

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 October 2024

DOCKET NUMBER: AR20240001310

APPLICANT REQUESTS: upgrade of her uncharacterized discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- Moncrief Community Mental Health Services (CMHS) Form 10-R (Self-Referral for a Mental Health Evaluation), dated 8 April 2003
- DA Form 3822-R (Report of Mental Status Evaluation), dated 10 April 2003
- DA Form 4856-E (Developmental Counseling Form), dated 10 April 2003
- D Company, 120th Adjutant General Battalion (Reception) memorandum, subject: Recommendation for Separation under the Provisions (UP) of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel, Chapter 11, Entry Level Separation, undated
- D Company, 120th Adjutant General Battalion (Reception) memorandum, subject: Proposed Separation Action UP Chapter 11, Army Regulation 635-200, undated
- applicant's memorandum acknowledging separation notification, dated 11 April 2003
- applicant's rights acknowledgment/election memorandum, undated

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. She is requesting an upgrade to her character of service to honorable. An honorable characterization should be assigned when, "the quality of the member's service generally met the standard of acceptable conduct and performance for military personnel or is otherwise so meritorious that any other characterization of service would be clearly inappropriate."

b. For veterans discharged with other than honorable characterizations due to behavior connected to a mental health condition, the odds of even partial relief are slim to none. Thus, we live in a world where the military kicked us out rather than cared for us, and when we later sought relief, the Board kicked us out again. Rather than continue this patten of punishing veterans for having mental health conditions (the commander kicks us out and the discharge review board kicks us again), veterans deserve the opportunity for true relief in recognition for their service and mental health condition they developed due to that service.

c. Recent Department of Defense (DoD) policy guidance reflects this need for change. DoD requires discharge review boards to give “liberal consideration” to “veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions. Liberal consideration recognizes the relationship between mental health conditions and behavior that looks like misconduct. The policy is aimed at correcting past injustices that resulted from commanders regularly discharging service members under other than honorable conditions when their misconduct was related to a mental health condition.

d. It is in our interest to ensure those who have suffered injustice or believe their discharge is unfair, to have a reasonable opportunity to establish the basis for their discharge was precipitated by things outside their control. This clarifying guidance is intended to ease those burdens and make it easier for an applicant. To that end, the Kurta memorandum provides the Boards a four-question analytic framework to implement liberal consideration:

(1) Did the veteran have a condition or experience that may excuse or mitigate the discharge? In this case yes, her diagnosis of major depressive disorder with anxiety at the time of her discharge shows there was a mental breakdown due to the circumstances that were beyond her control and caused a downward spiral in her mental health and ability.

(2) Did that condition exist/experience occur during military service? Yes, it did.

(3) Does that condition or experience actually excuse or mitigate the discharge? Yes, it does.

(4) Does that condition or experience outweigh the discharge? Yes.

e. Mental health conditions “inherently affect one’s behaviors and choices, causing veterans to think and behave differently than might otherwise be expected.” She was told, “you don’t deserve an upgrade; you didn’t do anything to earn it.” She bled, sweat, and lost her sanity to this country. She would like to request this upgrade so she can try to reclaim some sense of pride somewhere in her life.

3. The applicant enlisted in the Regular Army on 4 March 2003.

4. A Moncrief CMHS Form 10-R, dated 8 April 2003, shows:

a. The applicant self-referred for a mental health evaluation. She indicated on the form she wants this evaluation, agreed to the release of the information from the evaluation to her commander, and agreed to her commander providing information for the evaluation.

b. The applicant indicated in her description of the problem that she was having family problems at home, her husband was deployed, and she was depressed.

c. The commander's comments show the applicant was having difficulties with the physical aspect of the military. She had not passed the physical training assessment. She needed to improve on her physical abilities and then she would be okay.

