

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 December 2024

DOCKET NUMBER: AR20240001579

APPLICANT REQUESTS: in effect,

- upgrade of her under honorable conditions (general) discharge to honorable
- issuance of a DD Form 214 (Certificate of Release or Discharge from Active Duty) which reflects her:
  - complete service in the U.S. Army Reserve (USAR), civilian humanitarian service, and deployment to Hawaii
  - change Reentry Eligibility (RE) code
- correction of her DA Form 5016 (Chronological Statement of Retirement points)
- to appear before the Board either in person or via video/telephone

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Forms 149 (Application for Correction of Military Record) (2)
- Self-authored statements (4)
- Translation of Birth Certificate
- Driver License
- Department of Veterans Affairs (VA) Veterans identification Card
- Verification of employment letter, 26 August 2024
- DD Form 214 for the period ending 3 May 2006 (Pages 1, 2, and 4)
- Orange County, FL Sheriff's Office Incident Reports (4)
- Orange County, FL Sheriff's Office Summary Supplement Reports (2)
- Orders 13-169-00025 issued by Headquarters, USAR Command on 18 June 2013
- DA Form 5016, 22 August 2022
- Clerk Circuit Court, Orange County, FL, history of case filed on 12 December 2006
- Case Summary for the applicant versus City of Orlando filed on 10 July 2020
- Psychiatric History and Physical Admission Evaluation, 17 November 2015
- State of Florida, Department of Highway Safety and Motor Vehicles, Division of Motorist Services, Fraud Investigation Request, 26 December 2016
- Orlando, FL Police Department Report, 4 April 2016

- U.S. Equal Employment Opportunity Commission - Dismissal and Notice of Rights, 31 August 2020
- Electronic mail (Email) messages exchanged between the applicant and a Victim Service Center in March 2021
- VA Form 21-0781a (Statement in Support of Claim for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Assault), 17 July 2021
- Federal Bureau of Investigation Incident Report, 1 January 2022
- Report of Identity Theft or Fraud, 18 May 2023
- Email messages exchanged between the applicant and a Veteran Health Study in August 2023
- Villa Rica, GA Police Department Incident Report, 5 September 2023
- Circuit Court of the Ninth Judicial Circuit, Orange County, FL Risk Protection Order, 14 December 2023
- Email messages exchanged between the applicant and the Longwood, FL Police Department in October 2023
- Letter from the VA, 29 January 2024
- DD Form 215 (Correction to DD Form 214/214-1, Certificate of Uniformed Service), 1 February 2024
- Standard Form 180 (Request Pertaining to Military Records), 2 February 2024
- Federal Trade Commission Identity Theft Report, 9 February 2024
- Department of Defense Manpower Data Center Status Report, 1 December 2005
- Letter from VA Readjustment Counseling Service, Orlando Veterans Center, Orlando, FL, 6 December 2023
- Orange County FL, Government Outpatient Visit Note, 23 January 2024
- Letter from VA, 29 January 2024
- VA Form 21-0781 (Statement in Support of Claimed Mental Health Disorder(s) Due to an In-service Traumatic Event(s)), 5 September 2024
- VA Form 10-5345 (Request for and Authorization to Release Medical Records or Health Information) page 2 of 2
- VA Health Record as of 20 August 2024 (254 pages)
- Extract from Federal complaint against O.V., Jr.
- Privacy Act Consent Form page 1 of 2
- Fiscal Year 2017 National Defense Authorization Act screenshot
- Certificate of Training, 28 July 2011
- Diploma, 29 June 2019
- Photographs (2)

### FACTS:

1. The applicant did not file within the three-year time frame provided in Title 10, U.S. Code (USC), Section 1552 (b); however, the Army Board for Correction of Military

Records 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, in effect, she desires issuance of a complete DD Form 214 or DD Form 215 which shows she was honorably discharged from the USAR after serving as both a Soldier and a civilian humanitarian from 6 October 2005 until an unspecified date in 2019. She was erroneously reduced in rank and discharged from the USAR under other than honorable conditions (UOTHC) on 19 July 2009. She was also erroneously assigned an RE code that prevents her from being able to re-enlist into the Army National Guard (ARNG) and continue to serve her country.

