

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 November 2024

DOCKET NUMBER: AR20240002662

APPLICANT REQUESTS:

- Upgrade of her uncharacterized discharge to honorable
- Personal appearance before the Board

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

DD Form 149 (Application for Correction of Military Record)

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, in effect, she was forced to sign her discharge documents due to a cover up of her platoon, the range, and her command's impropriety. For 41 years she was unaware of her type of discharge. She was discharged unwittingly and unwillingly. She was advised by a friend to request her DD Form 214, only then was she aware of her honorable [sic] discharge. She indicates on her application that she suffers from post-traumatic stress disorder (PTSD), sexual assault/harassment, and reprisal/whistleblower.
3. The applicant's service record contains the following documents:
 - a. SF Form 88 (Report of Medical Examination) and SF Form 93 (Report of Medical History), 13 October 1982, shows she had no medical/mental health issues and she was qualified for enlistment.
 - b. DD Form 4 (Enlistment/Reenlistment Document - Armed Forces of the United States) shows she enlisted in the U.S. Army Reserve (USAR) on 26 October 1982.
 - c. Orders 210-19, published by Military Entrance Processing Station, 26 October 1982, ordered her to initial active duty training (IADT) with a report date of 1 November 1982 and an advanced individual training (AIT) report date of 14 January 1983. The

IADT training period was approximately 23 week or upon completion of basic training and AIT. Upon completion of her training, she would return to her home unit.

d. DA Form 2-1 (Personnel Qualification Record) shows she entered basic training on 6 November 1982.

e. DA Forms 4856 (General Counseling Form), show she was counseled on:

(1) 19 November 1982, she was marked as satisfactory in appearance; marginally satisfactory in motivation, mastery of training skills, physical fitness, and overall assessment, and unsatisfactory in accountability, military courtesy, and self-discipline. She concurred with the counseling and signed the form.

(2) 24 November 1982, regarding her reassignment for her inability to get along with noncommissioned officers, being a chronic trouble maker, her inability to follow instructions, her lack of respect for authority, her poor attitude, her poor duty performance, her lack of maturity, and her lack of self-discipline. There is no indication of concurrence or nonconcurrence and she did not sign the form.

(3) 17 January 1983, for fraternization. She concurred with the counseling and signed the form.

(4) 24 January 1983, for fraternization. There is no indication of concurrent or nonconcurrence and she did not sign the form.

(5) 31 January 1983, for lacking self-discipline and motivation, for displaying a poor attitude and being disruptive, she received a Field Grade Article 15 for fraternizing, she had repeated misconduct by receiving a second incident of fraternization, she was recommended for discharge. She had shown no improvement/potential. She concurred with the counseling and signed the form.

f. DA Form 2627 (Record of Proceedings Under Article 15, Uniform Code of Military Justice), 16 December 1982, shows she accepted nonjudicial punishment for disobeying a lawful written order. Her punishment included forfeiture of \$200 for two months and confinement for 30 days. She appealed the punishment. There was no indication of action taken on her appeal.

g. On 1 February 1983, her commander initiated separation of her under the Trainee Discharge Program for a lack of self-discipline, poor attitude, and lack of motivation. On the same day, she acknowledged receipt of the notification, did not desire to consult with a commissioned officer of the Judge Advocate General's Corps, did not desire to make statements or submit a rebuttal in her own behalf, and did not desire to have a separation medical examination if the separation was approved.

h. Her chain of command recommended she be separated from the Army. On 10 February 1983, the appropriate approval authority directed she be separated from the Army and her character of service would be uncharacterized. Her reassignment for rehabilitation purposes was waived.

i. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows, as a member of the USAR, she was discharged from the Army on 22 February 1983. She had completed 3 months, and 25 days of net active duty service. She was discharged under the authority for entry level performance and conduct, her character of service was uncharacterized, her separation code was JGA (JET) and her reentry code was 3.

j. Medical documentation showing her medical appointments, while on active duty, are available for the Board's review and will be reviewed by the Army Review Board's Agency (ARBA) Medical Section who will provide an advisory opinion.

4. On 1 August 2024, ARBA requested medical documentation from the applicant to support her issue of PTSD. She did not respond.

5. On 12 August 2024, the Criminal Investigation Division (CID) responded to a request for a Redacted CID and Military Police Reports of Sexual Assault Reports pertaining to the applicant. CID stated a search of the Army criminal indexes, utilizing the information ARBA provided revealed no sexual assault records pertaining to the applicant.

6. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. 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.

7. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of her characterization of service from uncharacterized to honorable. She selected PTSD, MST, and Reprisal/Whistleblower on her application but provides no explanation for her contention.

