

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]
[REDACTED]

BOARD DATE: 22 October 2024

DOCKET NUMBER: AR20240004823

APPLICANT REQUESTS: In effect, correction of items 25 (Separation Authority) and 28 (Narrative Reason for Separation) to show the reason for her separation as "Family Medical Leave," vice "Pregnancy."

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- Marriage Certificate

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 is asking the Board to change her DD Form 214 so that she can secure a home loan; she has been trying to buy a house since 2015, and when her realtors tried to obtain a Department of Veterans Affairs (VA) loan for her, the VA denied the request. Making her requested corrections would drastically improve her chances for a VA home loan.

3. The applicant's service record shows the following:

a. On 17 September 1999, the applicant enlisted into the Regular Army for 3 years. Upon completion of initial training, orders assigned her to Aberdeen Proving Ground, MD, and she arrived at her new unit, on or about 24 November 1999.

b. In or around January/February 2000, the applicant received reassignment instruction for Germany; she arrived in country, on or about 21 March 2000. Orders further assigned her to an aviation unit, and she arrived at her new duty station, on or about 13 April 2000.

c. The applicant's separation packet is unavailable for review; however, her service record includes her DD Form 214, which shows that, on 13 March 2001, the Army honorably released her from active duty and transferred her to the U.S. Army Reserve. The DD Form 214 additionally reflects the following:

- Item 8b (Station Where Separated) – Germany
- Item 25 (Separation Authority) – Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 8 (Separation of Enlisted Women – Pregnancy)
- Item 26 (Separation Code) – "MDF"
- Item 27 (Reentry (RE) Code) – RE-3
- Item 28 (Narrative Reason for Separation) – "Pregnancy"

4. The ABCMR does not grant requests solely to make an applicant eligible for Veterans' benefits; however, in reaching its determination, the Board can consider the applicant's petition, her evidence and assertions, and her service record in accordance with the published equity and injustice guidance.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant's separation packet is unavailable for review; however, her service record includes her DD Form 214, which shows that, on 13 March 2001, the Army honorably released her from active duty in accordance with AR 635-200), chapter 8 (Separation of Enlisted Women – Pregnancy) with Separation Code "MDF" and Narrative Reason for Separation – "Pregnancy." The Board noted that the Army does not have reason for separation called Family Medical Leave. Additionally, in order to justify a correction to the reason for her separation, the applicant must prove an error or an injustice. While the Board sympathizes with the applicant's desire to obtain a home loan, the Board also noted the applicant did not prove an error or an injustice or provide a convincing argument that the reason for her separation should change.

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 (AR) 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, prescribed policies and procedures for enlisted administrative separations. Chapter 8 (Separation of Enlisted Women – Pregnancy) provided guidance for the voluntary separation of enlisted women due to pregnancy.

a. Paragraph 8-3 (Characterization or Description of Service). The separation authority could issue either an honorable or a general discharge.

b. Paragraph 8-5 (Responsibility of the Unit Commander). Upon receiving certified written diagnosis of pregnancy from a physician on duty at an Armed Forces Medical Treatment Facility, the regulation required the commander to counsel the Soldier regarding her options, entitlements, and responsibilities.

c. Paragraph 8-8 (Conditions Affecting Separation for Pregnancy). Separation will not be accomplished within an overseas command unless the enlisted woman's home is located there.

d. Section II (Pregnancy Counseling) required the commander to address the following:

- Upon request, the Soldier could be separated, and she could ask for a specific separation date
- The Soldier could remain on active duty

3. AR 635-5 (Separation Documents), in effect at the time, provided guidance for the completion of the DD Form 214, in paragraph 2-4 (Completing the DD Form 214).

a. For item 25 (Separation Authority), DD Form 214 preparers were instructed to enter the regulatory authority for separation cited by the authorizing separation directive (i.e. the separation authority's approval document).

b. To obtain the correct Separation Program Designator (SPD) for item 26 (Separation Code) and the narrative reason for separation for item 28 (Narrative Reason for Separation), the DD Form 214 preparers were referred to AR 635-5-1 (SPD).

c. The entry for item 27 (Reentry (RE) Code) was found in AR 601-210 (Regular Army and Army Reserve Enlistment Program).

4. AR 635-5-1, in effect at the time, stated Soldiers who had voluntarily requested discharge under chapter 8, AR 635-200 were issued the SPD of "MDF" and the associated narrative reason for separation was "Pregnancy."

5. AR 601-210, in effect at the time, outlined policies and procedures for the enlistment of Regular Army and U.S. Army Reserve Soldiers.

a. Paragraph 3-22 (U.S. Army RE Codes) showed the following:

- RE-1 – Person completing their term of active service who are considered qualified to reenter the U.S. Army
- RE-3 – Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable

b. Paragraph 4-9 (Prior Military Service). A waiver was required for any applicant who was separated due to pregnancy.

6. AR 15-185 (ABCMR), currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

b. The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

//NOTHING FOLLOWS//