

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 November 2024

DOCKET NUMBER: AR20240002832

APPLICANT REQUESTS:

- amendment of her narrative reason for separation from fraudulent entry
- 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)

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 her recruiter groomed, raped, and told her to lie on her enlistment paperwork. Her discharge is preventing her from receiving benefits. She feels what happened to her was not fair. She adds that her recruiter was later investigated. She annotates post-traumatic stress disorder and sexual assault/harassment as issues/conditions related to her request.

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

a. The applicant enlisted in the Regular Army on 10 December 2018. After the completion of initial entry training, she was assigned to 307th Engineer Company, Fort Bragg, NC.

b. Her record contains a Standard Form 600 (Health Record – Chronological Record of Medical Care), dated 1 June 2020, which shows, in pertinent part, the applicant had a history of extensive sexual abuse, self-harm, and substance abuse, which existed prior to service. The diagnosis included reaction to severe stress and treatment included to continue assessment by follow-on visits; fitness for duty required further evaluation to determine if the applicant meets medical retention standards in

accordance with Army Regulation 40-501 (Standards for Medical Fitness), paragraph 3-33 (Learning, Psychiatric, and Behavioral Health).

c. On 8 June 2020, the applicant underwent a mental status evaluation. Her behavioral health condition meets retention standards but may require waiver for deployability within specific areas of operation. She was diagnosed with adjustment disorder with anxiety and personal history of sexual abuse in childhood.

d. Her record contains a Standard Form 600, dated 9 June 2020, which shows, in pertinent part, the applicant was brought in for a follow-up appointment. The applicant "failed to disclose the following: history of self-mutilation (cutting), history of severe depression, and history of suicidal ideation (states she would routinely go to sleep wishing she would not wake up and at times considering ways to accomplish that). She does deny hx [history] of substance abuse. She separately acknowledges a history of sexual abuse, however, that is not disqualifying for enlistment in and of itself." The medical provider believed she "was medically disqualified from military service and should never have been allowed to enlist without at minimum a waiver, and that a waiver would have been unlikely if she was forthright during the process." Recommend separation in accordance with Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 7-17d (Fraudulent Entry). The applicant "emphatically endorsed agreement with the recommendation."

e. On 13 July 2020, her immediate commander initiated action to separate her for incident of fraudulent entry. The reasons for his proposed action were: on 1 June 2020, it was discovered she had failed to disclose multiple mental and medical enlistment-disqualifying conditions prior to enlisting. He recommended her service be characterized as honorable. He advised her of her rights. She acknowledged receipt on the same date.

f. On 17 August 2020, the applicant consulted with counsel. She was advised of her rights and understood she was not entitled to an administrative separation board because she had less than 6 years of active and reserve service at the time of notification for separation and because she was not being recommended to receive an other than honorable discharge. She elected not to submit statements on her own behalf. She indicated she had not filed an unrestricted report of sexual assault within 24 months of initiation of the separation action.

g. On 20 August 2020, consistent with the chain of command recommendations, the separation authority approved the applicant's discharge under the provisions of Army Regulation 635-200, Chapter 7-17, Incident of Fraudulent Entry. He directed her service be characterized as honorable. He indicated the applicant has not filed an unrestricted report of sexual assault within 24 months of initiation of this separation action.

h. On 23 September 2020, she was discharged accordingly. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 1 year, 2 months, and 9 days of active service. It also shows in:

- item 24 (Character of Service): honorable
- item 25 (Separation Authority): Army Regulation 635-200, Chapter 7
- item 26 (Separation Code): JDA
- item 27 (Reentry Code): 3
- item 28 (Narrative Reason for Separation): Fraudulent Entry

4. In the processing of this case, a request for records was sent to the Criminal Investigation Division (CID). CID conducted a search of the Army criminal file indexes, utilizing the information provided and revealed no CID or military police records pertaining to the applicant.

5. By regulation, fraudulent entry is the procurement of an enlistment, reenlistment, or period of active service through any deliberate material misrepresentation, omission, or concealment of information which, if known and considered by the Army at the time of enlistment or reenlistment, might have resulted in rejection. This includes all disqualifying information requiring a waiver. A Soldier who deliberately conceals a medical defect or disability at time of enlistment in accordance with Army Regulation 40-501 constitutes a fraudulent enlistment.

6. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting a narrative reason change.