5. A DA Form 3822-R shows the applicant underwent a mental health assessment on 10 April 2003, which shows:

a. Her behavior was deemed normal, she was fully alert, fully oriented, had flat, tearful, depressed mood and affect, had clear thinking, normal thought content and good memory.

b. She was diagnosed with adjustment disorder with depressed mood.

c. She had no current potential for self-harm, harm to others, or absence without leave.

d. No treatment was deemed necessary and the recommended duty modifications were to remove her from training.

e. Fitness and suitability for continued service show she was to be processed for expeditious administrative separation in accordance with Army Regulation 635-200, chapter 11. It was the professional opinion of the medical examiner that the applicant's problem would not respond to command efforts at rehabilitation nor to any treatment methods currently available in any military mental health facility.

f. The remarks show the applicant was a self-referral to CMHS. She reported feeling empty, had decreased sleep, not eating well, and exhibited poor concentration. She was becoming more irritable than normal. Her husband, also in the Army, was being deployed to Kuwait on 18 April 2003, and they had to activate their family care plan. The applicant then received a Red Cross message stating her mother was not well enough to care for their children as she suffers from anxiety disorder for which she is taking

medication and having more difficulty than previously anticipated. The applicant was worried about her children as well as her husband and she will not see her husband even if she is discharge. She is no longer motivated to remain in the military. Her potential to focus on Basic Combat Training (BCT) was poor at best. It was highly recommended the applicant receive an expeditious administrative discharge under chapter 11. Please remove her from training.

6. A DA Form 4856-E shows the applicant was counseled by her drill sergeant on 10 April 2003, regarding the recommendation that she be separated from the Army under the provisions of Army Regulation 635-200, chapter 11, due to her mental condition of severe depression, assessed by Fort Jackson's CMHS, and recommended by her treating healthcare provider.

7. An undated memorandum, shows the applicant was notified by her immediate commander of his initiation of action to separate her with an uncharacterized discharge under the provisions of Army Regulation 635-200, chapter 11, for entry level performance and conduct, due to her diagnosis of adjustment disorder. She was advised of her right to consult with counsel and submit written statements in her behalf.

8. On 11 April 2003, the applicant acknowledged receipt of the notification of separation initiation under the provisions of Army Regulation 635-200, chapter 11. She acknowledged having been advised by consulting counsel of the basis for the contemplated action to separate her for entry level performance and conduct under the provisions of Army Regulation 635-200, chapter 11, its effects, and the rights available to her. She did not submit statements in her own behalf, waived counsel representation, and understood she may expect to encounter substantial prejudice in civilian life if she were issued a general discharge.

9. Headquarters, 120th Adjutant General Battalion (Reception) memorandum, with an illegible date, shows the approval authority directed the applicant's uncharacterized discharge under the provisions of Army Regulation 635-200, Chapter 11. The applicant shows no potential for mobilization requirements and will not be transferred to the Individual Ready Reserve. The requirement for rehabilitative transfer is waived.

10. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was given an uncharacterized discharge on 21 April 2003, under the provisions of Army Regulation 635-200, Chapter 11, due to entry level performance and conduct, with corresponding separation code JGA. She was not awarded a Military Occupational Specialty (MOS) and she completed 1 month and 18 days of active service.

12. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade of her uncharacterized discharge to honorable. She contends she experienced a mental health condition.

b. 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:

- The applicant enlisted into the Regular Army on 4 March 2003.
- The applicant requested a mental health evaluation. An undated memorandum shows the applicant was notified by her immediate commander of his initiation of action to separate her with an uncharacterized discharge under the provisions of Army Regulation 635-200, chapter 11, for entry level performance and conduct, due to her diagnosis of adjustment disorder.
- The applicant was discharged on 21 April 2003 and was credited with 1 month and 18 days of net active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts mental health problems were associated with her discharge. The application included a document titled Self-Referral for a Mental Health Evaluation dated 8 April 2003, which noted family problems, husband deploying, and depressed, and the commander wrote "soldier is having difficulties with the physical aspect of the military." A Report of Mental Status Evaluation dated 10 April 2003 showed a diagnosis of Adjustment Disorder with Depressed Mood, and the provider indicated the applicant should be removed from training and processed for expeditious administrative separation. The provider also remarked that the applicant's husband is deploying and her mother is not well enough to care for their children, resulting in no family care plan. Additionally, it was noted that the applicant is no longer motivated to remain in the military and was experiencing symptoms associated with an adjustment reaction (i.e. decreased sleep, not eating well, poor concentration, and irritability). There was sufficient evidence that the applicant was diagnosed with a mental health condition while on active service.