a. The applicant acknowledges that her rank was restored, and the characterization of service was subsequently upgraded to under honorable conditions (general) by the Army Discharge Review Board (ADRB), but the ADRB did not change her RE code.

b. During her initial service in the USAR she was a single parent of a six-year old child and was not able to serve overseas due to not having a reliable family care plan. She tried to give custody of her son to her mother, but it was not granted. When she was reassigned to a unit in Attleboro, MA, she could no longer report for unit drills because she still lived in FL. Therefore, she served her country as best as she could at the Orlando, FL Police Department based upon her previous work experience. Despite missing physical fitness tests and the two-week annual training because she lived in a different state than where her unit was located, she kept herself in top physical shape while working for the Orlando, FL Police Department and during her deployment to Hawaii from 2017 to 2018. She actually trained harder than she would have if she trained at a unit.

c. Following her erroneous discharge, she continued serving her country in the following capacities as a civilian humanitarian because her RE code prevented her from reenlisting in the military:

(1). From 2007 to 2010, she served during the Iraq war in a government sector capacity ensuring deployed families were properly compensated.

(2). From 2010 to 2012, she attended the Law Enforcement Academy.

(3). From 2013 to 2015, she deployed to Houston, TX at her own expense to carry out a career in law enforcement. She also continued protecting her country as a Reservist until it was discovered that she had been a Reservist previously. Due to career tracking defamation and aggravated identity theft with assault, she was not able to move forward in her law enforcement career.

(4). From 2015 to 2016, she returned to Orlando, FL at her own expense and attended Emergency Medical Technician school. She also suffered the traumatic event of her mother experiencing a traumatic brain injury (TBI) due to merging profiles and false military claims filed by cloning profiles with emails.

(5). From 2017 to 2019, she deployed to Maui, HI, at her own expense during the time Article 10 orders calling for military defense were issued by Senator [REDACTED] as a result of Korean threats.

(6). In 2018, she suffered her first injury in Hawaii while working as a result of her military files being "jagged up" because of tracking harassment, losing jobs every six months, and other major life changing experiences that caused her to have major clinical depression and other conditions. While working as a commercial driver, she accidentally cut off the tip of one of her fingers. As a result, she was disfigured and developed PTSD, anxiety, and depression.

(7). In 2019, she moved back home to Orlando, FL to upgrade her driver license to a commercial driver license and keep America moving across the 48 states during the Coronavirus Disease-19 outbreak until November 2023.

(8). She also served her country by volunteering during weather catastrophes, Federal Emergency Management Agency assignments, etcetera.

d. Over the years, she has filed numerous reports and complaints nationwide with various State and Federal agencies regarding defamation of character, stalking, cyberstalking, identity theft, bullying, harassment, assault, sexual assault, rape, and burglaries. She is of the opinion that several government agencies secretly steal people's identities and manipulate data through social media, telehealth, and other automated means for nefarious purposes.

e. She needs her records corrected to show she is an honorable female Veteran entitled to medical benefits due to injuries, violations, and mental conditions that were incurred as a result of her service for over 20 years.

f. The applicant indicates on her DD Form 149, that PTSD, other mental health, sexual assault/harassment, and reprisal/whistleblower issues/conditions are related to her request.

3. On 6 October 2005, the applicant enlisted in the USAR in the rank/grade of private (PV2)/E-2 for a period of 8 years.

4. Orders show the applicant was transferred from the USAR Delayed Entry Program to the Army Reserve Medical Command to the Trainees, Transients, Holders and Students account on 29 December 2005.

5. The applicant entered active duty on 29 December 2005. Upon completion of Advanced Individual Training, she was awarded military occupational specialty 91E (Dental Specialist). On 3 May 2006, she was released from active duty for completion of required training under the authority of self-terminating orders and transferred to the 7222nd Hospital, Tampa, FL 33614. Her service was "Uncharacterized." She was credited with completion of 4 months and 5 days of net active service and held the rank/grade of PV2/E-2 at the time.

