

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 April 2024

DOCKET NUMBER: AR20230008042

APPLICANT REQUESTS:

- reinstatement of her rank to major (MAJ)
- all associated pay, allowances, and benefits of the rank of MAJ

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

- DD Form 149 (Application for Correction of Military Record)
- Table of Contents
- Continuation of Application
- Officer Record Brief (ORB)
- Soldier Talent Profile
- Legal Review Board of Inquiry (BOI)
- Killeen Police Department Release of Obligation
- Character Letter from [REDACTED]
- Character Reference from Dr. [REDACTED]
- Character Reference from Chief Warrant Officer Three (CW3) [REDACTED]
- Medical Record
- Treatment Summary
- Bell County Veterans Status Docket Participation
- 30 Day Report/Monthly Report
- BOI Timeline of Events
- 2019 in Review
- Letter Baylor Scott & White Health
- Newspaper Article regarding Letter from Applicant
- Command and General Staff College Diploma
- Defense Information School Diploma
- DA Forms 67-10-12 (Field Grade Plate Officer Evaluation Report (OER))
- Procedures for BOI
- Self-Authored Memorandum Grade Determination Consideration
- Memorandums of Endorsements for Applicant
- Orders 0004369854.00 Award of the Meritorious Service Medal (MSM)
- 20 Year Army Anniversary for the Applicant

FACTS:

## 1. The applicant states:

a. She is requesting reinstatement of her rank to MAJ and all associated pay, allowances, and benefits. She would officially retire three months from the date of her application and would be reduced to the rank of captain (CPT) through the Army Grade Determination Review Board (AGDRB) prior to her transition.

b. The correction should be made because the applicant believes in accordance with (IAW) Army Regulation (AR) 15-80 (AGDRB), three very pertinent circumstances were omitted from consideration of her grade determination.

c. Medical records, particularly her mental health and history of anxiety, depression and post-traumatic stress disorder (PTSD), attributed to a combat tour in 2003 and military service were not considered. Compassionate circumstances were not considered.

d. At the time of the incident, the applicant was undergoing a lot of heavy stressors that were documented. She had recently returned from a nine month deployment with 2nd Armored Brigade Combat Team (2ABCT), 1st Cavalry; was going through a divorce after 17 years of marriage; assumed full custody as a single parent of her three young sons one who is special needs and non-verbal, and another with Attention-deficit/hyperactivity disorder (ADHD) and oppositional defiance disorder (ODD); she had lost her parent/loco parentis to failed health; lost her sibling to murder four months later; and had subsequently assumed parental responsibility of his one year old son who she raises as her own today.

e. The applicant had also lost a close friend to cancer. She does not believe that the time she served satisfactorily as a MAJ was considered. She served faithfully and favorably for what would be 57 of 58 months by the time she officially retired.

f. Finally, there were unfortunate discrepancies in the case, as noted in the Board of Inquiry (BOI) that lead to harsher punishment than what might have been rendered otherwise. This correction should be made because she earned her rank and loved the Army despite what she had been through, while serving. She is still very proud to be a Soldier.

g. IAW AR 15-80, grade determination considerations include several circumstances. One is medical reasons, which may have been a contributing factor or decisive factor in misconduct. She has a documented history of anxiety, depression, PTSD, and adjustment disorder as noted in her supporting documents. Throughout her career, whenever time permitted and she was not deployed or placing her Army mission

first, she would try to seek mental health assistance via the chaplain, Army Community Service, and embedded behavior health resources. She knew she was overwhelmed and had felt the pressures of her complex life for years leading up to the event.

h. Another consideration is compassionate circumstances. Within a two year time span, leading up to the incident where she had an unfortunate altercation with her friend/colleague, she experienced significant loss. She lost a marriage, a parent to failed health, a sibling to murder, and a friend to cancer. She became a single parent to a special needs child, another child diagnosed with ADHD and ODD and a new child, the one year old son of her sibling. She had also recently reunited with family and friends after attending the ten month resident Command and General Staff Course (CGSC) followed by a two month public affairs course immediately followed by a nine month rotation in Europe, during COVID-19.

i. Finally, another consideration that is relevant in her case is the length of satisfactory service in the grade in question, before and after the incident. Upon her retirement date of 1 October 2023, she served 57 of the 58 months satisfactorily as a MAJ. She was promoted on 1 December 2018 while attending GCSC as Fort Leavenworth. She graduated and had a successful nine month Atlantic Resolve rotation with 1st Cavalry and received two favorable OERs prior to the incident. After the incident, she received two additional favorable OERs, recognition, and coin from the III Armored Corps Commanding General, and an MSM.

j. It is important to mention that the true severity of the incident in question was not considered. The case was dismissed in civil court for mental health considerations and the alleged victim, who is the applicant's good friend, never pressed charges.

