

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 October 2024

DOCKET NUMBER: AR20240002548

APPLICANT REQUESTS:

- Correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to show her narrative reason for separation as "Hardship" instead of "Pregnancy."
- reinstate the Montgomery GI Bill
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record), 8 December 2023
- DD Form 214
- DD Form 149, dated 26 December 2023
- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States) dated 26 December 2023
- Department of Veterans Affairs (VA), Statement in Support of Claim
- VA Letter
- DD Form 214

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. The applicant and her husband were stationed in Germany, and she was pregnant with a delivery date in September of 1989. Their unit was notified of a possible deployment to the Persian Gulf and since they had no family living in the country to support them during the deployment, she separated from active duty in order to care for their child. She feels she was not offered the option to separate for hardship, she was

not informed of the loss of VA benefits, and she was not explained that her 12 months of GI Bill which she feels she contributed \$41,200 was not noted on her DD Form 214.

b. On 12 February 2023 the applicant was hired by the Northport VA in New York. She had the opportunity to seek information from the VA benefits professionals and they advised her to seek a correction to this error. She feels as an active-duty Soldier in a hardship position with no family support and threats of deployment has affected her benefits. She respectfully requests the separation reason corrected to hardship, that her Veterans benefits, and reinstate the GI bill with an effective date of 9 August 1989.

3. The applicant provides:

a. A DD Form 293 dated 26 December 2023, shows in item 20, the applicant is requesting the reason for discharge "Pregnancy" to be changed to "Hardship" because the applicant and her husband were in the same unit preparing to deploy. She was pregnant and she did not have family to care for her son.

b. A VA Statement in Support of Claim Form dated 26 December 2023, shows in September of 1989 the applicant requested and received a discharge from the Army. The applicant and her husband were stationed in Germany in the same unit. The applicant was pregnant with her son and their unit was preparing for deployment to Saudi Arabia for operation Desert Shield and Desert Storm. Since they had no family in Germany to care for their son in the event of deployment, they agreed that the applicant would separate just before her son was born. She was given an honorable discharge with a pregnancy reason. Because of her time on active duty and the pregnancy reason, she was told she was not entitled to VA benefits. Her discharge should have been issued with a hardship reason due to the upcoming deployment and no family to support them. Therefore, she should be entitled to all VA benefits and the GI bill.

c. A VA letter dated 26 December 2023, shows the applicant served on active duty from 19 November 1987 to 8 August 1989 and her character of discharge was honorable.

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

a. She enlisted in the Regular Army on 19 November 1987.

b. On 23 March 1989, a memorandum for records show, the immediate commander counseled the applicant on her entitlements and responsibilities. The applicant acknowledges receipt of this counseling:

- She understood that if she elects separation, she may receive maternal care at Department of Defense expense.

- She may elect a separation date no later than 30 days prior to expected date of delivery, or latest date her physician will authorize her travel, whichever is earlier.
- She fully understood that under no circumstance can CHAMPUS, any military department, or Veterans Administration reimburse her civilian maternal care expenses.
- She also understood that if she should remain on active duty, she will be expected to fulfill the terms of her enlistment contract.
- If she elects to remain on active duty, she understood that she must remain available for unrestricted service on a worldwide base when directed and that she will be afforded no special consideration and duty assignments, or duty stations based on her status as a parent.
- Applicant initialed during the counseling session there was no coercion on the part of the counselor influencing her decision.
- Applicant initialed she elects separation for reason of pregnancy per AR-635-200 (Personnel Separations – Enlisted Personnel), chapter 8 (Pregnancy). She desires to remain on active duty until 7 August 1989. (In no case later than 30 days prior to expected date of delivery.)

c. On 2 June 1989, the applicant's immediate commander recommended approval of the applicant's chapter 8 "Pregnancy" discharge. He recommended that her period of service be characterized as honorable.

d. On 5 June 1989, a DA Form 4187 (Personnel Action) shows the applicant voluntarily requested chapter 8 (Pregnancy) discharge with a separation date of 7 August 1989. The immediate commander recommended approval.

e. The service record includes the applicant's medical examination, dated 22 June 1989, for the purpose of chapter 8 which indicated she was generally in good health. The applicant was marked qualified for service and separation.

