

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 December 2024

DOCKET NUMBER: AR20240005491

APPLICANT REQUESTS: correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to show she was discharged for the convenience of the Government with corresponding separation code.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Two Department of Veterans Affairs (VA) Letters, 25 September 2022 and 27 September 2022

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 has been diagnosed by the VA with post-traumatic stress disorder (PTSD), major depressive disorder and, generalized anxiety disorder. The VA did not diagnose her with a personality disorder.
3. The applicant provides two letters issued by the VA, that provide her diagnoses and disability rating, as follows:
 - Service connection for PTSD with major depressive disorder and generalized anxiety disorder
 - Her disability rating is evaluated at 100 percent (%), for PTSD
4. The applicant's service record reflects the following:
 - a. She enlisted in the Regular Army on 19 April 1989.

b. On 12 July 1990, her commanding officer initiated separation under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), Chapter 5-13, separation for personality disorder, with an honorable discharge, for the inability to adapt to military life and it is unlikely that her behavior will change with further counseling. She was advised by consulting counsel on 13 July 1990, for her separation action, its effects of the rights available to her, and the effect of any action taken by her in waiving her rights. She further acknowledged:

- she could consult with consulting counsel as her military counsel and/or civilian counsel at no expense to the government
- she declined a medical examination
- she was advised she could submit any statements she desired in her own behalf, she elected not to do so

c. On 13 July 1990, her commanding officer recommended the applicant be discharged prior to her expiration of her term of service (ETS) from the U.S. Army under the provisions of Army Regulation 635-200, Chapter 5-13, personality disorder.

d. DA Form 3822-R (Report of Mental Status Evaluation) dated 19 June 1990, shows she underwent a mental status evaluation. She had a very difficult childhood, which has made her immature and easily stressed in coping with everyday life. She has not caused any disciplinary problems, and her stress level is high. She had recently "reached her limit" and wisely checked herself into a hospital. She is not suicidal, but she will be if she stays on active duty. She was diagnosed with a personality disorder, and a prompt administrative discharge was recommended. This document reflects the following:

- She had normal behavior
- She was fully alert
- She was fully oriented
- Her mood or affect was anxious and depressed
- Her thinking process was clear
- Her thought content was normal
- Her memory was good
- Has the mental capacity to understand and participate in the proceedings
- She was mentally responsible

e. On 16 July 1990, the battalion commander recommended that the applicant be discharged and not transferred into the Individual Ready Reserve (IRR), under the provisions of Army Regulation 635-200, Chapter 5, for personality disorder, with an honorable characterization of service.

f. On 16 July 1990, the separation authority approved the applicant's discharge with an honorable characterization of service, and for her not be transferred in the IRR.

g. Her DD Form 214 shows she was discharged on 25 July 1990 pursuant to Army Regulation 635-200, Chapter 5-13 for a personality disorder, with an honorable characterization of service. She received a reentry code of "RE-3" and a separation code of JFX. She completed 1 year, 3 months, and 25 days of active service. She was awarded or authorized the Army Service Ribbon.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the potential prejudice one may face with the current narrative reason for separation on the applicant's DD Form 214, the Board concluded a more appropriate narrative reason for separation would be Condition, Not a Disability.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial 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: BHJ
- Reentry Code: No change
- Narrative Reason for Separation: Condition, Not a Disability

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to changing the narrative reason for separation to the requested reason.

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 (Armed Forces), United States 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 Army Board for Correction of Military Records (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 635-200 (Personnel Separations Enlisted Personnel), sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

a. Characterization of service or description of separation. A Soldier being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conditions or an entry level separation.

b. Separation because of personality disorder. A Soldier may be separated for personality disorder (not amounting to disability), that interferes with assignment to or performance of duty when so diagnosed as indicated in a below:

(1) This condition is a deeply ingrained maladaptive pattern of behavior of long duration that interferes with the soldier's ability to perform duty. Exceptions: combat exhaustion and other acute situational maladjustments. The diagnosis of personality disorder must have been established by a physician trained in psychiatry and psychiatric diagnosis.

(2) Commanders will not take action prescribed in this chapter in lieu of disciplinary action solely to spare a soldier who may have committed serious acts of misconduct for which harsher penalties may be imposed under the UCMJ.

(3) Separation because of personality disorder is authorized only if the diagnosis concludes that the disorder is so severe that the soldier's ability to function effectively 'in the military environment is significantly impaired. Separation for personality disorder is not appropriate when separation is warranted.

(4) Separation processing may not be initiated under this paragraph until the Soldier has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

3. Army Regulation 635-5 (Personnel Separations Separation Documents). The DD Form 214 (Certificate of Release or Discharge from Active Duty), is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of REFRAD, retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier's service.

4. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities for separating Soldiers from active duty and the separation codes to be entered on the DD Form 214. The separation code is an administrative code used to designate the narrative reason for separation. The SPD/RE Code Cross Reference Table included in the regulation establishes that RE code "3" is the proper code to assign members separated with separation code "JFX" for Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5, for a personality disorder.

6. 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 based on 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.

7. Title 10 (Armed Forces), United States 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//