

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 October 2024

DOCKET NUMBER: AR20240002586

APPLICANT REQUESTS: an upgrade of her uncharacterized discharge to under honorable conditions (General).

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), for the period ending 29 July 1994
- Military History Excerpt
- Orders 144-713, U.S. Army Training Center and Fort Jackson, SC, dated 27 July 1994 (Relieved from Active Duty for Training (ADT))

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 was recently diagnosed with cancer and is checking to see if she can receive veteran's health assistance. She voluntarily discharged due to hardship with her family and was released on good terms due to limited family at home. She chose to leave early. Due to her failing health, she would sincerely appreciate a review of her characterization of service.
3. The applicant provides a military history excerpt, which shows she served as a member of the Army National Guard (ARNG) in the rank/grade of private (PVT)/E-1 from 5 April 1994 to 29 July 1994.
4. A review of the applicant's service records show:
 - a. She enlisted in the ARNG on 5 April 1994.

b. She entered ADT on 27 May 1994.

c. On 29 July 1994, she was relieved from ADT and discharged as a member of the Reserve or ARNG under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11 for entry level performance and conduct. Her DD Form 214 shows in:

- item 11 (Primary Specialty): none
- item 12c (Net Active Service This Period): 2 months and 3 days
- item 24 (Character of Service): uncharacterized

5. In reaching its determination, the Board can consider the applicant's petition and her service record in accordance with the published equity, injustice, or clemency determination guidance.

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. Upon review of the applicant's petition and available military records, the Board found that the applicant completed 2 months and 3 days of net active-duty service, did not complete initial training, and was released from active duty due to entry-level performance and conduct. In accordance with regulatory guidance, service members separated during the entry-level period who have not completed training are issued an uncharacterized discharge. Therefore, the Board found that the applicant's DD Form 214 appropriately reflects the correct characterization of service, and no change is warranted. Relief was denied.

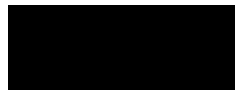
2. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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. Army Regulation 635-200 (Personnel Separations), in effect at the time, set forth the basic authority for the separation of enlisted personnel. Chapter 3 described the different characterizations of service.
 - a. Paragraph 3-9, of the regulation in effect at the time of his separation, stated that a separation would be described as an entry-level separation with service uncharacterized if processing is initiated while a Soldier is in an entry-level status (emphasis added), except in the following circumstances:

(1) when characterization of under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case or

(2) when the Secretary of the Army, on a case-by-case basis, determines that an honorable characterization of service is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty.

b. Section II (Terms) of the glossary states that entry-level status for Soldiers in the ARNG and USAR begins upon enlistment in the ARNG or USAR and, for those Soldiers ordered to IADT for one continuous period, terminates 180 days after the commencement of IADT.

3. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (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. 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 based on 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. 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//