

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 May 2024

DOCKET NUMBER: AR20230011635

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

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 17 March 1988

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 applied for a Department of Veterans Affairs grant, but she does not qualify because of her under honorable conditions (general) character of service.
3. The applicant enlisted in the Regular Army on 5 January 1987, for a 4-year period. Upon completion of initial entry training, she was awarded military occupational specialty 16D (Hawk Missile Crewmember). The highest rank she attained was private/E-2.
4. Two DA Forms 4187 (Personnel Action) show the applicant was reported absent without leave on 23 November 1987. She returned on 24 November 1987 and was reported present for duty.
5. An additional DA Form 4187 shows the applicant requested a name change, on all official records, from Sxxxxx Lxxxxx Dxxxxx to Sxxxxx Lxxxxx Pxxxxxxxxx, by reason of marriage. The request was approved on 1 December 1987.

6. On 30 December 1987, the applicant underwent pregnancy counseling by her unit commander concerning the decisions she would have to make in connection with her pregnancy, to include retention or separation, maternity care, leave, maternity clothing and uniform, and housing allowance and Government quarters.

7. On that same date, the applicant indicated she desired separation from the Army, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), Chapter 8, by reason of pregnancy. She further acknowledged there was no coercion on the part of the counselor to influence her decision. She indicated that she desired to be released from active duty as soon as possible.

8. The applicant was notified on 22 February 1988 of her commander's intent to initiate action to separate her from the Army under the provisions of AR 635-200, Chapter 8, for pregnancy, with an under honorable conditions (general) discharge. The commander further stated the reason for this action was the applicant's non-judicial punishment under Article 15 of the Uniform Code of Military Justice (UCMJ), dated 29 December 1987, for the wrongful use of marijuana. The applicant acknowledged receipt of the notification on that same date.

9. The applicant's service record is void of a DA Form 2627 (Record of Proceedings Under Article 15, UCMJ), dated 29 December 1987, as referenced above by the applicant's commander.

10. The applicant consulted with counsel on 23 February 1988. She was advised of the basis for the contemplated separation action, and its effects; of the rights available to her; and the effect of waiving her rights. She further acknowledged understanding that she may expect to encounter substantial prejudice in civilian life if an under honorable conditions (general) discharge were issued to her. She elected not to submit a statement in her own behalf.

11. On 26 February 1988, the applicant's immediate commander recommended approval of her request for separation and further recommended the issuance of an under honorable conditions (general) discharge.

12. The separation authority approved the recommended separation on 2 March 1988 and further directed the applicant's service be characterized as under honorable conditions (general).

13. A DA Form 2496 (Disposition Form), dated 15 March 1988, shows the applicant was disqualified for the Army Good Conduct Medal, for the period 13 February 1987 to 16 March 1988, by reason of Article 15.

14. The applicant was discharged on 17 March 1988, under the provisions of AR 635-200, Chapter 8, by reason of pregnancy. Her DD Form 214 confirms her character of service was under honorable conditions (general), with separation code KDF and reenlistment code RE-3, 3B, 3C. She was credited with 1 year, 2 months, and 13 days of net active service, with lost time on 23 November 1987. She was awarded or authorized the following:

- Army Service Ribbon
- Expert Marksmanship Qualification Badge with Grenade bar
- Sharpshooter Marksmanship Qualification Badge with Rifle bar (M-16)

15. Regulatory guidance states, enlisted women who are medically diagnosed as being pregnant may, after the unit commander has counseled her concerning her options, entitlements, and responsibilities, voluntarily request separation under AR 635-200, Chapter 8, by reason of pregnancy. If the Soldier is beyond entry level status, service will be characterized as honorable or under honorable conditions (general), as appropriate.

16. The Board should consider the applicant's argument and/or evidence in accordance with the published equity, injustice, or clemency determination guidance.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests. The applicant was discharged under the provisions of AR 635-200, Chapter 8, by reason of pregnancy. Her DD Form 214 confirms her character of service was under honorable conditions (general). She completed 1 year, 2 months, and 13 days of net active service, with lost time on 23 November 1987. The Board found no error or injustice in her separation processing. Also, the applicant provided no evidence of post-service achievements or letters of reference of a persuasive nature in support of a clemency determination. Based on a preponderance of evidence, the Board determined that 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.

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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 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 635-200 sets forth the basic authority for the separation of enlisted personnel.
 - a. Chapter 8 establishes policy and procedures and provides authority for the voluntary separation of enlisted women because of pregnancy. This chapter applies to all Active Army enlisted women, Army National Guard, and U.S. Army Reserve enlisted

women ordered to active duty. Enlisted women who are medically diagnosed as being pregnant may, after her unit commander has counseled her concerning her options, entitlements, and responsibilities, request separation under this chapter.

b. If a Soldier is beyond Entry Level Status, service will be characterized as honorable or under honorable conditions per Chapter 3, Section III. Prior to characterization as under honorable conditions, the soldier shall be advised of the specific factors in the service record that warrant such a characterization and the notification procedure shall be used.

c. Paragraph 3-7a provides that 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.

d. Paragraph 3-7b provides that an under honorable conditions (general) discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

3. 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 Record (BCM/NR) 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.

//NOTHING FOLLOWS//