

IN THE CASE OF: ██████████

BOARD DATE: 21 June 2024

DOCKET NUMBER: AR20230011885

APPLICANT REQUESTS: reinstatement to the rank/grade of sergeant (SGT)/E-5.

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

- DD Form 149 (Application for Correction of Military Record)
- Two DD Forms 214 (Certificate of Release or Discharge from Active Duty), for the periods ending 26 August 1982 and 19 March 1987
- DA Form 2166-6 (Enlisted Evaluation Report), February 1986 and June 1986
- SF 513 (Clinical Record), 12 December 1986
- Photographs
- Veterans Administration Form 21-0781a (Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Assault), 21 January 2020

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 that she was reduced as a result of several instances of sexual harassment, racial harassment/discrimination and retaliation based on her unwillingness to be dishonest. She notes that she was denied legal assistance and the opportunity to appeal the actions taken. Instead, she was improperly discharged due to being pregnant. She contests that her leadership reduced her in rank as a form of retaliation as confirmed by the provided evaluations.

a. She contests that it is illegal to promote personnel while they are suspended from favorable personnel actions (flagged). She notes that in 1986, a civilian administrative assistant was hired (Mrs. ██████████). During a Battle Training Assembly (BTA), Mrs. ██████████ (an African American female) noticed that several officers were signing the attendance roster for others that were not in attendance. She reported these actions to the leadership. She supported the actions taken by Mrs. ██████████ After reporting the

fraudulent actions, the leadership began to harass Mrs. [REDACTED] prompting her to file a formal complaint with the Civilian Personnel Office. Mrs. [REDACTED] was later reassigned to another unit and her former position was filled by a caucasian male (Mr. [REDACTED]). She was now the only African American assigned to the administrative section of the unit. She noticed in the following months that her files were being destroyed despite them being secured.

b. In September 1986, her pregnancy was confirmed noting that she was approximately 3 months pregnant. In the absence of available military maternity clothing, she was permitted to wear civilian clothing. Her leadership was unhappy with this action. On several occasions she was required to expose her abdomen to confirm that she was wearing maternity clothing. Mr. [REDACTED] would often draw pictures of African Americans and inscribed the word "Boof" on the chalkboard, which is a derogatory term used in reference to African Americans. Further, her leadership would harass her by calling the clinic to confirm her appointments. She notes that these actions became unbearable prompting her prenatal care physician to refer her for a mental health consultation in December 1986. She was advised that her work related issues were due to a personality conflict. She contests that she was denied a comprehensive evaluation and returned to work.

c. As the time progressed and the harassment continued, she requested reassignment. Her request was denied prompting her to request to be voluntarily discharged due to pregnancy. Following the birth of her child she reenlisted to continue her military career. She expressed interest in attending Officer Candidate School but her former command was opposed to this. She notes that she never served a day of her reenlistment.

d. After being discharged, she emotionally attempted to bury her military experience. In 2020, she was diagnosed with PTSD related to the stress and harassment that she experienced while serving in her last unit. Her statement is provided in its entirety within the supporting documents for the Board member's review.

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

a. On 16 January 1982, the applicant enlisted in the U.S. Army Reserve (USAR) for 6 years.

b. On 7 January 1985, the applicant was ordered to active duty within the Active Guard/Reserve (AGR) program.

c. On 17 June 1985, the 89th U.S. Army Reserve Command issued Orders Number 168-005 announcing the applicant's promotion to the rank/grade of specialist five (SP5)/E-5, effective 7 July 1985.

d. On 22 December 1986, the 89th U.S. Army Reserve Command issued Orders Number 356-10 announcing the applicant's reduction from SGT/E-5 to specialist four (SP4)/E-4, effective 22 December 1986, in accordance with Army Regulation (AR) 140-158 (Enlisted Personnel Classification, Promotion and Reduction).

e. On 19 March 1987, the applicant was honorably released from active duty in accordance with AR 635-200 (Personnel Separations - Enlisted Personnel), Chapter 8 (Separation of Enlisted Women – Pregnancy) at the rank of SP4 and transferred into the USAR Control Group (Reinforcement).

f. On 13 January 1988, the USAR Personnel Center issued Orders Number D-01-004827 honorably discharging the applicant from the USAR, effective 15 January 1988.

4. The applicant provides:

a. DA Form 2166-6 reflective of the applicant's professional performance as evaluated by members of her immediate leadership from July 1985 - June 1986. During the initial review (July 1985 – February 1986 in the rank of SGT), the applicant was viewed as extremely proficient and knowledgeable despite initially arriving to the unit inexperienced. She was further recommended by her rater to be promoted ahead of her peers. However, during her annual review (July 1985 - June 1986 in the rank of SGT), the applicant was viewed as needing improvement noting that her performance was less than anticipated. She was still recommended for promotion with her peers.

b. SF 513 dated 12 December 1986, reflective of the applicant, while pregnant, being referred to the community mental health clinic for an evaluation of job-related stress.

c. Photographs of a variety of things. The word "Boof" is inscribed in one picture. The applicant further provides the definition of "Boof" as a derogatory slang for African Americans.

d. Veterans Administration Form 21-0781a dated 21 January 2020, reflective of the applicant's statement that she was responsible for advising her leadership (First Sergeant and Executive Officer) that they were not permitted to award personnel for outstanding performance during the same BTA that they tested positive during a urinalysis. She refers to her role in this and the responsibility to address these actions as a stressful event. No additional information is provided.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, 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 review based on law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined although his record contains reduction orders from sergeant (SGT) to specialist (SPC), there was no additional information outlined by the U.S. Army Reserve. The Board noted the applicant's contention that his reduction was a result of sexual harassment, racial harassment, and retaliation. Based on the applicant's contention and other evidence provided supporting such contentions, the Board granted relief.

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 Army records of the individual concerned be corrected by

- revoking his reduction order (Order 356-10), dated 22 December 1986
- amending his DD Form 214, for the period ending 19 March 1987 to show in:
  - item 4a (Grade, Rate or Rank): SGT
  - item 4b (Pay Grade): E-5
  - item 6 (Date of Rank): 7 July 1985
- amending his USAR discharge order (Order #D-01-004827), dated 13 January 1988, to reflect SGT

  
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 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. 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 140-158 (Enlisted Personnel Classification, Promotion and Reduction) Chapter 7 (Reductions and Restorations) outlines policy and procedures governing grade reduction for USAR Soldiers. Field grade commanders of organizations authorized a commander in the grade of lieutenant colonel or higher are permitted to administratively reduce Soldiers serving in the rank of SGT for inefficiency or conviction by civil court.

a. Reductions, except for Article 15 Uniformed Code of Military Justice will be announced on orders. These orders will cite the reason for reduction i.e. inefficiency etc. Inefficiency is defined as a demonstration by an individual of distinctive characteristics which show the inability to perform the duties and responsibilities of the grade and MOS. A Soldier who has served in the same unit for at least 90 days may be reduced one grade for inefficiency. AGR Soldiers in the rank of SGT and below may be reduced without action by a board.

b. Appeals of reduction for inefficiency or for misconduct are authorized to correct an erroneous reduction or on equitable grounds (based on the facts and circumstances of the particular case, partial or full restoration of grade is in the best interest of the Army and the Soldier). Authorized appeals will be submitted in writing within 30 days of the date of reduction or date of letter notifying Soldier that he or she will not be restored to the former grade. Final action on appeals will be taken by the next higher authority. If the officer acting on an appeal determines that the reduction meets the requirements of this regulation and need not be changed on equitable grounds, he or she will deny the appeal.

//NOTHING FOLLOWS//