

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 May 2025

DOCKET NUMBER: AR20240001286

APPLICANT REQUESTS:

- Upgrade her uncharacterized characterization of service to honorable
- Permission to appear personally before the Board, via video/telephone

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)

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 asking the Board for this upgrade so she can work for the government as a Veteran
- Her records should show she was Soldier of the Cycle during basic combat training (BCT); she was going to go to airborne school, she was up for a promotion, and they talked with her about attending officer candidate school; additionally, she was excelling in "A School" until she was assaulted
- She was 19 years old at the time and was doing the one thing she had always wanted to do; during high school, she had served as a battalion commander and, while a squad leader, her squad won 3rd place at a national drill meet; this was her career path
- "Unfortunately, excelling was not always appreciated within the platoon"; one night, when everyone was going out on the town, she decided to go along; she woke up in a hotel "bent under and around a u-joint under the sink being assaulted over and over"

- She managed to get away, but the next morning, they found her lying on the floor of the shower with bruises up and down her spine; additionally, she was sore and had bruises on her legs
- They notified the drill sergeant, and then sent her to a clinic; once the clinic released her, the drill sergeant took her to see the company commander
- "While explaining what happened, he leaned back, put his hands on his head, then leaned forward and stated, 'You deserved it...you should have known better'"
- The applicant declares no one stood up for her, and her drill sergeant just looked at her and then stared at the floor
- After this, "I was assigned to AA and the person who assaulted me was assigned to KP (kitchen police)"
- The applicant declares she loved the military but could not understand what had happened; she could no longer trust her command, so she wanted out; she adds that she had to spend "3 days in psych"
- On her application, the applicant has checked boxes for post-traumatic stress disorder (PTSD) and sexual assault/harassment

3. A review of the applicant's service record shows the following:

- On 21 January 1994, the applicant enlisted into the Regular Army for 4 years; when she entered active duty, she held the rank/grade of private first class (PFC)/E-3, based on her participation in Junior Reserve Officers' Training Corps (JROTC) while in high school
- Upon completion of BCT at Fort Jackson, SC, she transferred to Fort Gordon, GA, for advanced individual training (AIT) in military occupational specialty 29E (Radio Repairer); she arrived, on or about 4 April 1994
- Her service record includes DA Forms 4856 (General Counseling Form), which reflect that she was progressing satisfactorily through training; on 25 April 1994, a noncommissioned officer stated in a DA Form 4856 that the applicant had been "advanced to Phase V with full privileges"
- On 7 June 1994, the applicant prepared a "Formal Statement" in which she explained why she wanted to leave the Army; she stated:
 - During the period she was in the U.S. Army Reserve Delayed Entry Program, she "fell head over heels for this gentleman in the Navy"; when she left for BCT, they decided to be friends, but their feelings were so strong that they decided to get engaged
 - Being engaged was adding to her stress because her fiancé wanted her to leave the Army; "he would rather me be at home with him...One reason, the main one, is because of a change in attitude and personality I have undergone by being here"

- "He wants to take care of me and not want me to do much of anything besides being a housewife, which is fine with me, but I'm here and he's there"
- "I have lost respect for the Army & those around me (i.e., fellow Soldiers)...When I joined the Army, I had no idea what to expect really till (sic) I got here..."
- "Now you can form an impression of someone in a matter of minutes...I have been in the Army 4 1/2 months, and I have come to the conclusion that the Army is not for me...I cannot handle the stress that goes along with being a Soldier..."
- "I don't like the people here...they have no pride, no self-respect, and no respect for others...I have picked up some bad habits and had bad experiences being here, ones that I wish I had never experienced in the first place..."
- "The Army has shown me nothing except how to stay physically fit while you party and sham on a day-to-day basis...I have no desire to be a part of that type of organization"; the applicant concluded by stating she felt her separation was in the best interests of the Army and the people there
- On 16 June 1994, the battalion chaplain prepared a memorandum for the applicant's AIT company commander, wherein he recommended the applicant's discharge; he stated he had counseled the applicant twice:
 - In their first session, the applicant said she was experiencing symptoms of depression, such as insomnia, stomach problems, low appetite, and crying; the chaplain noted the applicant seemed unclear as to whether she was satisfied with military service
 - The chaplain recommended she seek help at the Community Mental Health facility; then, three weeks later, the applicant returned; this time she was adamant about leaving the Army; "If she continues in her present state of mind, she will not perform well and may hinder others"
- On 21 June 1994, the applicant's AIT company commander (Captain T__ D. W__) advised her that she was initiating separation action against the applicant per chapter 11 (Entry Level Status Performance and Conduct) Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel)
- The reason for this action was the applicant's inability to adapt emotionally and socially to military life
- On 21 June 1994, the applicant acknowledged her commander's notification of separation action, and she affirmed she understood that, if approved, she would receive a uncharacterized character of service; she elected not to consult with counsel and opted not to submit statements in her own behalf
- On a date prior to 28 June 1994, the separation authority approved the commander's separation recommendation and directed the applicant's

separation with an uncharacterized character of service; on 1 July 1994, orders discharged her accordingly

