

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 October 2024

DOCKET NUMBER: AR20230013763

APPLICANT REQUESTS: in effect, correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to show her characterization of service as "Honorable" rather than "Uncharacterized."

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- Military Personnel Record documents (24 pages)
- Military Healthcare Record documents (65 pages)
- DA Form 4707 (Entrance Physical Standards Board (EPSBD)) Proceedings (4 pages)
- DA Form 3349 (Physical Profile)
- Character reference letters (2)

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 a young girl's dream came true on 9 November 1995. She had finally received her departure date for Basic Combat Training (BCT) in the Army. She was 19 years old and looked forward to this day for a long time. She completed 4 years of Reserve Officers Training Corps (ROTC) training while in high school and knew exactly where she wanted to be after she graduated. The excitement and elation she felt to see her dreams come to a reality were indescribable. Several members of her family served in the military and her sense of commitment to serving her country was deeply rooted in her identity. She had already completed the initial medical screening and was found fit to serve.

a. She was looking forward to the brotherhood and sisterhood that the Army promoted and promised to provide. Since she grew up without a present father, she

hoped the military and her peers would be able to form a piece of her family left missing by her father's absence. However, almost immediately after she checked into her training company, she was faced with adversities far beyond the normal riggers of BCT. One of her superiors took a romantic liking to her and made her feel extremely uncomfortable. He promised that he could make her life easier in basic training if she performed what he wanted, and he openly called her "princess." She rebuffed all of his advances and eventually he moved on to other females.

b. Another struggle for the applicant were the romantic advances of an enlisted female in her barracks. The enlisted female would verbally, sexually objectify the other women in the barracks, and make the applicant feel uncomfortable. The applicant eventually "had words" with this woman.

c. Three months into BCT, the applicant was given the usual leave to go home to visit her family for Christmas. During this Christmas break, her younger sister became terminally ill. Her sister had contracted pneumonia and had to be hospitalized. The family was at home enjoying being in each other's company and her sister went from being completely normal to passing out in the applicant's arms. She went into cardiac arrest as they waited for an ambulance and the applicant performed cardiopulmonary resuscitation; a skill she credits the Army with teaching her. Although her sister woke up a few times in the ambulance and hospital, she slipped into a coma for ten days and then passed away.

d. After the funeral, the applicant returned to BCT. She never struggled with the decision to return because it was her obligation and duty to return, and she was dedicated to her service. But returning to training was not easy. She left behind her grieving mother and younger brother to put the pieces of the family back together. After she completed her duties for the day she would call home as much as possible and would frequently cry herself to sleep. She was depressed about her sister's death and kept to herself. Experiencing a deep depression, she mentally and emotionally shut down and was only present physically to complete her daily duties. The officer directly above her showed compassion for her, which was a stark difference from the pressure he had put on her prior to her sister's death.

e. Approximately two weeks after the applicant returned to BCT from leave, she was called into her commander's office and told that it was "time to start her process." With hindsight, she now knows the commander was referencing the process of her separation. The separation happened quickly, and the applicant was never given the opportunity to think about what was happening talk. She did not talk to an attorney from the Judge Advocate General (JAG) corps about the separation, or seek advice from her family or mentors. She was told that she was not fit for duty, and she was going to be separated from the Army.

f. Understandably, during the separation process she was shocked and confused. She had no idea why they would be separating her. She had never told anyone that she wanted to leave BCT or that she was struggling. Being called into the commander's office was the first time she learned that the Army was unhappy with her performance. She was not given procedural due process for separation from the Army. After only three months of training, during which she suffered hardships from her unit, and suffered the devastating loss of her sister, only to find out she was suddenly no longer fit to serve in the Army was a tremendous heartache. All of the hard work she had put in through 4 years of ROTC, combined with the tribulations she had endured in training in order to faithfully serve a full term in the Army suddenly dissipated and seemed to be all for nothing.

g. She was rushed through the separation process and told she was not fit for duty. She was given so little information about her discharge that until 2001, she believed that she had been honorably discharged. Her rights regarding her separation were not presented in a way for her to understand, given the state of mind she was in at the time. She did not receive any advice or guidance from JAG during her expedited separation, and she simply signed the paperwork and checked the boxes that were placed in front of her.

h. The applicant lost her job due to Covid-19, and she is unsure when she will find a new job. It would be a huge weight off her shoulders to have Department of Veterans Affairs medical benefits and any other compensation to which she is possibly entitled. The Army accepted her into the military and then released her for her physical fitness that had never before been an issue. She was an exemplary ROTC cadet in high school, she served honorably for the short time she was enlisted and remains honorable to this day.

i. The applicant indicates on her DD Form 149 that sexual assault/harassment is related to her request.

