

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 February 2025

DOCKET NUMBER: AR20240006421

APPLICANT REQUESTS:

- an upgrade of her uncharacterized 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)
- Department of Veterans Affairs (VA) Ratings Letter, dated 26 March 2024

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 requesting an upgrade of her uncharacterized discharge to honorable. She was injured while at basic training and is receiving 100 percent service-connected disability compensation from the VA. She was told that she would be separated as honorable, but it was not done so at the time of separation.
3. The applicant provides her VA rating letter which shows she is currently receiving service-connected VA disability compensation at 100 percent.
4. A review of the applicant's service record reflects the following:
 - a. On 17 January 1997, she enlisted in the Regular Army.
 - b. On 7 March 1997, USA MEDDAC Form 856 (Report of Mental Status Evaluation) shows she was referred by her immediate commander for a mental health evaluation request due to discharge for the good of the service. She was recommended for an administrative separation for inability to handle basic training emotionally and poor coping skills.

c. On 10 March 1997, she was counseled by her immediate commander on entry level separation recommendation.

d. On 13 March 1997, DA Form 4856 (General Counseling Form) shows she was counseled on refusal to train, lack of motivation, and failure to adapt to military life. In conjunction, she completed DA Form 2823 (Sworn Statement) stating, in pertinent part, that if brought up for a new start, she would refuse to train as she was not emotionally or physically able to with intense training she would be subjected to endure. She further noted that she would not be a sufficient addition to the military at that time.

e. The immediate commander notified her of his intent to separate her under the provisions of Chapter 11, Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), entry level separation for lack of motivation. She acknowledged receipt on the same day.

f. After declining consultation with legal counsel, she acknowledged:

- the rights available to her and the effect of waiving said rights
- she may encounter substantial prejudice in civilian life if a general discharge under honorable conditions is issued to him
- she may be ineligible for many or all benefits as a Veteran under both Federal and State laws
- she may apply to the Army Discharge Review Board or the ABCMR for upgrading
- she would be ineligible to apply for enlistment in the U.S. Army for a period of six months following discharge

g. On 27 March 1997, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 11.

h. On 1 April 1997, she was discharged from active duty with an uncharacterized characterization of service. Her DD Form 214 shows she completed 2 months and 15 days of active service with no lost time.

i. Her record is void of documents showing medical injury incurred while on active duty.

5. There is no evidence the applicant has applied to the Army Discharge Review Board for review of her discharge within that board's 15-year statute of limitations.

6. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

7. By regulation (AR 635-200), a separation is described as an entry-level separation if processing is initiated while a member is in an entry-level status. This separation policy applies to Soldiers who enlisted in the Regular Army, Army National Guard, or U.S. Army Reserve who are in entry level status and, before the date of initiation of separation action, have completed no more than 180 days of creditable continuous active duty or IADT by the date of separation and have demonstrated they are not qualified for retention.

8. By regulation (AR 635-8), the DD Form 214 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 release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

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

10. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, the Army Aeromedical Resource Office (AERO), and the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting an upgrade of her 10 October 2007 uncharacterized discharge. She states:

"Please change Character of Service from "Uncharacterized" to "Honorable"

"Injured while basic training, injuries occurred were rated 100% service-connected by the VA."

"Was told while separating that the "H" written in was Honorable and meant to be changed before separation."

c. Because of the period of Service under consideration, there are no encounters in AHLTA, JLV, and no documents in iPERMS, e-PEB or MEDCHART that pertained to her request.

d. 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. This type of discharge does not attempt to characterize service as good or bad.

e. Based on the information available for reviewed, this applicant does have any medical evidence to support her discharge upgrade request. Therefore, it is the opinion of the ARBA medical advisor that neither an upgrade of her discharge nor a referral to the DES is indicated.

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 governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The applicant did not complete training and was released from active duty due to entry level performance and conduct. The Board reviewed and concurred with the medical advisor's review finding insufficient medical evidence to support her discharge upgrade request. The Board determined her DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

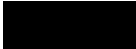
3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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
Signed by:

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 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. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor. 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. Chapter 11 of the regulation states service will be described as uncharacterized under the provisions of this chapter. Separation of a Soldier in entry level status may be warranted on the grounds of unsatisfactory performance and/or unsatisfactory conduct as evidenced by:

- inability
- lack of reasonable effort
- failure to adapt to the military environment
- minor disciplinary infractions

4. Army Regulation 635-8 (Separation and Processing Documents) states the DD Form 214 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 release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

5. Section 1556 of Title 10, United States Code, 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//