

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 May 2024

DOCKET NUMBER: AR20230011112

APPLICANT REQUESTS: her under other than honorable conditions (UOTHC) discharge be upgraded to honorable.

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

DD Form 149 (Application for Correction of Military Record)

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 she requests review to change her discharge to honorable. She would like to receive Veterans Administration (VA) health benefits. Her main concern is after life costs. She does not want to burden her children.
3. The applicant enlisted in the U.S. Army Reserve (USAR) on 24 December 1985 for 8 years. Her military occupational specialty (MOS) was 76Y (Unit Supply Specialist).
4. She entered active duty on 18 June 1987 for initial active duty for training (IADT). She was released from active duty on 26 August 1987 and transferred to the USAR. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was released from active duty for expiration term of service. She completed 2 months and 9 days of net active service this period. Her service was uncharacterized (entry level status). [See Administrative Notes]
5. The applicant reenlisted in the USAR on 22 December 1994.
6. Orders 01-092-001, dated 2 April 2001, issued by Headquarters, 89th Regional Support Command Wichita, KS, shows the applicant was honorably discharged, effective date 2 April 2001.

7. The applicant reenlisted in the USAR on 22 May 2001.
8. The available record is void of a separation packet containing the specific facts and circumstances surrounding the applicant's discharge. However, Orders 04-076-00046, issued by Headquarters, 89th Regional Readiness Command Wichita, KS on 16 March 2004 show the applicant was discharged UOTHC, under the provisions of Army Regulation (AR) 135-178 (Army National Guard and Reserve Enlisted Administrative Separations) effective 16 March 2004.
9. AR 135-178 (Army National Guard and Army Reserve – Enlisted Administrative Separations), establishes policies, standards, and procedures governing the administrative separations of certain enlisted Soldiers of the Army National Guard of the United States and the USAR.
10. In reference to VA health benefit decisions. The decisions of the VA are solely within the jurisdiction of that agency. While the ABCMR can correct errors in an individual's military records it has no authority to direct or influence decisions by other agencies.
11. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

BOARD DISCUSSION:

1. The applicant's request for an upgrade of her character of service from under other than honorable conditions to honorable, her contentions, the military record, and regulatory guidance were carefully considered. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief was not warranted.
2. The Board concurs with the administrative note; the applicant's DD Form 214, ending 26 August 1987, should be corrected to show she received an honorable characterization of service because she was awarded a military occupational specialty and she was separated upon completion of required active duty service.
3. The available record is void of a separation packet containing the specific facts and circumstances surrounding the applicant's discharge from the USAR on 16 March 2004, with an under other than honorable conditions character of service. The Board determined it was inappropriate to recommend an upgrade of the applicant's characterization of service to honorable without knowing all the facts.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board concurs with the corrections addressed in Administrative Note(s) below, but found 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.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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.

ADMINISTRATIVE NOTE(S): reissue her a DD Form 214 for the period ending 26 August 1987 showing her character of service as honorable.

REFERENCES:

1. Title 10, USC, 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. AR 135-178 sets forth the basic authority for the separation of enlisted Reserve Component personnel.

a. Paragraph 2-9a provides that an honorable characterization of service 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.

b. Paragraph 2-9b provides that a general (under honorable conditions) characterization of service is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

c. Paragraph 2-9c provides that service may be characterized as under other than honorable conditions when discharge is for misconduct, fraudulent entry, unsatisfactory participation, or security reasons.

3. AR 635-200 sets forth the basic authority for the separation of enlisted personnel.

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. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to Soldiers whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

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 [Wilkie Memorandum], 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//