6. The specific facts and circumstances surrounding the applicant's separation are not available in her Army Military Human Resource Record (AMHRR). However, she provides the following documents which are available in their entirety for the Board's consideration.

a. The first page of 7235th Medical Support Unit, Orange County USAR Center, Orlando, FL memorandum, Subject: Notification of Separation Proceedings Under Army Regulation 135-178 (Enlisted Administrative Separations), Chapter 13, dated 21 April 2009, shows the applicant was notified that action was being initiated to separate her from the USAR for being an unsatisfactory participant as prescribed by Chapter 4 of Army Regulation 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements) in that she failed to attend annual training on 8 April 2009, 9 April 2009, and 10 April 2009. The unit had attempted to get her to respond or comply with orders or correspondence, and these attempts had resulted in her verbal or written refusal to comply with orders or correspondence which merited her separation. The action was suspended until 5 June 2009 to give the applicant an opportunity to exercise her rights. The remainder of the memorandum is not present in her available record.

b. A 7235th Medical Support Unit, Orange County USAR Center, Orlando, FL memorandum, Subject: Request for Conditional Waiver - Separation In Accordance With, Army Regulation 135-178, Chapter 13, dated 21 April 2009, shows the applicant acknowledged receipt of the notification. She understood she may expect to encounter substantial prejudice in civilian life if her service was characterized as General (under honorable conditions), or UOTHC. She further understood that, as the result of issuance of a discharge where the service is characterized as UOTHC, she may be ineligible for many or all benefits as a Veteran under both Federal and State laws. She consulted with counsel and was advised of the basis for the contemplated action to separate her for unsatisfactory participation and its effects; of the rights available to her; and the effect of any action taken by her in waiving her rights. She waived her right to consult with an appointed counsel.

7. Orders 09-194-00020, issued by Headquarters, Army Reserve Medical Command, Pinellas Park, FL on 13 July 2009, show the applicant was reduced from specialist (SPC)/E-4 to private (PV1)/E-1, effective 19 July 2009. She was also discharged from the USAR under the authority of Army Regulation 135-178 effective 19 July 2009. Her type of discharge was UOTHC.
8. The applicant petitioned the ADRB for relief. On 19 April 2012, she was informed that after careful review of her application, military records, and all other available evidence, the ADRB had determined that she was properly and equitably discharged and denied her petition.
9. The applicant petitioned the ADRB again. On 17 January 2013, she was informed the ADRB had reviewed her case and voted to grant relief in the form of upgrading her characterization of service from UOTHC to under honorable conditions (general) and restoring her to the rank/grade of SPC/E-4 at the time of her discharge. The ADRB also voted not to change the narrative reason for her separation or her RE code.
10. Orders 13-100-00001, issued by Headquarters, Army Reserve Medical Command, Pinellas Park, FL on 10 April 2013, revoked Orders 09-194-00020 issued by the same headquarters on 13 July 2009.
11. Orders 13-169-00025, issued by Headquarters, USAR Command, Fort Bragg, NC on 18 June 2013, show the applicant was discharged from the USAR in the rank/grade of SPC/E-4 under the authority of Army Regulation 135-178, effective 19 July 2009. Her type of discharge was Under Honorable Conditions (General). The Additional Instructions portion of these orders show the action was directed by Army Review Boards Agency (ARBA) Docket Number 20120014423, dated 3 April 2013.
12. ARBA was provided the following responses to requests for information regarding the applicant's case.
  - a. On 21 August 2024, the Department of the Army Criminal Investigation Division, Quantico, VA informed ARBA that a search of the Army criminal file indexes revealed no Sexual Assault records pertaining to the applicant.
  - b. On 26 September 2024, the Defense Finance and Accounting Service informed ARBA via email that there was no record of the applicant serving in Hawaii from 2017 to 2019.
  - c. On 16 October 2024, the U.S. Army Inspector General (IG) Agency, Washington, DC informed ARBA that a search of the Army IG database did not reveal any records pertaining to the applicant.

