

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 March 2024

DOCKET NUMBER: AR20230005816

APPLICANT REQUESTS: the narrative reason for her separation be changed from "Parenthood" to "Hardship."

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate or Release or Discharge from Active Duty)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 effect, she should have been released from active duty (REFRAD) under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 6 (Separation Because of Dependency or Hardship), paragraph 6-3b (Hardship) (1) (Parenthood of married Soldiers) because she was a Soldier with a child under 18 years old, a sole-parent, and would not be able to fulfill her military obligation without neglecting the child.
3. On 17 September 2001, the applicant enlisted in the Regular Army for a period of 3 years. Her DD Form 1966/1 (Record of Military Processing – Armed Forces of the United States) shows she was married and had two dependents.
4. The applicant's complete record, to include the specific facts and circumstances surrounding her REFRAD, is not available for review. However, her Enlisted Record Brief prepared on 20 February 2002, shows upon completion of training, she was assigned to a unit located as Fort Carson, CO. This document also shows she was married and had two dependents at the time, one adult, and one child.
5. Orders and her DD Form 214 confirm she was REFRAD on 28 June 2002 and transferred to U.S. Army Reserve (USAR) Control Group under the provisions of Army

Regulation 635-200, Paragraph 5-8. Her service was characterized as Honorable, her Separation Program Designator (SPD) code was "LDG," with Reentry code "3." The narrative reason for her separation was "Parenthood." She was credited with 9 months and 12 days of net active service.

6. The applicant's record is void of evidence showing she voluntarily requested separation under the provisions of Army Regulation 635-200, paragraph 6-3b(1), for hardship.
7. The applicant enlisted in the Michigan Army National Guard on 26 September 2006 and served until she was honorably discharged on 1 October 2010 by reason of being medically unfit for retention, under the provisions of Army Regulation 40-501 (Standards of Medical Fitness).
8. In reaching its determination, the Board shall consider the applicant's petition, available records, and/or submitted documents.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered.
2. The applicant's record is void of evidence showing she voluntarily requested separation under the provisions of Army Regulation 635-200, paragraph 6-3b(1), for hardship.

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.

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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. Title 10, USC, Section 1552(b), provides that applications for correction of military records must be filed within three 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 three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 635-200), in effect at the time, set forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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. Chapter 5 (Separation for Convenience of the Government), Paragraph 5-8, involuntary separation due to parenthood, provided, in part, Soldiers would be considered for involuntary separation when parental obligations interfere with fulfillment of military responsibilities. Specific reasons for separation because of parenthood included:

- (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 Charge of Quarters and staff duty noncommissioned officer
- (5) Non-availability for worldwide assignment or deployment according to the needs of the Army.

c. Chapter 6 (Separation Because of Dependency or Hardship) provides, in part, that a member may be discharged or released because of genuine dependency or hardship. Paragraph 6-3b(1), parenthood of married Soldiers, provided that a married Soldier who became a parent by birth, adoption, or marriage (stepparent) and whose child (or children) was less than 18 years of age and resided within the household, could apply for separation under hardship. The Soldier must submit evidence that the roles of parent and Soldier were incompatible and that the Soldier could fulfill his/her military obligation without neglecting the child or children.

3. Army Regulation 635-5-1 (SPD), in effect at the time, prescribed the specific authorities (regulatory, statutory, or other directives), the reasons for the separation of members from active military service, and the SPDs to be used for these stated reasons. The regulation provided, in pertinent part, that SPD "LDG" was the appropriate SPD to be entered on DD Form 214 for Soldiers involuntarily separated under the provisions of Army Regulation 635-200, Paragraph 5-8 by reason of Inability to perform prescribed duties due to parenthood. SPD "KDG" was the appropriate SPD for Soldiers voluntarily separated under the provisions of Paragraph 6-3b(1) by reason of Parenthood of married service woman or sole parent.

4. The Under Secretary of Defense (Personnel and Readiness) issued guidance to Service Discharge Review Boards and Service Boards for Correction of Military/Naval Records (BCM/NR) on 25 July 2018, 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 Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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//