d. The Joint Legacy Viewer (JLV), which contains medical and mental health records for both DoD and VA, was reviewed and showed DoD records indicating she was diagnosed with Depression in July 2005 and was taking two antidepressant medications.

e. VA records show that the applicant is 100% service connected for Major Depressive Disorder since July 2023, and she initiated mental health treatment on 3 April 2024 where she reported a history of childhood trauma and associated symptoms of PTSD, depression, social isolation, and anxiety. She was diagnosed with PTSD, Major Depressive Disorder, Panic Disorder, Generalized Anxiety Disorder, and

Insomnia Disorder, and she was prescribed a medication for mood and for anxiety/sleep. On 6 May 2024, she was seen for an initial psychotherapy visit, and depression was the primary complaint. As of 25 September 2024, she has had seven therapy sessions with some improvement, and she has engaged in medication management and is currently only taking the medication for anxiety/sleep.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support that the applicant was diagnosed with a mental health condition while on active service, but there is no indication that her characterization of discharge should be changed.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts she had a mental health condition at the time of her discharge, and documentation showed that she was diagnosed with an Adjustment Disorder with Depressed Mood. She has also been diagnosed with Major Depressive Disorder by the VA and is 100% service connected for this condition.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she was experiencing a mental health condition while on active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. Documentation showed that the applicant self-referred for a mental health evaluation approximately one month into basic training, and she reported symptoms of an adjustment disorder associated with her husband's deployment and the lack of a functional family care plan. Additionally, it was noted that she was struggling with the physical aspects of the military, and she lacked motivation to continue in training. There is no indication that the applicant experienced any events outside the norm for basic training, and documentation of her discharge suggests she was in favor of elimination from service. There is insufficient evidence of a condition or experience that would mitigate the characterization of her discharge.

h. However, the applicant contends she was experiencing a mental health condition or an experience that mitigates her discharge, and per Liberal Consideration her contention is sufficient for the board's consideration.

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 discharged from active duty due to entry level performance and conduct. The Board determined her DD Form 214 properly shows the appropriate characterization of service as uncharacterized. The Board reviewed and concurred with the medical advisor's review finding sufficient evidence to support she was diagnosed with a mental health condition while on active duty; however, no indication her characterization should be amended.

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.

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. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), sexual assault, or sexual harassment. Boards are to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based, in whole or in part, on those conditions or experiences.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 3 states a separation will be described as entry level with uncharacterized service if the Soldier is in an entry-level status at the time separation action is 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. Chapter 11 provides for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. When separation of a Soldier in entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, he or she will normally be separated per this chapter. Service will be uncharacterized for entry-level separation under the provisions of this chapter. This policy applies to Soldiers in the Regular Army, Army National Guard (ARNG), and USAR (U.S. Army Reserve) who have completed no more than 180 days of continuous active duty or initial active duty for training (IADT) or no more than 90 days of Phase II under a split or alternate training option.

c. Section II (Terms) of the Glossary defines entry-level status for Regular Army Soldiers as the first 180 days of continuous active duty or the first 180 days of continuous active duty following a break of more than 92 days of active military service. For ARNG and USAR Soldiers, entry-level status begins upon enlistment in the ARNG or USAR. For Soldiers ordered to IADT for one continuous period, it terminates 180 days after beginning training. For Soldiers ordered to IADT for the split or alternate training option, it terminates 90 days after beginning Phase II of Advanced Individual Training.

4. Title 10, U.S. Code, section 1556 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 applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//