13. In addition to the previously discussed evidence, the applicant provides the following documents which are available in their entirety for the Board's consideration. The vast majority pertain to incidents that occurred after the applicant was separated from the Army and pertain to civil disputes and other matters unrelated to her military service.

a. A Florida Driver License which shows the applicant is authorized to drive any tractor/trailer with a gross vehicle weight rating of 26,001 pounds or more.

b. A VA Veterans identification Card.

c. A letter dated 26 August 2024, which shows the applicant was employed by the Greater Orlando Aviation Authority from 22 December 1999 through 23 April 2004.

d. Four Orange County, FL Sheriff's Office Incident Reports pertaining to complaints submitted by the applicant regarding theft/loss of her passport, two incidents of identity theft, and harassment.

e. Two Orange County, FL Sheriff's Office Summary Supplement Reports pertaining to complaints submitted by the applicant pertaining to cyberstalking, harassment, identity theft, threats, assault-bodily injury with intent to kill, fraud, burglary, and violation of her civil rights.

f. DA Form 5016 dated 22 August 2022, shows the applicant served in a USAR status from 6 October 2005 until 19 July 2009.

g. A Clerk Circuit Court, Orange County, FL, screenshot shows the applicant's case for "Dissolution of Marriage with Children" was filed on 1 September 2006 and final judgement was determined on 12 December 2006.

h. A Certificate of Interested Persons and Corporate Disclosure Statement shows the applicant filed a Job Discrimination (Employment) case against the City of Orlando, FL on 10 July 2020.

i. An Inpatient Department, Psychiatric History and Physical Admission Evaluation dated 17 November 2015, shows the applicant was admitted to a hospital on 16 November 2015 with the chief complaint of becoming upset because she had not slept. She had a history of anxiety and had been diagnosed with attention deficit, mood lability.

j. A State of Florida, Department of Highway Safety and Motor Vehicles, Division of Motorist Services, Fraud Investigation Request dated 26 December 2016, shows the

applicant reported possibly leaving her purse/wallet containing her driver license, cash, and credit cards on top of a mailbox.

k. An Orlando, FL Police Department Report dated 4 April 2016, shows the applicant reported receiving threatening and harassing telephone calls from unknown people.

l. A U.S. Equal Employment Opportunity Commission - Dismissal and Notice of Rights dated 31 August 2020, shows the applicant's case was closed based upon an investigation that was unable to conclude that the information obtained established violations of statutes.

m. Email messages exchanged between the applicant and a Victim Service Center in March 2021 show although there was no proof of a crime committed against her, she wanted to move forward with obtaining a protective order against OV, the person she alleged had stolen the identities of her mother/son/herself, committed sexual harassment and abuse, committed domestic abuse, cyberstalked her, and taken advantage of her mother.

n. A VA Form 21-0781a, shows the applicant filed a claim for VA medical benefits due to suffering from PTSD secondary to personal assault on 17 July 2021. She self-reported experiencing obsessive behavior, unexplained economic and social behavior changes, break up with her primary relationship, increased use of medication to sleep, depression, anxiety, panic attacks, paranoia, PTSD, and increased use of leave.

o. A Federal Bureau of Investigation Incident Report, dated 1 January 2022, shows the applicant reported being a victim of predatory cyber fraud, cyberstalked, and threatened by OV and third party networks from India and other parts of the world.

p. The applicant submitted a report of identity theft or fraud to an unknown agency on 18 May 2023. She stated her employers were taking he earned income due to internet and military tracking harassment.

q. Email messages exchanged between the applicant and a Veteran Health Study in August 2023 shows the applicant complained of her inability to remain employed at several jobs due to being subjected to cyberstalking, harassment, identity theft, threats, assault, fraud, burglary, gossip, and violation of her civil rights.

r. A Villa Rica, GA Police Department Incident Report dated 5 September 2023, shows the applicant filed a complaint regarding terroristic threats and acts following an altercation between her and man at a Pilot gas station. During her interview with a policeman, in part, she admitted to being schizophrenic and having an anxiety disorder.

s. A Risk Protection Order was issued against the applicant by Circuit Court of the Ninth Judicial Circuit, Orange County, FL Risk Protection Order on 14 December 2023. The Court determined that by clear and convincing evidence the applicant posed a significant danger of causing personal injury to herself or others by having in her custody or control any firearm or ammunition, of by purchasing, possessing, or receiving a firearm or ammunition. As a result, she was ordered to surrender to the Orange County Sheriff's Office all firearms and ammunition that she had in her custody, control, or possession and any license to carry a concealed weapon or a concealed firearm issued under Florida statutes.