2. The applicant provides the following documents:

a. A Soldier Talent Profile which shows information regarding the applicant's service. The document is available for the Board's consideration.

b. Memorandum subject Legal Review of the BOI for the applicant, dated 16 February 2022, states the proceedings complied with the legal requirements. The board made its findings and a full review of all the evidence officer, including the applicant. The board determined that all five allegations offered by the Government were not supported by a preponderance of the evidence and that all five did not warrant separation. Sufficient evidence supported those findings. The BOI recommended retention, which was consistent with the findings.

c. [REDACTED] Police Department Release of Obligation states a call was made to the [REDACTED] Police Department on 21 June 2021. The victim and the applicant had gotten

into an argument. The victim did not wish to press charges and requested the [REDACTED] Police Department close their investigation.

d. Character letter from [REDACTED] who has known the applicant for 15 years. The applicant was faced with a myriad of challenges and pain. She lost three family members in a three year time frame. The applicant did not have the time to truly grieve their deaths. There does not seem to be a limit to the applicant's giving nature. The applicant is a Soldier. She has always humbled herself to meet people where they were in life, not belittle or stand above them. The applicant is the epitome of what a Soldier should be. The entire letter is available for the Board's consideration.

e. Character statement from [REDACTED] who has known the applicant for 16 years. The applicant is a person of good moral character. The applicant was an upstanding member in her neighborhood. It was unfortunate she made some impulsive decisions that resulted in the case against her. She would emerge a better person having gone through the experience. The applicant expressed a deep sense of remorse for not remaining level headed the night of the incident. Despite the incident, the applicant was an honorable individual, a valuable member of the United States Army, and a good human being. The entire statement is available for the Board's consideration.

f. Character reference from Dr. [REDACTED] who was writing the letter based on his knowledge of the applicant's character, professionalism, integrity, ethics, and truthfulness since meeting her in 2016. By word and deed, the applicant was always professional, focusing on integrity and ethics. The applicant was held in high regard among the Army human resources and public affairs communities and contributed greatly to the Army as a whole. She would learn from the events and continue to provide excellent service and support to the Soldiers and leaders of any organization and be a valued member of any team. The entire reference is available for the Board's consideration.

g. Character reference from CW3 [REDACTED] who has known the applicant for 19 years in the capacity of mentor and friend. The applicant has served the Nation faithfully and admirably with over 18 years of phenomenal military service as an enlisted Soldier and as a commissioned officer. Her career is a testament of hard work, selfless service, and civility. Throughout her illustrious career, the applicant exemplified the highest ethical and professional standards. The applicant is the epitome of steward leadership. She possessed attributes engrained in loyalty, honesty, and dependability. She is a good role model for her Soldiers, her children, and community. The applicant is a valued asset to the Army. The entire reference is available for the Board's consideration.

h. Medical records, which show the applicant was being seen for adjustment disorder with anxiety and anxiety disorder unspecified. The applicant highlighted several

areas to bring to the Board's attention. The entire document is available for the Board's consideration.

i. A memorandum for record subject treatment summary states:

(1) The purpose of the memorandum was to provide a treatment summary of the applicant. The applicant deployed with the 4th Infantry Division in Operation Iraqi Freedom as a combat medic in 2003-2004. The doctor had been treating the applicant since October 2021.

(2) She was referred to the doctor for symptoms of anxiety, including insomnia and worry about a number of her life stressors. The applicant proactively sought outpatient behavioral health treatment for assistance. She had never been psychiatrically hospitalized. She had not suffered suicidal ideation, during her military service. She had not reported traumatic exposures and had not had a substance use disorder.