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 10 December 2018.
- On 1 June 2020, it was discovered that the applicant had failed to disclose multiple mental and medical enlistment-disqualifying conditions prior to enlisting.
- The applicant was discharged on 23 September 2020 and was credited with 1 year, 2 months and 9 days of active service.

c. Review of Available Records: The Army Review Boards Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts that her recruiter groomed, raped, and told her to lie on her enlistment paperwork.

d. The VA's Joint Legacy Viewer (JLV) was also reviewed and showed that the sole in service BH condition is an Adjustment Disorder. The applicant initially presented to BH in August 2019 after getting triggered by a SHARP training due to her history of childhood sexual abuse. The applicant did not follow up with BH treatment at that time. The applicant was encouraged to return to BH in February 2020 after punching a wall at work in response to feeling angry about comments made by some male soldiers in her unit. The applicant reported work-related stressors and poor adjustment to the Army. She also disclosed being involved in an investigation after reporting sexual misconduct by her Army recruiter. The applicant was scheduled for follow-up BH sessions, but failed to attend.

e. In May 2020, she returned to BH stating that she did not want to be in the Army anymore. The applicant felt that being in the Army was causing her to experience depressive symptoms. In June 2020, she was psychiatrically hospitalized for four days due to suicidal ideation triggered by past trauma and difficulties being in the military. The applicant reported feeling uncomfortable around males, especially senior NCOs due to her extensive trauma history. Hospital BH providers recommended a Chapter 5-17 discharge.

f. Following the hospitalization, the applicant continued outpatient BH treatment through her separation from the Army to include an Intensive Outpatient Program (IOP).

g. VA medical records indicate that the applicant is 80% service connected for Major Depressive Disorder to include 70% for Major Depressive Disorder.

h. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that the applicant's self-asserted experience of MST mitigates the fraudulent entry that led to the separation.

i. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. Adjustment Disorder, Major Depressive Disorder, MST.

(2) Did the condition exist or experience occur during military service? Yes. The applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for Major Depressive Disorder. The applicant also self-asserts an MST that was perpetrated by her Army recruiter during the recruitment process.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. There is evidence of a BH experience that mitigates the basis of separation. The

applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for Major Depressive Disorder. The applicant also self-asserts an MST that was perpetrated by her Army recruiter during the recruitment process. While an Adjustment Disorder and Major Depressive Disorder have no natural sequela with failing to disclose enlistment-disqualifying conditions prior to enlisting, the applicant's self-asserted experience of MST perpetrated by her Army recruiter more likely than not contributed to her fraudulent enlistment. Perpetrators of sexual abuse often engage in a grooming period that involves manipulating a victim to trust them leading the victim to feel undue influence or control by the perpetrator. If the applicant was being groomed by her Army recruiter, then she more likely than not experienced undue influence to appear favorable and please the recruiter contributing to her failing to disclose enlistment-disqualifying conditions. The applicant's self-asserted experience of MST mitigates the fraudulent entry that led to the separation.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. One potential outcome discussed was to deny relief based upon insufficient evidence to show an error or injustice. However, based upon the available evidence, the findings of the medical advisor, and the potential prejudice one may face with the current narrative reason for separation, the Board concluded there was sufficient evidence warranting a change to the separation authority, separation code, and narrative reason for separation.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	■	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Characterization of Service: No change
- Separation Authority: AR 635-200
- Separation Code: JFF
- Reentry Code: No change
- Narrative Reason for Separation: Secretarial Authority



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 40-501 (Standards of Medical Fitness)

a. Chapter 2-2 states applicants for enlistment in the RA, including the Delayed Entry Program/Future Soldier Training Program. For medical conditions or physical defects predating original enlistment regardless of component (COMPO), these standards apply for enlistees' first 6 months of AD. Within this 6 months of AD the applicant is subject to evaluation by an EPSBD, conducted in accordance with AR 40-400 and the requirements of AR 635-200.

b. Chapter 3-3 states Soldiers with disqualifying conditions listed in this chapter who do not meet the required medical standards will be referred to the DES in accordance with AR 635 - 40 with the following caveats: A Soldier will not be referred to

the DES because of impairments that were known to exist at the time of acceptance into the Army, after appropriate waiver was obtained, that have remained essentially the same in degree of severity, and do not meet the definition of a disqualifying medical condition or physical defect as in paragraph 3 - 1.

3. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. Paragraph 7-17 states a fraudulent entry is the procurement of an enlistment, reenlistment, or period of active service through any deliberate material misrepresentation, omission, or concealment of information which, if known and considered by the Army at the time of enlistment or reenlistment, might have resulted in rejection. This includes all disqualifying information requiring a waiver. A Soldier who deliberately conceals a medical defect or disability at time of enlistment in accordance with AR 40-501 (Standards of Medical Fitness) constitutes a fraudulent enlistment. Soldiers separated under this chapter may be awarded an honorable discharge, a general discharge, or a discharge under other than honorable conditions.

//NOTHING FOLLOWS//