other authority and can be checked against the cross reference in AR 635-5-1 (Separation Program Designator (SPD) Codes).

4. Army Regulation 635-5-1 (Separation Program Designator Codes) provides separation program designator (SPD) codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The narrative reason for the separation will be entered in Block 28 of the DD Form 214 exactly as listed in Tables 2-2 and Tables 2-3 of the regulation. Table 2-3 (Enlisted Personnel) lists for SPD code JJD, the narrative reason as, "Court-Martial (Other)" in accordance with AR 635-200.

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; TBI; sexual assault; sexual harassment. Boards were directed to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to 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 that misconduct which 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 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.

8. 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//