

IN THE CASE OF: ██████████

BOARD DATE: 22 February 2024

DOCKET NUMBER: AR20230008749

APPLICANT REQUESTS:

- reconsideration of her prior request for an upgrade of her under honorable conditions (General) discharge to honorable
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 Worksheet

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20150000193 on 6 August 2015.

2. The applicant states she was told she would receive an honorable discharge and the DD Form 214 Worksheet she received when she was separated noted her character of service was honorable. When she received her DD Form 214 (Certificate of Release or Discharge from Active Duty), Member-4 copy, it listed her character of service as under honorable conditions (General). She believes her first sergeant (1SG) misled her regarding her character of discharge. She had been taking time off due to her daughter's poor health and 1SG told her she could leave early with a full honorable discharge to better deal with her daughter's health problems. If she would have known she was be given a general discharge, she would have remained in the Army for the few months that she had left. The reason for the delay is because she was dealing with family matters and her own post-traumatic stress disorder (PTSD). She attempted to get an upgrade previously but did not understand the correct process. The applicant indicates PTSD as a related condition to her request.

3. The applicant provides a DD Form 214 Worksheet which lists the exact information as her DD Form 214 with the exception of Block 23 (Character of Service), shows "Honorable."

4. A review of the applicant's service records show:

a. She enlisted in the Regular Army on 18 November 1999.

b. The applicant's service record was void of the facts and circumstances surrounding her discharge. It was also void of any evidence of misconduct.

c. On 8 July 2002, she was discharged from active duty with a under honorable conditions (General) characterization of service. Her DD Form 214 shows she completed 2 years, 7 months, and 21 days of active service with no lost time. She was assigned separation code JDG and the narrative reason for separation listed as "Parenthood," with reentry code 3. It also shows she was awarded or authorized:

- Army Good Conduct Medal
- National Defense Service Medal
- Army Service Ribbon
- Army Lapel Button

5. On 9 January 2004, the applicant was notified the Army Discharge Review Board (ADRB) reviewed the applicant's discharge processing but found it proper and equitable. The ADRB denied her request for an upgrade of her discharge.

6. On 6 August 2015, the ABCMR rendered a decision in Docket Number AR20150000193. The Board noted the applicant failed to submit evidence, nor was there evidence from any other source, that would show she was not properly and equitably discharged in accordance with the regulations in effect at the time. The Board presumed administrative regularity and denied the applicant's request. The Board determined there was insufficient evidence upon which to grant the relief requested.

7. By regulation (AR 635-5), 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.

8. By regulation (AR 635-200):

a. No Soldier will be awarded a character of service under honorable conditions under this chapter unless the Soldier is notified of the specific factors in his/her service record that warrant such a characterization, using the notification procedure.

b. Soldiers will be considered for involuntary separation when parental obligations interfere with fulfillment of military responsibilities. The service of members separated

because of parenthood will be characterized as honorable, under honorable conditions, or uncharacterized as warranted by their military record.

9. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

10. In reaching its determination, the Board can consider the applicants petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

11. MEDICAL REVIEW:

a. Background: The applicant is requesting reconsideration of her prior request for an upgrade of her under honorable conditions (General) discharge to honorable. She contends PTSD mitigates 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 RA on 18 November 1999.
- The applicant's service record was void of the facts and circumstances surrounding her discharge. It was also void of any evidence of misconduct.
- On 8 July 2002, she was discharged from active duty with a under honorable conditions (General) characterization of service. Her DD Form 214 shows she completed 2 years, 7 months, and 21 days of active service with no lost time. She was assigned separation code JDG and the narrative reason for separation listed as "Parenthood," with reentry code 3.

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 149, ABCMR Record of Proceedings (ROP), DD Form 214 Worksheet, DD Form 214, self-authored letter dated 29 August 2002, and documents from her service record and separation. 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.

The applicant states she was told she would receive an honorable discharge and the DD Form 214 Worksheet she received when she was separated noted her character of service was honorable. When she received her DD Form 214 (Certificate of Release or Discharge from Active Duty), Member-4 copy, it listed her character of service as under honorable conditions (General). She believes her first sergeant (1SG) misled her

regarding her character of discharge. She had been taking time off due to her daughter's poor health and 1SG told her she could leave early with a full honorable discharge to better deal with her daughter's health problems. If she would have known she would be given a general discharge, she would have remained in the Army for the few months that she had left. The reason for the delay is because she was dealing with family matters and her own post-traumatic stress disorder (PTSD). The applicant indicates PTSD as a related condition to her request. As evidence of her being informed that her discharge would be honorable, the applicant provides a DD Form 214 Worksheet which lists the exact information as her DD Form 214 with the exception of Block 23 (Character of Service), shows "Honorable."

d. Due to the period of service, no active-duty electronic medical records were available for review. However, in a self-authored letter dated 29 August 2002, the applicant states her daughter was sick and had to be hospitalized in December 2001. Following the child's discharge from the hospital, the applicant had to provide her with care. Her daughter was once again hospitalized from 12 February – 19 February 2002 and she was unable to return to work until March of 2002. VA electronic medical records available for review indicate the applicant is 70% service-connected including 50% for PTSD.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is evidence to support the applicant had a BH condition during military service. However, the applicant's service record was void of the facts and circumstances surrounding her discharge. It was also void of any evidence of misconduct. Given that AR 600-20 requires the commander to initiate separation proceedings under Chapter 5-8 for any interference with military duties arising from family responsibilities. It appears the applicant was discharge due to having to care for her sick child not due to misconduct, and it is strongly recommended her characterization of service be upgraded.

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 contends a mitigating condition.

(2) Did the condition exist or experience occur during military service? Yes. The applicant endorsed PTSD on her application, and she is 50% service-connected for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant endorsed PTSD on her application, and she is 50% service-connected for PTSD. Regardless, her record is void of any misconduct and the applicant appears to have been discharged due to her parenting responsibilities. Given the stressor of caring for a sick child who was repeatedly hospitalized, along with the additional traumatic

events that led to her service-connected PTSD, the applicant's discharge merits an upgrade.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the military record failing to show misconduct leading to the applicant's separation and the over two years of military service completed, the Board concluded there was sufficient evidence of an injustice warranting an upgrade to the applicant's characterization of service.

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 the evidence presented is 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 reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Honorable
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change

5/15/2024

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. Army Regulation (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

2. AR 635-5 (Separation 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.

3. AR 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, 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 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. Chapter 5-1b states no Soldier will be awarded a character of service under honorable conditions under this chapter unless the Soldier is notified of the specific factors in his/her service record that warrant such a characterization, using the notification procedure.

d. Chapter 5-8 of the regulation states Soldiers will be considered for involuntary separation when parental obligations interfere with fulfillment of military responsibilities. The service of members separated because of parenthood will be characterized as honorable, under honorable conditions, or uncharacterized as warranted by their military record.

4. 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.

5. 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.

6. 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.

7. 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//