- The applicant's DD Form 214 shows she completed 5 months and 11 days of her 4-year enlistment contract; the report additionally reflects the following:
 - Item 11 (Primary Specialty) – None
 - Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) – Marksman Marksmanship Qualification Badge
 - Item 25 (Separation Authority) – AR 635-200, chapter 11
 - Item 26 (Separation Code) – "JGA"
 - Item 27 (Reentry (RE) Code) – RE-3
 - Item 28 (Narrative Reason for Separation) – "Entry Level Performance and Conduct"

4. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a change to her uncharacterized character of service to honorable. She contends she experienced military sexual trauma (MST) and resultant PTSD that mitigates her discharge. 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 21 January 1994; 2) On 7 June 1994, the applicant prepared a "Formal Statement" in which she explained why she wanted to leave the Army due to her relationship with her fiancée and her dissatisfaction with the Army; 3) On 21 June 1994, the applicant's AIT company commander advised her that she was initiating separation action against the applicant per Chapter 11 (Entry Level Status Performance and Conduct). The reason for this action was the applicant's inability to adapt emotionally and socially to military life; 4) The applicant was discharged on 1 July 1994, Chapter 11- Entry Level Performance and Conduct. Her service was determined uncharacterized. She completed 5 months and 11 days of service.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military records. The VA's Joint Legacy Viewer (JLV) was also examined. No additional medical documentation was provided for review.

c. The applicant asserts she experienced MST and resultant PTSD while on active service, which mitigates her discharge. There is sufficient evidence the applicant was experiencing emotional difficulty during her brief time on active service. On 16 June 1994, the battalion chaplain prepared a memorandum for the applicant's commander. The chaplain noted that he met with the applicant twice, and she was reporting depressive symptoms. As a result, he referred her to the Community Mental Health

Clinic. After three weeks, the applicant returned, and she continued to feel she had to leave the Army. The chaplain recommended the applicant be discharged

d. A review of JLV provided insufficient evidence the applicant has been diagnosed by the VA with a service-connected mental health condition including PTSD. She currently does not receive any service-connected disability.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a condition or experience that mitigates his misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant reported experiencing MST and resultant PTSD during her active service. There is evidence the applicant reported depressive symptoms during her active service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant reported experiencing MST and resultant PTSD during her active service. There is evidence the applicant reported depressive symptoms during her active service.

(3) Does the condition experience actually excuse or mitigate the discharge? Yes, there is insufficient evidence the applicant has ever been diagnosed with PTSD related to her military service or her report of MST. There is evidence the applicant reported depressive symptoms during her active service, but it is unclear if these symptoms were related to her difficulty adapting to military life or her reported experience of MST. However per Liberal Consideration, the applicant's contention of MST alone is sufficient for the Board's consideration for mitigation of her uncharacterized discharge.

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 request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct, the reason for separation and the medical advisory opinion. The Board did not concur with the medical opinion and found the applicant was separated for an inability to adapt to military life. The Board found no error or injustice in the separation proceedings under

the regulation and subsequent characterization of service assigned at separation and denied relief.

2. Based upon the misconduct leading to the applicant's separation and the following recommendation found in the medical review related to the liberal consideration:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant reported experiencing MST and resultant PTSD during her active service. There is evidence the applicant reported depressive symptoms during her active service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant reported experiencing MST and resultant PTSD during her active service. There is evidence the applicant reported depressive symptoms during her active service.

(3) Does the condition experience actually excuse or mitigate the discharge? Yes, there is insufficient evidence the applicant has ever been diagnosed with PTSD related to her military service or her report of MST. There is evidence the applicant reported depressive symptoms during her active service, but it is unclear if these symptoms were related to her difficulty adapting to military life or her reported experience of MST. However per Liberal Consideration, the applicant's contention of MST alone is sufficient for the Board's consideration for mitigation of her uncharacterized discharge.

The Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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.