(3) The active diagnosis was generalized anxiety disorder. The prognosis for her diagnosis was good, especially with treatment. The entire memorandum is available for the Board's consideration.

j. Bell County Veterans Status Docket Participation is a specialized court-based program that monitors treatment attendance of veteran and active-duty participants whose criminal charges were impacted by service-connected mental health concerns. The entire document is available for the Board's consideration.

k. 30 Day Report/Monthly Report, states the applicant had attended intensive outpatient therapy. Her symptoms had persisted for over a six-month period in which acute stress disorder was indicated with a rule out of PTSD until further evaluation and extension of time was recorded. In September 2022, her diagnosis of acute stress disorder was exchanged for confirmed PTSD. The entire document is available for the Board's consideration.

l. BOI timeline of events, shows a timeline of the applicant's schedule from July 2018 through June 2021. The document is available for the Board's consideration.

m. A document entitled 2019 in review, which is a synopsis of the applicant's life at the end of 2019 and through 2020. The entire document is available for the Board's consideration.

n. A letter from Baylor, Scott, and White Health, which is a letter in reference to the applicant's son showing physician orders regarding the applicant's son.

o. A newspaper article wherein the applicant wrote a letter in reference to the murder of her cousin, who she thought of as her brother, outside a liquor store in Louisiana. The entire article is available for the Board's consideration.

p. The CGSC diploma shows the applicant graduated from CGSC on 14 June 2019.

q. Defense Information School Diploma shows the applicant completed the PA Qualification Course on 12 September 2019.

r. Procedures for BOI, shows the direct examination of Colonel (COL) [REDACTED] and COL [REDACTED]. The entire document is available for the Board's consideration.

s. Document regarding the applicant's 20 year Army anniversary which is available for the Board's consideration.

3. The applicant's service record contains the following documents:

a. DA Form 71 (Oath of Office - Military Personnel), dated 13 July 2007 shows the applicant took the oath of office as a Reserve Commissioned Officer, in the rank of second lieutenant.

b. Order Number 325-030, published by Headquarters, U.S. Army Human Resources Command (AHRC), dated 21 November 2018 shows the applicant was promoted to MAJ effective 1 December 2018 with a date of rank of 1 December 2018.

c. DA Forms 67-10-2, show the applicant received OERs as follows:

(1) 13 September 2019 through 1 May 2020, in the rank of MAJ. She was rated as proficient and highly qualified. She was the best Public Affairs Officer (PAO) her senior rater had worked with in 24 years. Limitless potential; promote to lieutenant colonel (LTC).

(2) 2 May 2020 through 1 May 2021, in the rank of MAJ. She was rated as proficient and highly qualified. She was among the top half of majors. Promote to LTC.

(3) 2 May 2021 through 29 September 2021, in the rank of MAJ. She was rated as capable and not qualified. Her senior rater stated he had directed her relief for cause. She had lost their trust and confidence in her abilities to represent the brigade in her capacity as the Public Affairs Officer (PAO) stemming from an assault incident. She had not demonstrated the potential to serve in positions of increased responsibility and should not be considered for promotion.

(4) 30 September 2021 through 1 August 2022, in the rank of MAJ. She was rated as proficient and highly qualified. Her senior rater stated superior potential. She was in the top 15 percent of field grade Officers.

(5) 2 August 2022 through 1 May 2023, in the rank of MAJ. She was rated as proficient and highly qualified. Her senior rater stated top 15 percent officer. Continue to place her in the most challenging positions, she would make a tremendous impact in the Army.

d. DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice), dated 30 July 2021 shows the applicant accepted nonjudicial punishment (NJP) for committing an assault upon MAJ ██████ intimate partner of the applicant, by pointing at her with a dangerous weapon to wit: a serrated knife; for unlawfully striking MAJ ██████ in the face with her fist; and for communicating a threat to MAJ ██████ The applicant received an oral and written reprimand [not available for the Board's consideration]. The applicant appealed the punishment and submitted additional matters. The appeal was denied. The allied papers of the NJP are available for the Board's consideration. The applicant's submitted matters were not available for the Board's consideration.

