

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 December 2024

DOCKET NUMBER: AR20240004782

APPLICANT REQUESTS: an upgrade of her uncharacterized discharge and personal appearance before the Board via video/telephone.

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

- DD Form 149 (Application for Correction of Military Record), 7 February 2024
- two DD Forms 214 (Certificate of Release or Discharge from Active Duty), 21 July 2000

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 suffered mental health stressors during her time in boot camp and was unable to meet the rifle range requirements. Her first sergeant recommended she be relieved of duty, she did not receive any counseling's while going through her depression, which she still suffers from. She received an uncharacterized discharge and requests an upgrade of her discharge to honorable.
3. The applicant enlisted in the Regular Army on 27 April 2000, for a period of 8 years. She was assigned to Fort Leonard Wood, MO for completion of training.
4. The available record is void of the facts and circumstances which led to the applicant's discharge. However, Orders 20-0364, issued by the U.S. Army Maneuver Support Center and Fort Leonard Wood, dated 19 July 2000, show she was reassigned to the U.S Army transition point with a reporting date of 21 July 2000.
5. The applicant was discharged on 6 October 2004, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11 (Entry Level Performance and Conduct) by reason of entry level performance and conduct, in the grade of E-1. Her DD Form 214 shows her service was uncharacterized, with

separation code JGA, and reentry code 3. She was credited with 2 months and 25 days of net active service, and she was not awarded a military occupational specialty.

6. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active-duty service. 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.

7. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

8. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a change to her characterization of service. She contends she experienced mental health conditions that mitigate 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 Regular Army on 27 April 2000; 2) The available record is void of the facts and circumstances which led to the applicant's discharge; 3) On 19 July 2000, the applicant was reassigned to the U.S Army transition point with a reporting date of 21 July 2000; 4) The applicant was discharged, Chapter 11 (Entry Level Performance and Conduct) by reason of entry level performance and conduct. Her service was uncharacterized and was credited with 2 months and 25 days of net active service, and she was not awarded a military occupational specialty.

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) was also examined. No additional medical documentation was provided for review.

c. The applicant asserts she experienced mental health conditions that mitigate her discharge while on active service. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including while on active service.

d. A review of JLV provided insufficient evidence the applicant has been diagnosed with service-connected mental health condition, and she does not receive any service-connected disability.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence beyond self-report the applicant was experiencing a mental health condition while on active service. In addition, there is insufficient evidence

surrounding the events which resulted in the applicant's discharge to provide an appropriate opinion on possible mitigation as the result of her reported 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 insufficient evidence beyond self-report the applicant was experiencing a mental health condition while on active service. In addition, there is insufficient evidence surrounding the events which resulted in the applicant's discharge to provide an appropriate opinion on possible mitigation as the result of her reported mental health condition or experience. Yet, the applicant contends she experienced a 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:

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's separation packet is not available for review. However, other evidence shows the applicant's chain of command separated her for entry level performance and conduct, after completing 2 months and 25 days of net active service. She did not complete initial entry 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. The Board found no error or injustice in her separation processing. 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 agreed with the medical reviewer's finding that based on available information/evidence, there is insufficient evidence to support the applicant had a behavioral health condition during military service that could potentially mitigate her discharge. Therefore, 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:

Mbr 1	Mbr 2	Mbr 3
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9
10	10	10
11	11	11
12	12	12
13	13	13
14	14	14
15	15	15
16	16	16
17	17	17
18	18	18
19	19	19
20	20	20
21	21	21
22	22	22
23	23	23
24	24	24
25	25	25
26	26	26
27	27	27
28	28	28
29	29	29
30	30	30
31	31	31
32	32	32
33	33	33
34	34	34
35	35	35
36	36	36
37	37	37
38	38	38
39	39	39
40	40	40
41	41	41
42	42	42
43	43	43
44	44	44
45	45	45
46	46	46
47	47	47
48	48	48
49	49	49
50	50	50
51	51	51
52	52	52
53	53	53
54	54	54
55	55	55
56	56	56
57	57	57
58	58	58
59	59	59
60	60	60
61	61	61
62	62	62
63	63	63
64	64	64
65	65	65
66	66	66
67	67	67
68	68	68
69	69	69
70	70	70
71	71	71
72	72	72
73	73	73
74	74	74
75	75	75
76	76	76
77	77	77
78	78	78
79	79	79
80	80	80
81	81	81
82	82	82
83	83	83
84	84	84
85	85	85
86	86	86
87	87	87
88	88	88
89	89	89
90	90	90
91	91	91
92	92	92
93	93	93
94	94	94
95	95	95
96	96	96
97	97	97
98	98	98
99	99	99
100	100	100

:	:	:	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 (USC), 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. Title 10, USC, 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.

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 has the discretion to hold a hearing; applicants do not have a right to appear personally before the Board. The Director or the ABCMR may grant formal hearings whenever justice requires.

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

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. A general discharge was a separation from the Army under honorable conditions. When authorized, separation authorities could issue a general discharge to Soldiers whose military record was satisfactory but not sufficiently meritorious to warrant an honorable discharge.

d. Paragraph 3-9, in effect at the time of the applicant's separation, provided that a separation would be described as entry level with uncharacterized service if processing was initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions was authorized, due to the reason for separation and was warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, determined a characterization of service as honorable was clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This

characterization was authorized when the Soldier was separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

e. 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.

f. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

5. 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 Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder (PTSD); Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to 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.

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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.

//NOTHING FOLLOWS//