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 in the U.S. Army Reserve (USAR) on 26 October 1982.
- DA Form 2-1 (Personnel Qualification Record) shows she entered basic training on 6 November 1982.
- On 1 February 1983, her commander initiated separation of her under the Trainee Discharge Program for a lack of self-discipline, poor attitude, and lack of motivation. On the same day, she acknowledged receipt of the notification, did

not desire to consult with a commissioned officer of the Judge Advocate General's Corps, did not desire to make statements or submit a rebuttal in her own behalf, and did not desire to have a separation medical examination if the separation was approved.

- DD Form 214 (Certificate of Release or Discharge from Active Duty) shows, as a member of the USAR, she was discharged from the Army on 22 February 1983. She had completed 3 months, and 25 days of net active-duty service. She was discharged under the authority for entry level performance and conduct, her character of service was uncharacterized, her separation code was JGA (JET) and her reentry code was 3.
- On 1 August 2024, ARBA requested medical documentation from the applicant to support her issue of PTSD. She did not respond.
- On 12 August 2024, the Criminal Investigation Division (CID) responded to a request for a Redacted CID and Military Police Reports of Sexual Assault Reports pertaining to the applicant. CID stated a search of the Army criminal indexes, utilizing the information ARBA provided revealed no sexual assault records pertaining to the applicant.

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 states, she was forced to sign her discharge documents due to a cover up of her platoon, the range, and her command's impropriety. For 41 years she was unaware of her type of discharge. She was discharged unwittingly and unwillingly. She was advised by a friend to request her DD Form 214, only then was she aware of her discharge.

d. Due to the period of service no active-duty electronic medical records were available for review. However, the applicant provides hardcopy documentation of a mental status evaluation for the purpose of determining her potential for retention, dated 16 November 1982. The evaluation states the applicant reported difficulty with her drill instructor due to "personality clashes". She was described as mildly anxious but presented with no mental health condition and the diagnostic impression was of adjustment reaction with mixed emotional features.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 30% service connected for PTSD. There is no evidence of participation in any behavioral health services and the applicant did not provide any medical documentation supporting her contention of PTSD. However, there is a referral from a medical provider for a Trauma Services Program consultation, dated 17 September 2024. The referral states the applicant reported Military Sexual Trauma, "I was groomed, sexually assaulted, group raped by superior officers x2 Drill Sergeants." However, the applicant was not assessed regarding her experience of MST and nor were her treatment needs evaluated since she canceled the consultation.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is minimal but sufficient evidence to support the applicant had an experience of MST, and a subsequent BH condition that mitigates her discharge.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant selected PTSD, MST, and Reprisal/Whistleblower on her application as related to her request.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is 30% service connected for PTSD. The applicant was assessed while in service and the diagnostic impression was of adjustment reaction with mixed emotional features.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged due to lack of self-discipline, poor attitude, and lack of motivation. She asserts the mitigating experience of MST and is 30% service connected for PTSD. It is more likely than not that, if the applicant had not suffered MST during military service, she would have been able to successfully complete her term of military service.

BOARD DISCUSSION:

1. The Board determined 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.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant was discharged under the Trainee Discharge Program for a lack of self-discipline, poor attitude, and lack of motivation. She completed 3 months, and 25 days of net active duty service, did not complete training, and was not awarded an MOS. Her service was uncharacterized. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. Furthermore, the Board considered the medical records, any VA documents provided by the applicant and the review and conclusions of the medical reviewing official. The Board concurred with the medical official's finding minimal evidence, but did not believe there is sufficient evidence to support the applicant had an experience of MST, and a subsequent behavioral health condition that mitigates her discharge. Therefore, based on a preponderance of

available evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

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 may, in its discretion, hold a hearing or request additional evidence or

opinions. Additionally, it states in paragraph 2-11 that 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.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 3 provides that a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.

b. Paragraph 3-7a provides that 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 an 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.

d. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

4. Army Regulation 635-5-1 (Personnel Separations - Separation Program Designators), in effect at the time, states that the SPD Code "JGA" applies to separations under the provisions of AR 635-200, Chapter 11, Entry Level Performance and Conduct with an reenlistment code of 3.

5. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) table 3-1 (U.S. Army reentry eligibility codes) states:

a. RE-1: Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army.

b. RE-3: Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation or disqualification is waiverable.

c. RE-4: Applies to: Person separated from last period of service with a nonwaiverable disqualification.

d. RE-4R: Applies to: A person who retired for length of service with 15 or more years active federal service.

6. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions 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.

7. 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 (TBI); sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. 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. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

8. 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.

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. 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//