

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 July 2024

DOCKET NUMBER: AR20230012178

APPLICANT REQUESTS: an upgrade of her uncharacterized discharge to honorable.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 293 (Application for the Review of Discharge or Dismissal from the Armed Forces of the United States).

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 is requesting an honorable discharge to qualify for benefits from the military. She was forced to discharge during bootcamp and did nothing wrong.
3. A review of the applicant's service record shows:
  - a. She enlisted in the Wisconsin Army National Guard (WIARNG) on 22 October 2001.
  - b. Orders 204-037, dated 1 November 2001 ordered the applicant to initial active duty for training (IADT) with a report date of on or about 21 November 2001. She entered active duty on 25 November 2001.
  - c. A Soldier's Statement, dated 7 January 2002, signed by the applicant shows she elected not to be restarted due to the fact that she no longer wanted to be in the Army. She further noted she was not taking advantage of sick call, it was necessary. She had asthma as a child and had not run after middle school. She marked it down but did not discuss it with anyone. She also had problems with depression because she was homesick. She did not intend on causing problems, but she found out too late the Army was just not for her. She requested an honorable discharge because she was not a bad person and simply made the wrong choice for her life. She apologized for wasting everyone's time and reiterated she really wanted to go home. She went to mental health

and shared her sentiments with a female, she returned with an envelope for the drill sergeant, and no longer desired to be in the Army.

d. The applicant completed a Soldier's Questionnaire wherein she agreed with the separation noting she did not feel physically nor mentally capable of remaining in the service. She was always in physical pain and felt severely homesick. She did not feel comfortable speaking with the drill sergeant. She would not consider returning to the Army because asthma does not just go away and although she tried, she did not believe she was mentally capable due to panic attacks and her depression. She simply wanted to go home.

e. On 16 January 2002, the applicant's immediate commander notified the applicant of his intent to separate her under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11 for entry level status performance and conduct. The reasons for his proposed action were due to the applicant's lack of motivation. She acknowledged receipt on the same day.

f. After declining consultation with legal counsel, the applicant acknowledged:

- the rights available to him and the effect of waiving said rights
- if the recommendation for separation was approved, she would receive an entry-level separation with an uncharacterized discharge
- she will be ineligible for enlistment in the U.S. Army for a period of two years after discharge
- she elected not to submit statements on her own behalf

g. The immediate commander-initiated separation action against the applicant for entry level status performance and conduct. He recommended that the applicant receive an uncharacterized discharge.

h. On 16 January 2002, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 11, for entry level status performance and conduct. She would be issued an uncharacterized discharge.

i. On 25 January 2002, she was discharged from active duty with an uncharacterized characterization of service. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 2 months and 1 day of active service.. The narrative reason for separation listed as "Entry Level Performance and Conduct."

j. On 25 January 2002, she was discharged from the WIARNG with an uncharacterized discharge. Her NGB Form 22 (Report of Separation and Record of

Service) shows she completed 3 months and 4 days of net service for the period. Block 23 (Authority and Reason) shows she was separated under entry level status and conduct.

4. There is no evidence the applicant has applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

5. By regulation (AR 635-200), service will be described as uncharacterized under the provisions of Chapter 11. Separation of a Soldier in entry level status may be warranted on the grounds of unsatisfactory performance and/or unsatisfactory conduct as evidenced by:

- inability
- lack of reasonable effort
- failure to adapt to the military environment
- minor disciplinary infractions

6. 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.

#### BOARD DISCUSSION:

1. 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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of her characterization of service. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. Soldiers in the USAR and ARNG are authorized and honorable discharge while in entry-level status only if they complete their active-duty schooling and earn their MOS.

2. Upon review of the applicant's petition and available military records, the Board determined the applicant did not complete training and was released from active duty for reason of entry level performance and conduct. As such, her DD Form 214 properly shows the appropriate characterization of service as uncharacterized. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for

his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request. Therefore, relief was denied.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.



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, U.S. Code, 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. Army Regulation 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. 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.

3. 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 11 of the regulation states service will be described as uncharacterized under the provisions of this chapter. Separation of a Soldier in entry level status may be warranted on the grounds of unsatisfactory performance and/or unsatisfactory conduct as evidenced by:

- inability
- lack of reasonable effort
- failure to adapt to the military environment
- minor disciplinary infractions

4. 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//