e. Memorandum subject Voluntary Retirement, dated 28 June 2022 shows the applicant requested voluntary retirement, in the rank of MAJ, effective 30 September 2023 with placement on the retired list effective 1 October 2023. On 11 August 2022 the applicant's commander recommended approval of her request for voluntary retirement.

f. Memorandum from AHRC subject Grade Determination for Retirement, dated 14 November 2022 requested a grade determination for the voluntary retirement of the applicant from the AGDRB. The applicant had received NJP for assault and conduct unbecoming an officer.

g. Memorandum to the AGDRB subject Endorsement for the applicant, dated 16 November 2022 from COL ██████ states he fully supported and recommended the applicant retain her grade of MAJ upon retirement. The applicant diligently and consistently performed at the LTC level daily to manage a diverse team of three junior CPTs, one Department of the Army (DA) civilian, and one contractor. She quickly integrated into the team and directed, with the COL's full confidence and authority, multiple challenging personalities with confidence and grace. Her efforts directly resulted in their ability to successfully stand up and sustain the People First Center, which has become the model for installation-level care of Soldiers and is currently a pilot program for the Army. The applicant easily functions at the LTC level in her challenging responsibilities and performance daily. Absolutely must retain grade of MAJ

upon retirement as she has undeniably earned it. The entire memorandum is available for the Board's consideration.

h. Memorandum to the applicant from the AGDRB, dated 22 November 2022 informed the applicant the AGDRB would recommend the highest grade in which she had served satisfactorily for retirement purposes to the Deputy Assistant Secretary of the Army (Review Boards) who would make a final decision. The applicant could submit written materials she wished the AGDRB to consider.

i. Memorandum to the AGDRB subject Endorsement for the applicant, dated 28 November 2022 from ██████████ states she recommended and fully supported the applicant be approved to retire in the rank of MAJ. The applicant was the linchpin within the III Armored Corps (IIIAC) Ready and Resilient (R2) and significantly contributed to the teams successful integration into the G-1. She was monumental in the success of the years first ever People First Summit. She assisted in facilitating several working groups. Her diligence, hard work, and dedication also directly resulted in their ability to successfully hire, onboard, and integrate the DA Integrated Prevention Advisory Group. The applicant's leadership and actions has assisted with bridging the gap between the military and civilian community around Fort Hood. Ms. ██████████ humbly asked the applicant retain her rank of MAJ upon retirement. The entire endorsement is available for the Board's consideration.

j. Self-authored memorandum subject Grade Determination for the applicant, dated 29 November 2022, states:

(1) The applicant humbly and respectfully asked the board's consideration of her memorandum and others included when determining for retirement, the last grade in which she served the Army successfully.

(2) She was working in the IIIAC R2 Directorate as the R2 and People First Center Executive officer and had been in the section beginning on 30 September 2021.

(3) Since the unfortunate events that transpired in June 2021 between herself and a colleague/friend that ultimately resulted in an Article 15, dated 17 August 2021, and a referred OER which covered four months rated time, she had fully and successfully recovered. She had received a favorable evaluation for the rating period of 30 September 2021 through 29 September 2022, which was with the senior rater being processed.

(4) The applicant received praise and recognition from the IIIAC Commanding General and other leaders and performed successfully with the IIIAC as validated in the memorandums of support/recommendation from both her R2 director as well as the



previous IIIAC Deputy G-1 who was serving as Supervisor of the DA mandated Fort Hood-Integrated Prevention Advisory Group.

(5) Since graduating from CGSC at Fort Leavenworth and the Defense Information School at Fort Meade in 2019, she deployed and was extremely successful with 2ABCT as the unit's PAO. That rotation resulted in a favorable nine-month OER.