3. The applicant underwent a pre-enlistment medical examination on 28 September 1995 and was found to be fit for enlistment in the Army.

4. On 9 November 1995, the applicant enlisted in the Regular Army.

5. An EPSBD was conducted to evaluate the applicant's condition on 1 February 1996. Her DA Form 4707 shows that after careful consideration of medical records, laboratory findings, and medical examinations, the board found the applicant was unfit for appointment or enlistment in accordance with current medical fitness standards and in the opinion of the evaluating physicians, the condition existed prior to service (EPTS).

a. She was in her eighth week of BCT and was being held over after her class graduated secondary to her diagnosed condition of anemia. She denied any prior history of anemia and claimed her anemia was first discovered while at Fort Leonard Wood, MO. She had been on ferrous sulfate to correct iron deficiency for 6 weeks.

b. The applicant was determined to be medically unfit for military service and it was recommended that she be separated from the Army and not train in accordance with Army Regulation 40-501 (Standards of Medical Fitness) for failure to meet medical procurement standards due to her EPTS condition. A DA Form 3349 was rendered to suspend the applicant from training effective 1 February 1996 pending her separation. The EPSBD findings were approved on 6 February 1996.

c. On 13 February 1996, the applicant acknowledged the EPSBD findings and further acknowledged that she had been advised legal counsel from an Army attorney was available to her or she could consult civilian counsel at her own expense. She could request discharge from the Army without delay or request retention on active duty. She concurred with the proceedings and requested discharge from the Army without delay.

d. On 13 February 1996, the applicant's commander recommended she be discharged.

e. The separation authority approved the Board's recommendation on 15 February 1996 and directed the applicant's separation from service.

6. The applicant's DD Form 214 shows she was discharged on 22 February 1996, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-11, for failure to meet procurement medical fitness standards, with Separation Program Designator (SPD) code "JFW," and Reentry Eligibility (RE) code "3." She did not complete initial entry training and was not awarded a military occupational specialty. She completed 3 months and 14 days of active service. Her service was uncharacterized.

7. The applicant provides her military medical records and two character reference letters, wherein the authors express favorable comments regarding her professionalism, generosity, work ethic, and dedication to family.

8. The evidence of record shows the applicant was in an entry-level status at the time of her separation processing. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier did not serve on active duty long enough for his or her character of service to be rated.

9. 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.

10. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). The applicant requests change in discharge from Uncharacterized to Honorable. She indicted that Sexual Assault/Harassment was related to her request. The BH condition(s) were reviewed by a BH specialist under separate cover. This review will focus on medical condition(s) and relation to the reason for discharge.

b. The ABCMR ROP summarized the applicant's available record and circumstances surrounding the case. The applicant entered the Regular Army 09Nov1995. She underwent an Entrance Physical Standards Board (EPSBD) on 01Feb1996 for Anemia and was recommended to be separated. She was discharged 22Feb1996, under AR 635-200 para 5-11 for failure to meet procurement medical fitness standards.

c. The 22Sep1995 Report of Medical Exam for entry showed no abnormalities. The lab work listed in the report did not include hemoglobin or hematocrit testing. The condition was first suspected when a low hemoglobin was noted during a workup for left suprapubic pain (ultimately diagnosed as Ovarian Cyst). The ensuing lab work including full iron panel and hemoglobin electrophoresis yielded labs consistent with iron deficiency anemia (for example low iron, low MCV, low ferritin and normal iron binding capacity). In December 1995, testing showed no blood in the urine (negative urinalysis) or stool (guaiac negative). A dental exam did not identify any issues. On 20Dec1995 hemoglobin was 8.3 (normal 12-16) and 23Jan1996 hemoglobin was 8.5. The applicant underwent the EPSBD in her 8<sup>th</sup> week of training. She denied a history of anemia. Her menstrual history did not appear unusual. While in service she was under treatment with iron three times per day. After six weeks of treatment, her hemoglobin was still low. The physical exam did not yield any abnormalities. The anemia appeared to be consistent with iron deficiency. The definitive cause was not identified. She was given a temporary P3 physical profile (DA Form 3349) and suspended from training. The condition was considered to have existed prior to service (EPTS), and not to have been aggravated by service.

d. The applicant's low hemoglobin was discovered the month following her entry into service. The hemoglobin value was so far below normal that accepted medical

principles support the determination of Anemia, EPTS, due to there not being an obvious source of significant (acute) blood loss (for example a ruptured hemorrhagic ovarian cyst) and due to the short period in service as well. Based on medical evidence available for review, the applicant's separation for Anemia was proper and equitable.

