

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 November 2024

DOCKET NUMBER: AR20240003185

APPLICANT REQUESTS: correction of her National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) by changing her characterization of service from "Uncharacterized" to "Honorable," and an appearance before the Board via video/telephone.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement
- Letter from A.L.
- Credentials of T.P.
- Department of Veterans Affairs (VA) Form 21-0781a (Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD)) Secondary to Personal Assault) and supporting statements (3)
- Medical Records from NH, Winston-Salem, North Carolina (NC)

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 (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 provides a five-page statement which is available in its entirety for the Board's consideration. She states, in part, she was bitten by a Brown Recluse spider during a field training exercise (FTX) while attending Basic Training (BT). She requested help during the FTX when she realized she was necrotic but was denied help until the FTX was over. At that point, she was deathly ill with a huge open wound on the back of her leg.

a. After returning to the barracks, she asked for help again and was taken to the hospital on base where she was diagnosed with a spider bite and a Methicillin-resistant Staphylococcus aureus (MRSA) infection. The medical staff immediately started debridement of the necrotic flesh. Her vital statistics upon admission to the Emergency Department were stroke level and she was delirious. She was admitted to the hospital and spent the night in the infirmary.

b. The next morning the doctor made her rounds and became frightened when she unwrapped the bandages. Her leg had red streaks all the way down and the doctor said this was indicative of sepsis and that she needed immediate intravenous antibiotics. The applicant was taken to the Intensive Care Unit for isolation due to MRSA, which at this point had spread over her entire body with large abscesses from her head to her toes. She was given so many intravenous antibiotics and pain medications that it caused her to become deathly ill with projectile vomiting. She was scared to death and thought she was going to die. This was exasperated by the fact that she was isolated and could die at any moment by herself, with no one around.

c. She was in the hospital a long time before being discharged and granted a 30-day convalescence leave to heal at home. She returned at the end of her leave. Although she told her leadership that she was not fully healed, no one listened, and they threw her back in the barracks with an open wound and MRSA. In less than 3 weeks, she had another large abscess appear about four inches from the first one. This time it was worse. It was determined that it was either a reoccurring spider bite or MRSA, they couldn't distinguish between the two. This abscess was triple the size of the previous one, and all they could do was debridement surgery again. After the second debridement surgery, she started getting large abscesses from her head to her toes and was thrown into isolation again. This is the point she was sure she was going to die because the antibiotics were not working and the hole in her leg was about the size of a large grapefruit which had to be wet to dry pack with sterile solution and gauze. She was in the hospital about two weeks this time and discharged for another 30-day convalescence leave to heal at home.

d. She had multiple issues during this leave and was prescribed Prochlorperazine because all of the antibiotics she had been given deteriorated the lining of her stomach. This medicine caused a reaction that resulted in her being treated in the Emergency Room where she was diagnosed with Tardive Dyskinesia, which can't be cured only controlled she still has nervous system issues from this condition. At the time, the Tardive Dyskinesia caused her jaw to lock up. The bottom of her mouth shifted to the left, the top shifted to the right, and her tongue thrust to the top of her mouth, which caused excessive drooling. That episode also caused her to develop temporomandibular jaw, which she still suffers from.

e. When she returned to the barracks following her second convalescent leave she advised her leadership that she still was not well, and that she had developed PTSD as a result of her reoccurring medical problems. However, no one would get her help and kept insisting she was okay until it got so bad that she was either going to lose her leg or her life.

f. During one of her medical visits, it was discovered that she was pregnant, and she was sent home for a 2-year medical leave from the NC Army National Guard

(NCARNG). She was never given a medical examination and did not receive any kind of communication at all during these two years. Then a Soldier visited her parent's home and was provided her current telephone number and contact information. However, the applicant was never contacted.

g. It was not until years later, when she attempted to get medical assistance from the VA that she was informed that she had received an other than honorable discharge and was not eligible for VA benefits. She believes she was given an other than honorable discharge because she was a female who had just had a baby and they did not want her in the service anymore because she was nothing more than a liability. She considers this a form of sexual harassment.

h. To this day, she suffers from numerous maladies stemming from her time in the service, to include addiction to pain medication and PTSD, which was diagnosed by Doctor T.P. She is having difficulty getting documentation of his diagnosis because he has since retired and closed his practice. She has attempted to obtain her military medical records through several means such as the White House Hotline and the National Archives, but to no avail.