- Standard Form (SF) 88 (Report of Medical Examination)
- SF 93 (Report of Medical History)

f. On 13 July 1989, consistent with the immediate commander's recommendation, the separation authority approved the discharge recommendation for separation under the provisions of AR 635-200, Chapter 8, for "Pregnancy" She would be furnished an Honorable Discharge Certificate, with a separation date no later than 7 August 1989.

g. On 8 August 1989, she was released from active duty with an honorable discharge characterization of service. Her DD Form 214 shows she completed 1 year, 8 months, and 20 days of active service with no lost time. She was assigned separation

code KDF and the narrative reason for separation listed as "Pregnancy," with reentry code 2. It also shows she was awarded or authorized:

- Army Service Ribbon
- Marksman Marksmanship Qualification Badge with Rifle Bar

5. By regulation (AR 15-185), the ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

6. By regulation (AR 600-20), dual-service parents of all active duty and Reserve Components will be counseled by his or her commander. Soldiers must arrange for the care of their family members so as to be available for duty when and where the needs of the Service dictate. To be able to perform assigned military duties without interference and remain eligible for worldwide assignment.

7. By regulation (AR 635-8), the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, the evidence found within the military record and regulatory guidance, the Board found that relief was not warranted.

2. The Board carefully considered applicant's request, her record of service, her status as a dual-service member, her unit's impending deployment, her election of a pregnancy discharge and the reason for her separation as shown on her DD Form 214. The Board considered the applicant's statement regarding the denial of benefits due to the nature of her separation. The Board did not find sufficient evidence of hardship to support a change of her narrative reason. Based on a preponderance of evidence, the Board determine that the reason for separation as reflected on her DD Form 214 was not in error or unjust.

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
█	█	█	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.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. Army Regulation 600-20 (Army Command Policy) chapter 5-5 (Pregnancy and Family Care Counseling), Dual-service parents of all active duty and Reserve Components will be counseled by his or her commander. Soldiers must arrange for the care of their family members so as to be available for duty when and where the needs of the Service dictate. To be able to perform assigned military duties without interference and remain eligible for worldwide assignment.

4. Army Regulation 635-8 (Separation Processing and Documents), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

5. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 6-b, hardship exists when in circumstances not involving death or disability of a member of the service member's or his/her spouse's immediate family, his/her separation from the Service will materially affect the care or support of his/her family by alleviating undue and genuine hardship.

b. Chapter 8 establishes policy and procedures and provides authority for voluntary separation of enlisted women due to pregnancy. This chapter applies to all Regular Army, Army National Guard and U.S. Army Reserve enlisted women ordered to active duty. When service medical authorities determine that an enlisted woman is pregnant, after her unit commander has counseled her concerning her options, entitlements, and responsibilities, may request separation under this chapter.

6. Title 38, United States Code (USC), Chapter 30, the Montgomery GI Bill (MGIB) Program, states VEGIB eligible members who had remaining entitlement to VEGIB benefits on 31 December 1989, and met one of the following two requirements were automatically converted to the MGIB Program: (1) on active duty anytime between 19 October 1984 and 1 July 1985 and served continuously from that date through 30 June

1988, or through 30 June 1987 followed by four years in the Selected Reserves; or (2) not on active duty on 19 October 1984 and served three continuous years of active duty after 1 July 1985.

7. Department of Defense Instruction (DODI) 1322.16: (Montgomery GI Bill Program) Section 3.2 (Procedures to Make Reductions) The Secretaries of the Military Departments; the Commandant, USCG; the Surgeon General USPHS; and the Secretary of Commerce, NOAA, in implementing the MGIB Program, will establish procedures to make reductions from active-duty members' pay under this program. Specifically, implement procedures to make reductions from the active-duty member's pay as described in this section and as required by Sections 3011(b) or 3012(c) of Title 38, U.S.C., whichever is applicable. Ensure all eligible active-duty members are aware: They are entitled to 36 months of benefits but must first meet MGIB Program eligibility requirements established under Chapter 30 of Title 38, U.S.C., including completing 36 months of active duty (24 months if enlistment is for less than 36 months) and an honorable discharge for service establishing entitlement to the MGIB (does not include "under honorable conditions"). Active-duty members have 10 years from the date of last discharge from active duty to use MGIB benefits.

//NOTHING FOLLOWS//