

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 January 2025

DOCKET NUMBER: AR20240005731

APPLICANT REQUESTS: in effect:

- an upgrade of her discharge to honorable
- 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 she requests her dishonorable discharge be changed to an honorable discharge because her mental health with substance abuse combined made her make bad decisions and she would like to go back to school and get the medical help that she needs. She entered the military at age 16. She never drank or used drugs or even smoke a cigarette until advanced individual training (AIT) with her drinking and drug use combined with her deteriorating mental health, she made poor decisions, or she would have stayed longer in the Army.
3. The applicant enlisted in the U.S. Army Reserve (USAR) on 20 May 1993.
4. Orders 101-16, issued by Military Entrance Processing Station (MEPS), [REDACTED] issued on 20 May 1993, ordered her to initial active duty training (IADT) under the alternate split training program with a report date of 15 June 1993 to Fort Jackson, SC. Her DA Form 2-1 (Personnel Qualification Record) shows she was released from active duty and returned to her reserve unit of assignment on 20 August 1993.
5. Orders 070-5, issued by MEPS, [REDACTED] issued on 7 April 1994, ordered her to IADT for AIT with a report date of 22 July 1994 to Fort Sam Houston, TX.

6. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was released from ADT on 7 October 1994. She completed 2 months and 16 days of active service this period. She was awarded military occupational specialty 91B (Medical Specialist). Her DD Form 214 also shows:

- Item 24 (Character of Service): Uncharacterized
- Item 25 (Separation Authority): MEPS self-terminating orders 70-5 dated 7 April 1994 Course 91B
- Item 28 (Narrative Reason for Separation): Completion of Period of ADT

7. She had a period of unexcused absences from Unit Training Assembly (UTA): 19 November 1994 Periods 1 & 2. She was notified via Certified Mail postmarked 30 November 1994.

8. Orders 044-343, issued by Headquarters, 99th United States Army Reserve Command, on 9 December 1994, reassigned her between troop program units effective 13 February 1995.

9. She had several other missed UTAs:

- 1 April 1995, periods 1 & 2
- 2 April 1995, periods 1 & 2
- 6 May 1995, periods 1 & 2
- 7 May 1995, period 1

10. On 25 May 1995, her commander notified her via Certified Mail that she had accumulated nine unexcused absences within a one-year period. She was declared an unsatisfactory participant and would be transferred to the Inactive Ready Reserves for the balance of her service obligation.

11. On 9 July 1995, her commander declared her an unsatisfactory participant. Attempts to contact her by phone have been unsuccessful.

12. Orders 242-00011, issued by 99thh Regional Support Command, Oakdale, PA on 30 August 1995, shows she was reassigned to Army Reserve Personnel Center (ARPERCEN) Control Group (Annual Training) due to unsatisfactory participant effective 1 September 1995.

13. Orders C-10-557859, issued by U.S. ARPERCEN, St. Louis, MO on 17 October 1995, shows she was released from USAR Control Group (AT) voluntarily effective 11 October 1995.

14. By regulation, AR 15-185 (Army Board for Correction of Military Records (ABCMR)) states ABCMR members will review all applications that are properly before them to determine the existence of an error. The ABCMR will decide cases on the evidence of record. 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.

15. In reaching its determination, the Board can consider the applicant's petition and her service record in accordance with the published equity, injustice, or clemency determination guidance.

16. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a change to her discharge status. She asserts mental health conditions experienced during her active service are related to her request. 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 United States Army Reserve (USAR) on 20 May 1993; 2) The applicant was ordered to initial active-duty training (IADT) under the alternate split training program with a report date of 15 June 1993, and she completed this training on 20 August 1993. She was then ordered to AIT with a report date of 22 July 1994. She completed 2 months and 16 days of active service for this period; 3) The applicant had numerous unexcused absences from Unit Training Assembly between November 1994 and May 1995. On 25 May 1995, she was notified by her commander that she had accumulated nine unexcused absences within one year. She was declared an unsatisfactory participant and transferred to the Inactive Ready Reserves.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the applicant's available military service records. The VA's Joint Legacy Viewer (JLV) was also examined. No additional medical records were provided for review.

c. The applicant asserts she was experiencing mental health conditions while on active service, which mitigates her discharge. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition, while on active service.

d. A review of JLV provided insufficient evidence the applicant has ever been diagnosed with a 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 to support the applicant had a condition or experience that mitigates her discharge.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts she experienced mental health conditions which mitigates her discharge.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she experienced mental health conditions while on active service.