3. The applicant enlisted in the NCARNG on 24 September 2002 for a period of 8 years. Her DD Form 1966 (Record of Military Processing - Armed Forces of the United States) shows she had a projected Initial Active Duty for Training (IADT) date of 28 May 2003.

a. Her NGB Form 21 (Annex A - DD Form 4 (Enlistment/Reenlistment Agreement - ARNG)) and NGB Form 594-4 (Annex D -DD Form 4) show she enlisted for the Split Training Option for Initial Entry Training (IET) which provided she must enter on IADT to undergo BT. If she failed to successfully complete BT she would be discharged from the ARNG and Reserve of the Army. Upon completion of BT, she would be released from active duty and permitted to return to civilian status. She would then immediately commence training with her assigned ARNG unit in a paid drill status. Within one year of the last day of her separation from IADT after successful completion of BT, she would again be required to enter IADT to successfully complete Advance Individual Training (AIT) resulting in qualification in a Military Occupational Specialty (MOS). If for any reason she was unable to successfully complete AIT during the period for which she was ordered on IADT, she agreed to:

(1). Remain on IADT for such additional period as was required to become qualified in her selected MOS, or

(2). Accept training in an alternate MOS, if offered, and remain on IADT for such additional period as may be required to complete such training and become qualified in the alternate MOS.

b. She understood current provisions of law would not satisfy her military service obligation unless she completed 8-years of satisfactory service as a member of the ARNG and Reserve of the Army, and, during such service, complete 12 consecutive weeks of active duty for training with an Armed Force.

4. Orders 188-15, issued by Department of Defense, Military Entrance Processing Station, Charlotte, NC on 17 October 2002, show the applicant was ordered to IADT for the purpose of completing BT under the alternate (split) training program at Fort Leonard Wood, MO, with a reporting date of 28 May 2003. She was scheduled to arrive home no later than 18 August 2003.

5. Orders 147-163, issued by the State of NC, Office of The Adjutant General, NCARNG, Recruiting and Retention Command, Raleigh, NC on 26 May 2004, show the applicant was attached to the Recruit Sustainment Program, effective 26 May 2004 for the purpose of training, pay, and administration until officially relieved. Her Recruit Sustainment Program (RSP) Training Site would be Winston-Salem, NC.

6. Orders 002-872, issued by the State of NC, Department of Crime Control and Public Safety, Office of The Adjutant General, Raleigh, NC on 2 January 2005, show the applicant was released from attachment to 30th Brigade, Recruit Holding Company (Rear), Clinton, NC effective 2 January 2005.

7. Orders 006-1462 issued by the State of NC, Department of Crime Control and Public Safety, Office of The Adjutant General, Raleigh, NC on 6 January 2005, show the applicant was attached to Recruiting and Retention Command, Raleigh, NC effective 6 January 2005 for the purpose of attachment to new RSP Unit Identification Code - Winston-Salem RSP until officially relieved.

8. The specific facts and circumstances surrounding the applicant's separation are not available for review. However, Orders 271-950, issued by the State of NC, Department of Crime Control and Public Safety, Office of The Adjutant General, Raleigh, NC on 28 September 2005, show the applicant was discharged from the ARNG and as a Reserve of the Army effective 30 September 2005. Her service was "Uncharacterized." The authority for this action was National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management System), paragraph 8-26g.3. These orders show she held the rank/grade of private first class (PFC)/E-3 at the time of her separation.

9. The applicant was discharged from the NCARNG and as a Reserve of the Army on 30 September 2005. Her NGB Form 22 shows she was discharged under the provisions of NGR 600-200, paragraphs 8-26g(3), for Defective Enlistment Agreement. She was credited with 3 years and 7 days of net service this period. Her character of service is shown as "Uncharacterized."

10. The applicant's available record is void of evidence showing she successfully completed either the BT phase or the AIT phase of IET.

11. The applicant provides the following documents which are available in their entirety for the Board's consideration:

a. A letter rendered by A.L., a Physician's Assistant-Certified, who states the applicant has been in Medicated Assisted Treatment with her clinic since 6 April 2020. She was previously a Medicated Assisted Treatment patient at a clinic in Winston-Salem. The applicant has never missed an appointment, completed all requested drug screens, tested negative for all illicit substances, and is taking her prescribed medication. She had experienced increased stress and PTSD episodes prior to an increase in the dosage of her prescribed medication.

b. The medical credentials of Doctor T.P., whom the applicant attests diagnosed her with PTSD, but has since retired.

c. A VA Form 21-0781a shows the applicant submitted a claim for benefits to the VA for service connection for PTSD secondary to personal assault along with supporting statements rendered by herself, her mother, and a fellow recruit with whom she attended BT. The applicant's mother states in 2009, the applicant told her that she had been abusing pain medication since she left the military to help her cope with being sexually assaulted by a higher ranking sergeant. She did not go into many details about the sexual assault with her mother but did explain that this happened while she was in a very vulnerable position while she was sick with a brown recluse MRSA infection. She went to ask for medical attention and instead was sexually assaulted and turned down for medical attention.

d. Medical Records from NH, Winston-Salem, NC show the treatment provided to the applicant from 1 July 2004 to 24 September 2005, excluding psychotherapy notes. These documents show she was treated for abundant growth of staphylococcus aureus on her left inner thigh.

12. By regulation, IET is mandatory training each Army Soldier must complete upon initial entry in the service to qualify in a military specialty or branch. Regardless of time in service, ARNG and U.S. Army Reserve (USAR) Soldiers are considered to be in entry level status until completion of IADT.

13. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition. Applicants do not have a right to a hearing before the ABCMR.

14. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR for correction of her National Guard Bureau (NGB) Form 22 by changing her characterization of service from Uncharacterized to Honorable. She contends she experienced military sexual trauma (MST) and resultant mental health conditions including PTSD that mitigates her discharge. 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: 1) The applicant enlisted in the NCARNG on 24 September 2002; 2) On 17 October 2002, the applicant was ordered to IADT for the purpose of completing BT with a reporting date of 28 May 2003; 3) The specific facts and circumstances surrounding the applicant's separation are not available for review; 4) The applicant was discharged from the NCARNG on 30 September 2005. Her NGB Form 22 shows she was discharged under the provisions of NGR 600-200, paragraphs 8-26g(3), for Defective Enlistment Agreement. She was credited with 3 years and 7 days of net service this period. Her character of service is shown as "Uncharacterized."

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service records. The VA's Joint Legacy Viewer (JLV), VA documentation, and hard-copy civilian documentation provided by the applicant were also examined.

c. The applicant asserts she experienced MST and mental health conditions including PTSD that mitigate her discharge while on active service. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including PTSD while on active service. There is sufficient evidence the applicant was treated by military and civilian providers for abscess on her left thigh, which had developed MRSA and other infections.

d. A review of JLV provided sufficient evidence the applicant began to engage with the VA in 2024 for behavioral health and medical treatment. She was diagnosed with service-connected PTSD related to her report of experiencing MST and a traumatic medical event during her active service (70%SC).

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence beyond self-report the applicant has been diagnosed with service-connected PTSD as a result of MST and a traumatic medical event while on active service. There is also evidence the applicant experienced an interruption in her IADT due to this medical event. However, there is insufficient evidence surrounding the later events which resulted in the applicant's discharge to provide an appropriate opinion on possible mitigation as the result of her mental health condition or experience.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No. There is sufficient evidence beyond self-report the applicant has been diagnosed with service-connected PTSD as a result of MST and a traumatic medical event while on active service. There is also evidence the applicant experienced an interruption in her IADT due to this medical event. However, there is insufficient evidence surrounding the later events which resulted in the applicant's discharge to provide an appropriate opine on possible mitigation as the result of her mental health condition or experience. Yet, the applicant contends she experienced mental health condition while on active service, which mitigates her discharge. The applicant's contention alone is sufficient for consideration per the Liberal Consideration Policy.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A.

#### BOARD DISCUSSION:

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 request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests. The applicant enlisted in the ARNG for 8 years on 24 September 2002. The specific facts and circumstances surrounding her separation are not available for review. However, orders issued by the State Adjutant General discharged her from the ARNG and as a Reserve of the Army effective 30 September 2005 under the provisions of NGR 600-200, paragraphs 8-26g(3), for Defective Enlistment Agreement. Her character of service is shown as uncharacterized. She never completed initial entry training and was not awarded an MOS. The Board also 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 insufficient evidence surrounding the later events which resulted in the applicant's discharge to provide an appropriate opine on possible mitigation as the result of her mental health condition or experience. Also, the applicant provided no evidence of post-service achievements or letters of reference of a persuasive nature in support of a clemency determination. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

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.

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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, 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. 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 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements and Enforcement Procedures) provides guidance governing absences from Ready Reserve training for enlisted personnel. Paragraph 3-4 provides that Soldiers enlisted in the Alternate Training Program are authorized and required to attend inactive duty training (IDT)s in a pay status on completion of Phase 1 (BT). At the discretion of the unit commander, the Soldier may attend Annual between BT and Phase 2 (AIT).

5. Army Regulation 135-178 (Reserve Component – Enlisted Separations), establishes policies, standards, and procedures governing the administrative separation of certain enlisted Soldiers of the ARNG of the United States and the U.S. Army Reserve (USAR). In pertinent part, this regulation stipulates that IET is mandatory training each Army Soldier must complete upon initial entry in the service to qualify in a military specialty or branch. This training is required by law for deployability on land outside the continental limits of the United States in accordance with Title 10, USC, Chapter 671. IET encompasses the completion of basic training and specialty or branch qualification while serving on active duty or active duty for training. For ARNG and USAR Soldiers it includes completion of initial active duty for training, the officer basic course, and the warrant officer basic course.

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. Paragraph 2-11 provides that. Service will be described as uncharacterized if separation processing is initiated while a Soldier is in an entry level status

6. National Guard Regulation 600-200 (Enlisted Personnel Management System) provides for the management of ARNG enlisted personnel. Chapter 8 of this regulation, in effect at the time, set the policies, standards, and procedures for the separation of enlisted Soldiers from the ARNG. It stated, in pertinent part, that the separation of a Soldier from the ARNG is a function of State military authorities in accordance with State laws and regulations. Paragraph 8-26n, stipulated that Soldiers who fail to attend IET phase 1 or 2 within 24 months would be separated.

//NOTHING FOLLOWS//