#### BEHAVIORAL HEALTH:

a. The applicant is applying to the ABCMR requesting an upgrade of her characterization of service from uncharacterized to honorable. She contends she experienced sexual assault/harassment while in service. Per her self-statement, the applicant asserts she was sexually harassed by one of her superiors and another Soldier while at basic training. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) the applicant enlisted in the Regular Army on 09 November 1995 in the rank of E-3. She was assigned to a unit at Fort Leonard Wood, MO for completion of Basic Combat Training (BCT), 2) she underwent a pre-enlistment medical examination on 28 September 1995 and was found to be fit for enlistment in the Army, 3) an EPSBD was conducted to evaluate the applicant's condition on 01 February 1996. The DA Form 4707 shows the Board found the applicant was unfit for appointment or enlistment in accordance with (IAW) current medical fitness standards, and, in the opinion of the evaluating physicians, the condition existed prior to service (EPTS), 4) the applicant was in her eighth week of BCT and was being held over after her class graduated secondary to her diagnosed condition of anemia, 5) it was determined the applicant was medically unfit for military service and it was recommended that she be separated from the Army and not train IAW AR 40-501 due to EPTS condition, 6) the applicant was discharged on 22 February 1996 under the provisions of Army Regulation (AR) 635-200, paragraph 5-11, for failure to meet procurement medical fitness standards. She did not complete initial entry training and was not awarded a military occupational specialty.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The available in-service medical records provided as part of the applicant's application were reviewed. A Report of Medical Examination for the purposes of enlistment dated 22 September 1995 documented item number 42, psychiatric, as 'normal' on clinical evaluation. There are numerous physical health records included in the available documentation to include laboratory results. There are not any BH-related records available for review and no BH-related concerns documented in the available medical records.

d. A review of JLV demonstrates the applicant is not service-connected through the VA for any conditions. She is ineligible for services due to her service lasting less than 24 months. The record is void of any medical documentation with the exception of one note dated 16 September 2020. It was noted that the applicant contacted the National Homeless Call Hotline inquiring about resources for assistance due to financial difficulties.

e. The applicant is applying to the ABCMR requesting an upgrade of her characterization of service from uncharacterized to honorable. She contends she experienced sexual assault/harassment while in-service. There is insufficient evidence that the applicant had a BH condition or experience during her time in service that mitigated her discharge. However, she contends she experienced military sexual trauma (MST), and, per liberal guidance, her assertion is sufficient to warrant the Board's consideration.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends she experienced MST.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition experience actually excuse or mitigate the discharge? No. Review of the available records was void of any BH diagnosis or treatment for the applicant during or after service, and void of any evidence to support the assertion of MST. However, under Liberal Consideration, the applicant's self-assertion of MST alone is sufficient to establish that the applicant was a victim of MST. As the applicant was separated due to a medical condition determined to exist prior to service (i.e., anemia), there is no association between the applications assertion of MST and the basis for her separation. As such, there is insufficient evidence to support an upgrade for behavioral health reasons.

### BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy and regulation. 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. The applicant

did not complete training and was released from active duty due to failure to meet procurement medical fitness standards. The Board reviewed and concurred with the medical advisor's review finding insufficient evidence to support she had a behavioral health condition or experience that mitigated her discharge. The Board determined her DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army 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.

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.

■ [REDACTED]

[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.



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. Title 10, U.S. Code, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. 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 regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body.

4. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

a. A separation would be described as entry level with uncharacterized service if the Soldier had less than 180 days of continuous active duty service at the time separation action was initiated.

b. 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.

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

d. Soldiers separated in an entry-level status receive an uncharacterized character of service. A separation is an entry level status separation if its processing is initiated during the Soldier's first 180 days of continuous active duty. The Secretary of the Army could, on a case-by-case basis, issue an honorable character of service to entry-level

Soldiers when clearly warranted by unusual circumstances involving personal conduct or duty performance.

e. Paragraph 5-11 specifically provided that Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment were to be separated. EPSBD proceedings were required to be convened within the Soldier's first 6 months of active duty service, and had to establish the following: that medical authority identified the disqualifying medical condition(s) within 6 months of the Soldier's initial entrance on active duty; that the condition(s) would have permanently disqualified the Soldier from entry into military service, had it been detected earlier; and that the medical condition did not disqualify him/her for retention in military service. A Soldier disqualified under this provision could request retention on active duty; the separation authority made the final determination.

f. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

//NOTHING FOLLOWS//