(6) After that, she received a favorable annual OER as the PAO in garrison. Although she received unfavorable actions during a short four-month period, she continued to perform at the rate and standard for which she was promoted to MAJ. She served successfully in her current grade both before and after the event. By the date of the memorandum, her success covered approximately 44 of the last 48 months since her promotion in December 2018.

k. Army Review Boards Agency Vote Sheet, dated 19 December 2022 shows the final decision of the AGDRB was to downgrade her rank to CPT for retirement. The board stated while there was an argument for satisfactory service at the current grade, the seriousness of the misconduct was well below that expectation for satisfactory service as a MAJ. The serious misconduct of going to another residence with a knife, threatening to slash tires with the knife, then punching her partner in the face appears to be an isolated incident. Except for the referred OER, the remainder of the applicant's OERs show satisfactory service as a MAJ. The applicant's COL and civilian supervisor, for the period of time since the misconduct, submitted letters of support for retirement as a MAJ. The retirement is voluntary despite an Article 15 for the incident. The victim did not want any further action taken against the applicant.

l. Orders 004369854.00, dated 31 March 2023, awarded the applicant the MSM for exceptionally meritorious service throughout a 20-year career. The entire order is available for the Board's consideration.

m. DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 30 September 2023 honorably transferred the applicant to U.S. Army Reserve Control Group (Retired). The applicant was awarded or authorized the:

- MSM (3rd Award)
- Army Commendation Medal (2nd Award)
- Army Achievement Medal (2nd Award)
- Joint Meritorious Unit Award
- Valorous Unit Award
- National Defense Service Medal
- Global War on Terrorism Expeditionary Medal
- Global War on Terrorism Service Medal
- Korea Defense Service Medal

- Army Service Ribbon
- Overseas Service Ribbon (2nd Award)

n. The applicant's service record was void of the BOI.

4. On 17 October 2023, ARBA requested an advisory opinion from AHRC. On 17 November 2023 AHRC rejected their request.

5. Based on the applicant's assertion she suffered from PTSD and other mental health issues and on the documentation, she provided showing a diagnosis of PTSD and other mental health issues, the ARBA Medical Section provided a medical review for the Board's consideration.

6. MEDICAL REVIEW:

a. Request: The applicant is requesting reinstatement of her rank to major (MAJ) as well as all associated pay, allowances, and benefits of the rank of MAJ.

b. The opine will not address the issue of reinstatement of rank but will narrowly focus on exploration of BH conditions and potential mitigation of the incident precipitating the applicant's retirement from military service.

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

- Applicant enlisted in the RA on 9 January 2008.
- DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice), dated 30 July 2021 shows the applicant accepted nonjudicial punishment (NJP) for committing an assault upon MAJ [REDACTED] intimate partner of the applicant, by pointing at her with a dangerous weapon to wit: a serrated knife; for unlawfully striking MAJ [REDACTED] in the face with her fist; and for communicating a threat to MAJ [REDACTED]. The applicant received an oral and written reprimand [not available for the Board's consideration]. The applicant appealed the punishment and submitted additional matters. The appeal was denied.
- Army Review Boards Agency Vote Sheet, dated 19 December 2022 shows the final decision of the AGDRB was to downgrade her rank to CPT for retirement. The board stated while there was an argument for satisfactory service at the current grade, the seriousness of the misconduct was well below that expectation for satisfactory service as a MAJ. The serious misconduct of going to another residence with a knife, threatening to slash tires with the knife, then punching her partner in the face appears to be an isolated incident. Except for the referred OER, the remainder of the applicant's OERs show satisfactory service as a MAJ.

The applicant's COL and civilian supervisor, for the period of time since the misconduct, submitted letters of support for retirement as a MAJ. The retirement is voluntary despite an Article 15 for the incident. The victim did not want any further action taken against the applicant.

- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 30 September 2023 honorably transferred the applicant to U.S. Army Reserve Control Group (Retired).

d. 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 149, ABCMR Record of Proceedings (ROP), character reference letters, medical records, and documents from her service record and separation packet. The VA electronic medical record and DoD health record available for review through Joint Longitudinal View (JLV). Lack of citation or discussion in this section should not be interpreted as lack of consideration.

e. The applicant states she is requesting reinstatement of her rank to MAJ and all associated pay, allowances, and benefits. She would have officially retired three months from the date of her application and would be reduced to the rank of captain (CPT) through the Army Grade Determination Review Board (AGDRB) prior to her transition. Applicant indicates three very pertinent circumstances were omitted from consideration of her grade determination. Medical records, particularly her mental health and history of anxiety, depression and post-traumatic stress disorder (PTSD), attributed to a combat tour in 2003 and military service were not considered. Compassionate circumstances were not considered. At the time of the incident, the applicant was undergoing a lot of heavy stressors that were documented. She had recently returned from a nine month deployment with 2nd Armored Brigade Combat Team (2ABCT), 1st Cavalry; was going through a divorce after 17 years of marriage; assumed full custody as a single parent of her three young sons one who has special needs and is non-verbal, and another with Attention-deficit/hyperactivity disorder (ADHD) and oppositional defiance disorder (ODD); she had lost her parent/loco parentis to failed health; lost her sibling to murder four months later; and had subsequently assumed parental responsibility of his one year old son who she raises as her own today. The applicant had also loss a close friend to cancer. She does not believe that the time she served satisfactorily as a MAJ was considered.