t. Email messages exchanged between the applicant and the Longwood, FL Police Department in October 2023 show she was advised that she had been submitting her multiple complaints of identity theft and tracking harassment to the wrong department and it was recommended that she contact the agency who had jurisdiction where the incidents occurred.

u. A letter from the VA dated 29 January 2024, shows their records indicate the applicant served honorably from 29 December 2005 until 3 May 2006.

v. The applicant completed and signed a DD Form 215 on 1 February 2024 indicating her desired corrections.

w. A Standard Form 180 dated 2 February 2024, shows the applicant requested relief from the National Archives and Records Administration.

x. The applicant rendered a Federal Trade Commission Identity Theft Report on 9 February 2024 wherein she stated, in part, "Stalking cyber eye tracking subliminal love connection manipulation due to reported paralegal and military invasion of privacy and situational pedophile corruption that has used me to commit paralegal business tax fraud of small business while at employers creating a stalking and immigration driven network of corruption and multiple types of crime."

y. A Department of Defense Manpower Data Center Status Report as of 1 December 2005, shows no record of the applicant ever serving on active duty status.

z. A letter from the VA Readjustment Counseling Service, Orlando Veterans Center, Orlando, FL dated 6 December 2023, shows the applicant was provided the forms needed to enroll for Vet Center Readjustment Counseling Services. It stated once the completed forms and DD Form 214 were received, they could schedule an intake appointment. The applicant hand-wrote several comments on this document.

aa. An Orange County FL, Government Outpatient Visit Note shows the applicant was seen and evaluated on 23 January 2024. It shows, in part, she was a new patient who had a history of anxiety, depression, bipolar 1 disorder/schizophrenia.

bb. A letter from VA dated 29 January 2024, shows their records indicate the applicant served honorably from 29 December 2005 until 3 May 2006. It also shows the applicant had no service-connected disabilities at the time.

cc. A VA Form 21-0781 show the applicant submitted a statement in support of her claimed mental health disorders due to in-service traumatic events on 5 September 2024. She listed six events as the catalysts for her trauma, none of which occurred during her period of service.

dd. Page 2 of 2 of a VA Form 10-5345 indicates the applicant authorized the VA to release information pertaining to drug abuse and alcoholism or alcohol abuse upon termination of Vet Center Services.

ee. The applicant provides her entire VA Health Record as of 20 August 2024 (254 pages).

ff. The applicant provides a two-page extract from what she states is her federal complaint against OV, Jr.

gg. Page 1 of 2 of a Privacy Act Consent Form wherein the applicant requests an honorable member of the Senate, "Provide backup documentation on Article 10 orders calling for military personnel."

hh. A screenshot provides general information regarding the passage of the Fiscal Year 2017 National Defense Authorization Act.

ii. A Certificate of Training shows the applicant satisfactorily completed a Florida Law Enforcement Officer Basic Recruit Academy on 28 July 2011.

jj. A Roadmaster Drivers School diploma shows the applicant successfully the Commercial Truck Drivers Training Course on 29 June 2019.

kk. A translation of the applicant's Birth Certificate shows her father's last name as F\_\_\_\_o-R\_\_\_\_o and her mother's last name as R\_y-S\_\_\_\_o, which indicates she reverted to her maiden name following her divorce and now goes by F\_\_\_\_o-R\_y.

ll. Two photographs.

14. Army Regulation 600-8-19 (Enlisted Promotions and Reductions), paragraph 10-15 provides that when the separation authority determines that a Soldier is to be discharged from the Service UOTHC, the Soldier will be reduced to the lowest enlisted rank.

15. Army Regulation 635-8 (Separation Processing and Documents) stipulates that Copy 1 and Copy 4 of DD Form 214 are provided to the separating Servicemember; Copy 3 is provided to the VA, Data Processing Center.

16. 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. Applicants do not have a right to a hearing before the ABCMR.

17. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to her characterization of service from under honorable conditions (general) to honorable; a change to the RE code; and consideration of her time in Hawaii from 2017 to 2019. She contends she experienced an undiagnosed mental health condition, including PTSD, and sexual assault/harassment (MST) that mitigates her discharge.

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 U.S. Army Reserves on 6 October 2005, and she entered active duty on 29 December 2005 and was released on 3 May 2006.
- The first page of a memorandum with subject: Notification of Separation Proceedings Under Army Regulation 135-178, Chapter 13, dated 21 April 2009 showed the applicant was notified that action was being initiated to separate her from the USAR for being an unsatisfactory participant as prescribed by Chapter 4 of Army Regulation 135 in that she failed to attend annual training on 8 April 2009, 9 April 2009, and 10 April 2009. The unit had attempted to get her to respond or comply with orders or correspondence, and these attempts had resulted in her verbal or written refusal to comply with orders or correspondence which merited her separation. The action was suspended until 5 June 2009 to give the applicant an opportunity to exercise her rights. The remainder of the memorandum is not present in her available record.
- Orders 09-194-00020, issued by Headquarters, Army Reserve Medical Command, Pinellas Park, FL on 13 July 2009, show the applicant was reduced from specialist (SPC)/E-4 to private (PV1)/E-1, effective 19 July 2009. She was also discharged from the USAR under the authority of Army Regulation 135-178 effective 19 July 2009. Her type of discharge was UOTHC.

- Orders 13-169-00025, issued by Headquarters, USAR Command, Fort Bragg, NC on 18 June 2013 show the applicant was discharged from the USAR in the rank/grade of SPC/E-4 under the authority of Army Regulation 135-178, effective 19 July 2009. Her type of discharge was Under Honorable Conditions (General). The Additional Instructions portion of these orders show the action was directed by Army Review Boards Agency (ARBA) Docket Number 20120014423, dated 3 April 2013.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts, in effect, she should have been honorably discharged from the USAR after serving as both a Soldier and a civilian humanitarian from 6 October 2005 until an unspecified date in 2019. She makes several claims related to attempts at changing or correcting her RE code and corresponding civilian service, and she expressed a desire to reenlist in the Army National Guard. She indicated mental health, PTSD, MST, and Reprisal as factors in her discharge, and she illogically discusses these experiences in her multi-page request. An inpatient Psychiatric History and Physical Evaluation dated 16 November 2015 showed she reported anxiety, sleep deprivation, and a history of ADHD, and she requested to be admitted for a medication evaluation. It appears she discharged two days later with a diagnosis of Major Depressive Disorder. Correspondence from the VA dated 29 January 2024 showed that the applicant received a card denoting honorable service. An outpatient mental health visit note signed by the provider on 25 January 2024 showed that the applicant reported having a lot of stress at home, and it was noted that she had a history of anxiety, depression, bipolar I disorder/schizophrenia, and hospitalization in 2022. She was prescribed an antipsychotic medication and instructed to follow up in 2-3 weeks. Another letter from the VA dated 29 January 2024 noted honorable discharge effective 3 May 2006 but did not indicate any service connected conditions. The application included 254 pages of VA records, which will be summarized below. Additionally, there were several documents, such as police reports and record requests, which showed the applicant had reported incidents of stalking, cyberstalking, identity theft, assault, and sexual assault. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric 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 the applicant initially engaged the VA for assistance in November 2020, and she reported being the victim of identity theft and stalking. She was told that she does not qualify for VA services and was referred to community resources. She was seen as a walk-in to the mental health clinic in June 2021 and reported grandiose beliefs/delusions along with significant distress, and she was provided with medications before it was determined that she was ineligible for care. She presented to the VA again in November 2022 with psychosis and was admitted to the psychiatric unit, but she was later transferred to a non-VA facility. She was provided

