



7. A DA Form 5305-R (Family Care Plan (FCP)) was initiated on 17 January 2001. In her initial counseling her first sergeant had a discussion of initial counseling for FCP and ensured she understood the importance of a valid FCP.

8. On 11 June 2001, the applicant submitted a memorandum subjected Family Care Plan, stating she was unable to provide her unit with a short or long term FCP for her daughter. The reason for this was she had no one she trusts solely to be a guardian for her child in case of any kind of deployment.

9. She was again counseled on 20 July 2001, for failure to complete a valid FCP. She was given 30 days to provide a list of everyone she has contacted and a reason why they could not be a short/long term provider for her child.

10. She was counseled on her duty performance, personal issues, and upcoming events on 25 July 2001.

11. A memorandum, dated 8 August 2001, shows her commander recommended a general discharge. He states that since she arrived in the company, she has looked for a way out of the military. He spoke with the former company commander with her on several occasions, and each time she mentioned a different reason why she cannot be in the military, from depression and failure to adapt, to not having providers for her child in the event of a deployment or unaccompanied tour. The applicant's duty performance has been less than satisfactory; she will accomplish tasks only with close supervision. Her negative attitude has greatly affected this unit's morale. In conclusion, he strongly believes that the applicant would put together a family care plan if she wanted to stay in the military. Her intent all along was to find a way to get out of the military.

12. The applicant was flagged on 23 August 2001, for elimination.

13. On 12 September 2001, the commander-initiated actions to involuntarily separate her under the provisions (UP) of Army Regulation (AR) 635-200, (Personnel Separations – Enlisted Personnel), chapter 5, paragraph 5-8, due to parenthood. The reasons for his proposed action was, she was counseled on 20 July 2001, on establishing a FCP and she was given until 20 August 2001, to provide her unit with an adequate FCP, at which time she was unable to do so. He recommended her characterization of service to be general, under honorable conditions. The applicant acknowledged receipt of notification of separation UP of AR 635-200, chapter 5-8.

14. On an unspecified date, she was advised by counsel of the basis for the contemplated action to separate her for involuntary separation due to parenthood, UP of AR 635-200, paragraph 5-8, and its effects, of the rights available to her; and the effect of any action taken by her in waiving her rights. She waived consultation with counsel.

15. Her chain of command recommended she be separated from the Army prior to the expiration of her current term of service, UP of AR 635-200, paragraph 5-8, for involuntary separation due to parenthood. A general, under honorable conditions character of service was recommended.

16. On 17 September 2001, the discharge authority approved separation UP of AR 635-200, chapter 5-8 and directed she receive a general, under honorable conditions character of service.

17. Accordingly, she was discharged under honorable conditions on 27 September 2001. Her DD Form 214 shows she completed 9 months and 27 days net active service this period. It also shows:

- Item 25 (Separation Authority): AR 635-200, paragraph 5-8
- Item 26 (Separation Code): JDG
- Item 27 (Reentry Code): 3
- Item 28 (Narrative Reason for Separation): Parenthood

18. The applicant provided argument or evidence that the Board should consider 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 applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the Board concluded there was insufficient justification provided by the applicant to reflect an error or injustice. Therefore, the Board concluded the separation action completed was in accordance with all regulatory guidance and standards, and the separation characterization of service was fair and just.

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.

5/14/2024

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, 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 (AR) 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel from the Army.

a. Paragraph 5-8 states Soldiers will be considered for involuntary separation when parental obligations interfere with fulfillment of military responsibilities. (See AR 600-20, chapter 5, concerning soldiers' responsibilities for care of family members as related to military responsibilities.) Specific reasons for separation because of parenthood include:

(1) Inability to perform prescribed duties satisfactorily.

(2) Repeated absenteeism.

(3) Repeated tardiness.

(4) Inability to participate in field training exercises or perform special duties such as CQ and staff duty noncommissioned officer (NCO).

(5) Non-availability for worldwide assignment or deployment according to the needs of the Army.

b. Paragraph 5-1 state unless the reason for separation requires a specific characterization, a soldier being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conditions, or an uncharacterized description of service if in entry-level status.

c. Paragraph 3-7a states an honorable discharge is a separation with honor and 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.

d. Paragraph 3-7b states a general discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

3. 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 court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide BCM/NRs 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.

//NOTHING FOLLOWS//