f. The active-duty electronic medical record available for review shows the applicant was seen by Family Advocacy Program (FAP) for an intake session on 10 August 2010 and again on 13 September 2010 due to marital conflict. The applicant than presented, several years later, to behavioral health on 20 November 2015 due to insomnia. At the time, the applicant reported a history of participating in ongoing marital counseling with a civilian provider. She further shared that the recent birth of her third son resulted in adjustment issues in the family and triggered memories of her history of childhood

trauma. The applicant was provided with individual psychotherapy with a focus on coping strategies for improving sleep and decreasing depressive symptoms. She was diagnosed with Primary Insomnia and was seen intermittently until February 2017. Applicant participated in neuropsychological testing on 18 September and 11 October 2018, due to complaints of issues with cognitive function, memory issues and inattention. A note dated 15 October 2018 details the results of the evaluation and diagnosed her with Anxiety Disorder, unspecified, with some symptoms of generalized anxiety with insomnia. An encounter dated 05 November 2018 diagnosed her with Adjustment Disorder with anxiety. On 25 November 2019 the applicant self-referred to behavioral health in acute distress due to the death of her brother (homicide). The applicant further shared the loss of her parental figure, her aunt, and having to attend court dates regarding emergency custody of her brother's child. The applicant was supported via therapy and medication through December 2019. The applicant was seen again on 05 August 2020 by the FAP due to discharging her weapon in the home during an argument with her spouse; child protective services became involved with the family. The child protective service case was closed by the end of the month and the applicant continued to receive BH services until her retirement, she was diagnosed with Generalized Anxiety Disorder.

g. The VA electronic record indicates the applicant is currently 100% service connected, including 70% for PTSD. The applicant has been receiving behavioral health services via the VA since December 2023 and is treated with both therapy and medication.

h. Based on all available information, it is the opinion of this Agency Behavioral Health Advisor the applicant's misconduct of committing an assault upon an intimate partner by pointing at her with a dangerous weapon (a serrated knife), unlawfully striking her in the face with her fist; and communicating a threat would not be mitigated by any of her behavioral health conditions. While in service the applicant was diagnosed with: Insomnia, Anxiety Disorder, and Generalized Anxiety Disorder. Post-military service she has been diagnosed with PTSD. However, there is no nexus between these BH conditions and assault. Specifically, the BH conditions she has been diagnosed with do not impair an individual's ability to know right from wrong, understand consequences, and make purposeful, conscious decisions.

#### Kurta Questions:

(1) Does any evidence state that the applicant had a condition or experience that may excuse or mitigate a discharge? Not applicable.

(2) Did the condition exist or experience occur during military service? Not applicable.

(3) Does the condition or experience actually excuse or mitigate the discharge? Not applicable.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. One potential outcome was to deny relief based on the egregious misconduct of the applicant and the recommendation from the grade determination board. However, upon further review of the applicant's petition, available military records and medical review, the Board considered the advising official finding insufficient evidence that mitigates pointing a dangerous weapon (a serrated knife), unlawfully striking her intimate partner in the face with her fist; and communicating a threat. The opine also found no nexus between these BH conditions and assault. The Board recognizes the applicant is currently 100% service connected, including 70% for PTSD and receiving behavioral health services via the VA.

2. The Board notwithstanding the opine review, determined there is sufficient evidence to support the applicant's contentions for reinstatement of her rank to major (MAJ) and associated pay, allowances, and benefits of the rank of MAJ. The Board found the applicant had a stellar career throughout her 20 years of service and received two additional favorable OERs, recognition, and coin from the III Armored Corps Commanding General, and an MSM after the incident. Furthermore, the Board determined this was a onetime isolated incident with the applicant having a lapse in judgement. The Board noted the applicant' chain of command who had firsthand knowledge of the caliber officer she was fully supported her retaining her rank of major after the incident.