with crisis response services again in 2023 and 2024, and her most recent encounter was on 12 April 2024 via secure messaging where she was discussing stolen valor, identity theft, and stalking. She was informed that she was not eligible for treatment and was referred to community services.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a mental health condition while on active service. The specific facts and circumstances surrounding her separation are not available, but she did provide a memorandum notifying her of separation proceedings under AR 135-178, chapter 13, for being an unsatisfactory participant, after failing to attend annual training. She does not dispute this and discussed in her application her history of not having a reliable family care plan. In 2013 the Army Discharge Review Board mitigated her UOTHC characterization of service to Under Honorable Conditions (General) with a discharge date of 19 July 2009. Available mental health records date back to 2015 and indicate diagnoses of anxiety, depression, and bipolar disorder/schizophrenia. The applicant asserts MST and PTSD as mitigating factors in her discharge, but she does not report a trauma-related experience while on active service and only discusses vague experiences of harassment following discharge. In the absence of the facts and circumstances related to her misconduct, there is no way to draw a nexus between her mental health condition and her discharge. In regard to her request to change the RE code, the applicant's mental health history provides sufficient evidence of the presence of a severe mental illness, including psychosis and severe delusions, and it is highly unlikely that she would meet accession standards or would be granted a waiver.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts she had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. She has a history of mental health diagnosis and treatment post-discharge.

(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. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. There is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service. However, the applicant contends she had a mental health condition or

an experience that mitigated her misconduct, and per Liberal Consideration her contention is sufficient for the board's consideration.

#### 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 consideration for requesting upgrade of discharge characterization of service. Upon review of the applicant's request, available military records and medical review, the Board concurred with the advising official opine based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a mental health condition while on active service. The specific facts and circumstances surrounding her separation are not available, but she did provide a memorandum notifying her of separation proceedings under AR 135-178, chapter 13, for being an unsatisfactory participant

#### Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts she had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. She has a history of mental health diagnosis and treatment post-discharge.

(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. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. There is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service. However, the applicant contends she had a mental health condition or an experience that mitigated her misconduct, and per Liberal Consideration her contention is sufficient for the board's consideration

2. The Board applauds the applicant's post service achievements however, the Board determined there is insufficient evidence of in-service mitigating factors to overcome the applicant's contentions for an upgrade of her under honorable conditions (general)

discharge to honorable or correction of her DA Form 5016. The applicant did not have a family care plan and admits she is unable to attend drill due to her choice of living area. The Board noted the applicant received a discharge upgrade to under honorable (general) condition from her under other than honorable conditions (UOTHC) character of service. The Board agreed that the applicant's discharge characterization is warranted as she did not meet the standards of acceptable conduct and performance of duty for Army personnel to receive a honorable discharge. The Board found no error or injustice that warrants correction of her DA Form 5016 or change to her RE-Code. The Board found the applicant's records of void of any assignment to Hawaii. Furthermore, the Board determined the record is absent any evidence of mental health issues while on active duty. Based on the preponderance of evidence, the Board denied relief. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant. 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, the Board found 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.

ADMINISTRATIVE NOTE(S):

1. The applicant completed a period of initial active duty for training (IADT). She was awarded a military occupational specialty at the completion of training and was transferred back to the USAR. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) provides that when a Reserve Component Soldier successfully completes IADT, the characterization of service is Honorable unless directed otherwise by the separation authority.
2. Please reissue her a DD Form 214 for the period ending 3 May 2006 showing her character of service as Honorable.

REFERENCES:

1. Title 10, USC, Section 1552(b), provides that applications for correction of military records must be filed within three 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 three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Title 10, USC, 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. 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. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

4. Army Regulation 135-178 (Enlisted Administrative Separations), sets forth the basic authority for the separation of enlisted Reserve Component personnel.

a. Paragraph 2-9a provides that an honorable characterization of service is appropriate when the quality of the Soldier'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. Paragraph 2-9b provides that a general (under honorable conditions) characterization of service is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

c. Paragraph 2-9c provides that service may be characterized as UOTHC when discharge is for misconduct, fraudulent entry, unsatisfactory participation, or security reasons.

d. Chapter 12 provides a Soldier may be discharged for misconduct when it is determined under the guidance set forth in chapter 2, section I, that the Soldier is unqualified for further military service by reason of one or more of the following circumstances.