X //SIGNED//

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, 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 (Ex Parte Communications Prohibited) requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records (ABCMR) applicant's (and/or their counsel) prior to adjudication.

3. Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, prescribed policies and procedures of enlisted administrative separations.

a. Paragraph 3-7a (Honorable Discharge) stated an honorable discharge was separation with honor.

(1) Issuance of an honorable discharge certificate was appropriate when the quality of the Soldier's service generally met the standards of acceptable conduct and performance of duty or was otherwise so meritorious that any other characterization would clearly be inappropriate.

(2) Where there were infractions of discipline, commanders were to consider the extent thereof, as well as the seriousness of the offense. Separation authorities could furnish an honorable discharge when subsequent honest and faithful service over a greater period outweighed disqualifying entries in the Soldier's military record. It was the pattern of behavior, and not the isolated instance, which commanders should consider as the governing factor.

b. Paragraph 3-7b (General Discharge). 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.

c. Paragraph 3-9 (Uncharacterized Separations). Effective 1 October 1982, a revision of AR 635-200 mandated the issuance of uncharacterized characters of service to Soldiers separated while in an entry-level status; for Regular Army Soldiers, entry-level status began upon their entrance on active duty and ended after 180 days of continuous active duty. The regulation stated the Secretary of the Army could issue an honorable character of service, on a case-by-case basis, when clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty.

d. Section II (Secretarial Authority) stated the separation of enlisted personnel was the prerogative of the Secretary of the Army and was to be executed only by his/her authority. The discharge or release of any enlisted member of the Army for the convenience of the Government will be at the Secretary's discretion and with the type of discharge as determined by him/her.

e. Chapter 11 (Entry Level Status Performance and Conduct). This provision permitted commanders initiate separation action against entry level Soldiers who demonstrated they were not qualified for retention based on not adapting socially or emotionally to military life, not meeting minimum standards prescribed for successful completion of training, and/or not responding to counseling (as recorded on DA Forms 4856 (General Counseling Form)).

(1) Paragraph 11-4 (Counseling and Rehabilitation Requirements) stated it was essential to fulfill the regulation's counseling and rehabilitation requirements because military service was a calling different from any civilian occupation; commanders should not separate a Soldier, using entry level performance and conduct as the sole basis, unless efforts at rehabilitation had been made.

(2) Paragraph 11-7 (Procedures). The regulation also stipulated commander's use of the notification procedure when advising the Soldier of the contemplated separation action. The notification procedure involved the following:

- Giving the Soldier a written notice of the proposed separation that specified the type of separation and the reason for the commander's action
- Advising the Soldier of his or her rights, under the regulation's separation process, which included: consulting with military counsel, submitting statements in his/her own behalf, receiving copies of documents sent to the separation authority, and waiving, in writing, the aforementioned rights
- The Soldier was to indicate on an "Election of Rights" document whether that Soldier had consulted with counsel and was or was not submitting matters on his/her own behalf

(3) Paragraph 11-8 (Characterization of Service). Service was to be uncharacterized for separation.

4. AR 635-5 (Separation Documents), in effect at the time, prescribed policies and procedures for DD Form 214 (Certificate of Release or Discharge from Active Duty) preparation. The regulation stated the narrative reason for separation was tied to the Soldier's regulatory separation authority and directed DD Form 214 preparers to AR 635-5-1 (Separation Program Designators (SPD)) for the appropriate entries in item 28 (Narrative Reason for Separation). For item 27 (Reentry (RE) Code), the regulation referred preparers to AR 601-210 (Active and Reserve Components Enlistment Program).

5. AR 635-5-1, in effect at the time, showed the narrative reason for separation assigned to Soldiers separated per chapter 11, AR 635-200 was, "Entry-Level Status Performance and Conduct." and the SPD was "JGA."

6. The SPD/RE Code Cross Reference Table, in effect at the time, provided instructions for determining the RE code for Active Army Soldiers and Reserve Component Soldiers. The table shows the SPD code and its corresponding RE code. The SPD code of "JGA" has a corresponding RE code of "3."

7. AR 601-210, in effect at the time, prescribed policies and procedures for the enlisting prospective and former Soldiers. Paragraph 3-6 (Armed Forces RE Codes, RA (Regular Army) RE Codes) showed the following:

- RE-1 – Fully qualified for immediate reenlistment
- RE-3 – Not eligible for reenlistment unless waiver consideration was permissible and was granted

8. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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 on the basis of 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.

9. AR 15-185 (ABCMR), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

c. Paragraph 2-11 (ABCMR Hearings). An applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

//NOTHING FOLLOWS//