(3) Does the condition or experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant was experiencing a mental health condition, while she was on active service. The applicant did have multiple unexcused absences, which could be avoidant behavior and a natural sequelae to some mental health conditions. However, the presence of unexcused absences is not sufficient evidence of the presence of a mental health condition. Yet, the applicant contends she was experiencing a mental health condition or an experience that mitigates her discharge, and per Liberal Consideration her contention is sufficient for the board's consideration.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy and regulation. The Board noted the applicant's assertion she was discharged with a dishonorable discharge; however, found no evidence to show she was discharged from the U.S. Army Reserve unfavorably. The Board reviewed and concurred with the administrative note below to amend the applicant's active duty training DD Form 214 from uncharacterized to honorable.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

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.

4/10/2025

X

CHAIRPERSON

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.

ADMINISTRATIVE NOTE(S):

A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board due to receiving a MOS of 91B. As a result, amend the DD Form 214 ending 7 October 1994 to show in Item 24 (Character of Service) honorable vice uncharacterized.

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) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

3. AR 135-91 (ARNG and USAR Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures) states a Soldier is an unsatisfactory participant when 9 or more unexcused absences from scheduled training occurs during a 1-year period. Unless an absence is authorized, a Soldier failing to attend a scheduled drill will be charged with an unexcused absence.

4. AR 135-178 (Enlisted Administrative Separations) establishes policies, standards, and procedures governing the administrative separation of certain enlisted Soldiers of the ARNG and USAR. Chapter 13 provides that a Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because:

a. The Soldier is an unsatisfactory participant as prescribed by Army Regulation 135-91.

b. Attempts to have the Soldier respond or comply with orders or correspondence have resulted in:

(1) The Soldier's refusal to comply with orders or correspondence.

(2) A notice sent by certified mail was refused, unclaimed, or otherwise undeliverable.

c. Characterization of service normally will be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted. For Soldiers who have completed entry level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be inappropriate. In such cases, separation for unsatisfactory participation with an honorable characterization will be approved by the separation authority. As an exception, the separation authority will approve separation with service characterized as honorable when an administrative separation board has recommended such characterization.

5. AR 135-178, paragraph 2-9 of the regulation in effect at the time states:

a. An honorable characterization 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. An honorable characterization may only be awarded a Soldier upon completion of his or her service obligation, or where required under specific reasons for separation, unless an uncharacterized description is warranted.

b. General (under honorable conditions). If a Soldier's service has been honest and faithful, it is appropriate to characterize that service as under honorable conditions. Characterization of service as general under honorable conditions is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record. When authorized, a characterization of under honorable conditions is awarded to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Under other than honorable conditions. Service may be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, unsatisfactory participation, or security reasons. No Soldier will be discharged in accordance with this regulation, with service characterized as under other than honorable conditions, unless he or she is afforded the right to present his or her case before an administrative separation board. The Soldier will be afforded the advice and assistance of counsel. As an exception, a discharge with service characterized as under other than honorable conditions may be issued without board action if the Soldier waives their right to board action.

6. 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 DRBs and BCM/NRs when considering requests by veterans for modification of their

discharges due in whole or in part to: mental health conditions, including 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, on those conditions or experiences.

7. National Guard Regulation 600-200 (Enlisted Personnel Management) prescribes the criteria, policies, processes, procedures and responsibilities to classify, assign utilize, transfer within and between States, provides special duty assignment pay, separate and appoint to and from Command Sergeant Major ARNG and Army National Guard of the United States enlisted Soldiers. Paragraph 6-35j in effect at the time, provides for the separation of Soldiers for unsatisfactory participation.

8. Title 10, U.S. 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//