(1) Minor disciplinary infractions. A pattern of misconduct consisting solely of minor disciplinary infractions. If separation of a Soldier in entry level status is warranted solely by reason of minor disciplinary infractions, the action will be processed under Entry Level Performance and Conduct (chap 8).

(2) A pattern of misconduct. A pattern of misconduct consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline. Discreditable conduct and conduct prejudicial to good order and discipline

include conduct which violates the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

(3) Commission of a serious offense. Commission of a serious military or civilian offense if the specific circumstances of the offense warrant discharge and a punitive discharge would be authorized for the same or a closely related offense under the UCMJ.

(4) Abuse of illegal drugs. Abuse of illegal drugs is serious misconduct. Discharge action normally will be based upon commission of a serious offense. However, relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more disciplinary infractions or incidents of other misconduct and processed for discharge under (1) or (2) above, as appropriate.

(5) Civil conviction. A Soldier may be discharged for misconduct when it is determined under the guidance set forth in chapter 2, section I, that the Soldier is unqualified for further military service by reason of a civil conviction. Discharge action may be initiated against Soldiers under the following circumstances:

(a) When initially convicted by civil authorities, or action is taken that is tantamount to a finding of guilty (to include a similar adjudication in juvenile proceedings).

(b) When a punitive discharge would be authorized for the same or a closely related offense under the UCMJ, or the sentence by civil authorities includes confinement for 6 months or more without regard to suspension or probation.

(c) When specific circumstances of the offense warrant discharge.

(d) If the sole basis for discharge is conviction of a civil offense, counseling and rehabilitative efforts are not required prior to initiation of discharge action.

(e) When a board hearing has been properly waived, the case will be processed under the Notification Procedure and the separation authority will take action under paragraph 3-9.

(6) Characterization of service normally will be Under Other Than Honorable Conditions, but characterization as General (under honorable conditions) may be warranted under the guidelines in chapter 2, section III.

(a) For Soldiers who have completed entry level status, characterization of service as Honorable is not authorized unless the Soldier's record is otherwise so

meritorious that any other characterization clearly would be inappropriate. In such cases, separations for misconduct with an Honorable characterization will be approved by the separation authority (para 1-10). As an exception, the separation authority will approve separations with service characterized as Honorable when the sole evidence of misconduct is command-directed urinalysis results, which cannot be used for characterization of service, or when an administrative discharge board has recommended separation with an Honorable characterization of service.

(b) When characterization of service Under Other Than Honorable Conditions is not warranted for a Soldier in entry level status under chapter 2, section III, the service will be described as uncharacterized.

5. Army Regulation 600-8-19 (Enlisted Promotions and Reductions), paragraph 10-15 provides that when the separation authority determines that a Soldier is to be discharged from the Service UOTHC, the Soldier will be reduced to the lowest enlisted rank. Further board action is not required for this reduction.

6. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-1 provides a list of RE codes.

- RE code "1" applies to Soldiers completing their term of active service, who are considered qualified for enlistment if all other criteria are met
- RE code "2" is no longer in use but applied to Soldiers separated for the convenience of the government, when reenlistment is not contemplated, who are fully qualified for enlistment/reenlistment
- RE code "3" applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, whose disqualification is waivable – they are ineligible unless a waiver is granted
- RE code "4" applies to Soldiers separated from last period of service with a non-waivable disqualification

7. Army Regulation 635-8 (Separation Processing and Documents) at the time established the standardized policy for preparing and distributing the DD Form 214. It stated the purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. DD Form 214 is comprised of eight pages and is distributed as follows:

- Copy 1 (Member) is provided to the Servicemember
- Copy 2 (Service) is forwarded to the Interactive Personnel Electronic Records Management System
- Copy 3 is provided to the VA, Data Processing Center
- Copy 4 is provided to the Servicemember
- Copy 5 is provided to the Department of Labor, Federal Claims Control Center
- Copy 6 is provided to the appropriate State office of VA upon the Servicemember's request
- Copy 7 is provided to the installation finance office
- Copy 8 is the file copy for the transition center

8. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

9. 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 DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; Traumatic Brain Injury; 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 to those conditions or experiences.

10. 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.

//NOTHING FOLLOWS//