

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 May 2024

DOCKET NUMBER: AR20230010968

APPLICANT REQUESTS: an upgrade of her under honorable conditions (general) discharge.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 AR20070012866 on 5 February 2008.

2. The applicant states she was just in the room when the other two females were together. She never used her DD Form 214 (Certificate of Release or Discharge from Active Duty), but now she really needs it upgraded for things she needs in life. She was in the wrong place at the wrong time and very young.

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

- a. She enlisted in the Regular Army on 10 August 1982.
- b. She served in Germany from 21 February 1983 to 9 March 1984.
- c. She accepted nonjudicial punishment on 30 August 1983 for participating in a breach of the peace by wrongfully wrestling in the Hinsing Club. Her punishment included reduction to private/E-2, suspended for 180 days.
- d. On 7 October 1983, the suspension of the punishment of reduction to private/E-2 was vacated. The vacation was based on the applicant altering a public document on 6 October 1983.
- e. On 26 January 1984, she accepted nonjudicial punishment for failing to obey a policy letter by having visitors in her room while the company was in the field. Her

punishment included reduction to private/E-1, suspended for 180 days. She elected to appeal and her appeal was subsequently denied on 6 February 1984.

f. On 6 February 1984, her immediate commander notified the applicant of his intent to initiate action to discharge her under the provisions of Army Regulation 635-200 (Enlisted Separations – Enlisted Personnel). The reason for his proposed action was the applicant consistently proved to be a disciplinary problem during the past year. She had failed to show any improvement in her conduct and attitude. Her three nonjudicial punishments convinced him that she was incompatible with military life. She acknowledged receipt on the same date.

g. On 6 February 1984, after consultation with counsel under the provisions of Chapter 13 of Army Regulation 635-200, she elected to submit matters in her own behalf.

(1) She understood that she may expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions was issued. She further understood that as a result of issuance a general discharge, she may be ineligible for many or all benefits as a veteran under both Federal and state laws.

(2) In her statement, she requested that an honorable discharge be considered. She was making this request because she did not wish to jeopardize her entire future because of her immaturity at the time. She realized she will not be able to reenlist for a period of 2 years. She intended to use the time to further her education and grow up.

h. On 24 February 1984, the separation authority approved the applicant's discharge under the provisions of Chapter 13 of Army Regulation 635-200. She would be issued a General Discharge Certificate.

i. On 9 March 1984, she was discharged accordingly. Her DD Form 214 shows she completed 1 year and 7 months of active service. It also shows in:

- item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): Army Service Ribbon and Expert Marksmanship Qualification Badge with Rifle Bar (M-16)
- item 24 (Character of Service): under honorable conditions
- item 25 (Separation Authority): Army Regulation 635-200, Chapter 13
- item 26 (Separation Code): JHJ
- item 27 (Reenlistment Code): RE 3, 3C
- item 28 (Narrative Reason for Separation): Unsatisfactory Performance

4. The applicant applied to the ABCMR for an upgrade of her characterization of service. On 5 February 2008, the ABCMR denied her request. The discharge

proceedings were conducted in accordance with law and regulation applicable at the time. The character of discharge is commensurate with the applicant's overall record of military service.

5. By regulation, action may be taken to separate a Soldier when it is determined that he or she is unqualified for further military service because of unsatisfactory performance.

BOARD DISCUSSION:

The Board carefully considered the applicant's request, evidence in the records, and published Department of Defense guidance for consideration of discharge upgrade requests. The Board considered the applicant's statement, her record of service, the frequency and nature of her misconduct, the reason for her separation and whether to apply clemency. The Board found insufficient evidence of in-service mitigating factors and the applicant provided no evidence of post-service achievements or letters of reference in support of a clemency determination. Based on a preponderance of the evidence, the Board determined the character of service the applicant received upon separation was not in error or unjust.

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.

9/24/2024


XCHAIRPERSON


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 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. 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. Chapter 13 of the regulation states a member may be separated when it is determined that he or she is unqualified for further military service because of unsatisfactory performance. The service of members separated because of unsatisfactory performance will be characterized as honorable or under other than honorable conditions, as warranted by their military record.

2. 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.

//NOTHING FOLLOWS//