3. The Board found the applicant continued to perform at the rate and standard for which she was promoted to MAJ. Evidence shows the applicant served successfully in her current grade both before and after the event. By the date of the memorandum, her success covered approximately 44 of the last 48 months since her promotion in December 2018. With the preponderance of evidence and her chain of command's full support, the Board determined relief is warranted based on the applicant evaluations, deployments and prior honorable service prior to the incident Therefore, the Board granted relief to reinstate the applicant rank to major and pay allowances related to her reinstatement.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

█	:	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	█	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing the applicant was reinstated to the rank of major (MAJ) and entitled to any associated pay, allowances, and benefits of the rank of MAJ. Correction by DFAS is recommended for exact payment amount.

4/19/2024

X

█

CHAIRPERSON

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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. AR 600-8-24 (Officer Transfers and Discharges) states an officer is permitted to serve in the Army because of the special trust and confidence the President and the nation have placed in his patriotism, valor, fidelity, and competence. An officer is expected to display responsibility commensurate to this special trust and confidence and to act with the highest integrity at all times. However, an officer who will not or cannot maintain those standards will be separated. Elimination action may be or will be initiated for acts of personal misconduct, conduct unbecoming an officer.

2. AR 15-80, states that the Secretary of the Army (SA) retains the prerogative to accomplish discretionary grade determinations without referral to the Army Graded Determination Review Board (AGDRB). The SA retains sole authority to make discretionary grade determinations in cases involving general Officers. A grade determination is an administrative decision to determine appropriate retirement grade, retirement pay, or other separation pay. Although a lower grade determination may affect an individual adversely, it is not punitive. The AGDRB will consider each case on its own merits.

a. Paragraph 2-4 (Army Grade Determination Review Board and Grade Determination) states, in pertinent part, a grade determination is an administrative decision to determine appropriate retirement grade, retirement pay, or other separation pay. Although a lower grade determination may affect an individual adversely, it is not punitive. The AGDRB will consider each case on its own merits. Generally, determination will be based on the Soldier's overall service in the grade in question, either on active duty or other service qualifying the Soldier for service/physical disability retirement, receipt of retired pay, or separation for physical disability. Circumstances pertinent to whether such service is found satisfactory include, but are not limited to, the following:

(1) Performance level, as reflected in evaluation reports and other portions of the service record that reflect performance. In reviewing these matters, the AGDRB will consider whether reporting officials were aware of the misconduct or performance giving rise to the grade determination.

(2) The nature and severity of misconduct, if any. Although the punishment an individual has received may be one factor in determining the seriousness of misconduct, the amount of punishment will not be considered in determining whether "the individual has been punished enough." Grade determinations are not considered punitive, and the standard for grade determinations is "highest grade satisfactorily served," not whether the individual has been sufficiently punished.

(3) The grade at which the misconduct was committed.

b. Paragraph 4-1 (Officer Personnel Grade Determinations) states that an Officer is not automatically entitled to retire in the highest grade served on active duty. Instead, an Officer is retired in the highest grade served on active duty satisfactorily, as determined by the SA or the Secretary's designee. Officer grade determinations are normally accomplished at time of retirement or disability separation, and the Officer's grade is fixed at that time. A grade determination can be reopened by the Army after separation if:

- the separation and/or accompanying grade determination was procured by fraud

- substantial new evidence discovered contemporaneously with or within a short time following separation could result in a lower grade determination
- a mistake of law or mathematical miscalculation led to an improper separation or grade determination

3. Title 10 USC, section 1370 states that unless entitled to a different retired grade under some other provision of law, a Commissioned Officer who retires under any provision of law other than chapter 61 or chapter 1223 of this title shall, be retired in the highest grade in which he served on active duty satisfactorily, as determined by the SA. When an Officer is under investigation for alleged misconduct at the time of retirement, the Secretary concerned may conditionally determine the highest grade of satisfactory service of the Officer pending completion of the investigation.

4. Title 10, U.S. Code, section 1556 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//