

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 February 2025

DOCKET NUMBER: AR20240006113

APPLICANT REQUESTS: an upgrade of her under honorable conditions (general) character of service, and an appearance before the Board via video or telephone.

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

- DD Form 149 (Application for Correction of Military Record), with self-authored statement
- Marriage License, State of Missouri, dated 17 December 2018
- Certificate of Holy Matrimony, St. Louis County, MO, dated 9 January 2019
- Driver License, State of Missouri, expiration date 2 February 2030

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 gave birth to her daughter on 18 August 1990. Her husband was stationed in Hawaii but was unable to care for their daughter due to his military occupational specialty (MOS). Her unit received orders to deploy to the Gulf War. She was forced out of the Army and her military career ended because she could not deploy with her fellow Soldiers. She was not released from her active duty assignment due to any behavior. She was involuntarily released due to parenthood.
3. The applicant enlisted in the Regular Army on 19 July 1989, for a 3-year period. Upon completion of initial entry training, she was awarded MOS 88M (Motor Transport Operator) and assigned to her first permanent duty station at Fort Hood, TX. The highest rank she attained was private/E-2.
4. The applicant accepted nonjudicial punishment under the provisions of Article 15 of the Uniform Code of Military Justice on 5 April 1990 for failure to go at the time prescribed to her appointed place of duty, on or about 31 March 1990. Her punishment

consisted of reduction to private/E-1, forfeiture of \$168.00 pay, and 14 days of extra duty.

5. Two DA Forms 4187 (Personnel Action), dated 12 July 1990, show the applicant requested that her last name be changed on all official records from [REDACTED] to [REDACTED], due to marriage. Additionally, she requested consideration for Joint Domicile in all future reassignment actions as her spouse was also in the Army. He was currently stationed at Schofield Barracks, HI.

6. A memorandum from Bravo Company, 27th Main Support Battalion, Fort Hood, TX, dated 5 October 1990, a DA Form 4187, and accompanying sworn statements show the applicant requested a Hardship Discharge under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 6, as she was unable to deploy in support of Operation Desert Shield due to her inability to implement her family care plan. She was unable to find a legal guardian for her daughter.

7. The applicant was formally counseled on 31 October 1990 regarding her failure to submit an adequate family care plan.

8. On that same date, the applicant's immediate commander notified the applicant of his intent to initiate separation actions against her under the provisions of Army Regulation 635-200, Chapter 5-8, due to parenthood. The commander cited the applicant's nonavailability for worldwide deployment due to her inability to implement her dependent care plan as the specific reason for the separation action.

9. The applicant consulted with counsel and acknowledged that she had been advised of the basis for the contemplated separation action and its effects; the rights available to her; and the effect of any action taken by her to waive her rights. The applicant's statement in her own behalf is not available for review in the service record.

10. Subsequently, the applicant's immediate commander recommended the applicant's separation, prior to her expiration term of service, under the provisions of Army Regulation 635-200. On 5 November 1990, the intermediate commander concurred with the recommendation and further recommended the applicant receive an under honorable conditions (general) character of service.

11. The separation authority approved the recommended discharge and directed the issuance of a General Discharge. Certificate and transfer to the Inactive Ready Reserve (IRR).

12. The applicant was released from active duty and transferred to the IRR, on 9 November 1990, under the provisions of AR 635-200, paragraph 5-8, by reason of involuntary separation due to parenthood. Her DD Form 214 (Certificate of Release or

Discharge from Active Duty) shows her service was characterized as under honorable conditions (general), with separation code LDG and reentry code RE-3. She completed 1 year, 3 months, and 21 days of net active service.

13. The applicant provides:

a. A Marriage License and Certificate of Holy Matrimony, show the applicant was remarried on 9 January 2019.

b. A Driver License, State of Missouri, expiration date 2 February 2030, shows her last name as [REDACTED].

14. Regulatory guidance states Soldiers will be considered for involuntary separation when parental obligations interfere with the fulfillment of military responsibilities.

15. The Board should consider the applicant's argument and/or evidence in accordance with the published equity, injustice, or clemency determination guidance.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, the evidence found within the military record, and published Department of Defense guidance for consideration of discharge upgrade requests, the Board found that relief was not warranted.

2. The Board carefully considered applicant's contentions, her military record, the evidence of NJP, her request for a hardship discharge, her failure to submit a Family Care Plan, the contents of her separation packet, the reason for her separation and the character of service she received upon discharge. The applicant did not provide evidence of mitigation or post-service achievements in support of a clemency determination. Based on a preponderance of evidence, the Board determined that the reason and character of service the applicant received upon separation was not in error or unjust.

3. 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
XX:	XX:	XX:	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.


X //SIGNED//

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.

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 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 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 states 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.
3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel.
 - a. 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.
 - b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.
 - c. Paragraph 5-1 provides that unless the reason for separation requires a specific characterization, a Soldier being separated for the convenience of the government will be awarded a character of service of honorable, under honorable conditions, or an uncharacterized description of service if in an entry-level status.
 - d. Paragraph 5-8 provides for the involuntary separation due to parenthood. Soldiers were considered for involuntary separation when parental obligations interred with the fulfillment of military responsibilities. Specific reasons for separation due to parenthood included inability to perform prescribed duties satisfactorily, repeated absenteeism, late for work, inability to participate in field training exercises or perform special duties such as charge of quarters and staff duty noncommissioned officer, and unavailability for worldwide assignment or deployment according to the needs of the Army.
4. 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.

//NOTHING FOLLOWS//