

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 April 2025

DOCKET NUMBER: AR20240006459

APPLICANT REQUESTS: an upgrade of her discharge from under other than honorable conditions to honorable.

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)
- Letter, Army Review Boards Agency (ARBA), dated 8 July 2021, which shows as a part of a settlement agreement, ARBA agreed to accept re-applications from a group of former Soldiers

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 back in 2008 she made the decision to transfer military reserve units, which unfortunately led to challenges in attending drill training on the designated weekends. The applicant explains in her statement, which is available to the Board's review in the supporting documents:

- Transportation challenges getting to drill
- Dedication to serving the country
- Desire to reenlist and fulfill her career goals in the military

3. A review of the applicant's service record shows:

a. She enlisted in the U.S. Army Reserve (USAR) on 11 September 2001, for 8 years.

b. She completed initial active-duty training and was honorably released on 26 April 2002.

c. Her service record is void of the specific facts and circumstances concerning the events which led to her discharge from the USAR.

d. Orders Number 10-147-00050, issued by Headquarters, 88th Regional Support Command, Fort McCoy, WI, shows she was discharged from the USAR, effective 27 May 2010, under the provisions of Army Regulation 135-178 (Army National Guard and Army Reserve – Enlisted Administrative Separations), with an under other than honorable conditions discharge.

4. On 15 May 2013, the Army Discharge Review Board determined that the applicant was properly and equitably discharged and denied the applicant's request for a change in the character and/or reason for her discharge.

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

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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 and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of her characterization of service. Upon review of the applicant's petition and available military records, the Board acknowledged the applicant's statement and the circumstances she described; however, the record reflects that she was discharged under the provisions of Army Regulation 135-178 with an under other than honorable conditions characterization of service.

2. The Board determined the specific facts and circumstances leading to her separation are not contained in the record, but the discharge orders and subsequent review by the Army Discharge Review Board in 2013 determined that her separation was both proper and equitable. The Board found insufficient evidence to warrant an upgrade to her characterization of service. The Board agreed, in the absence of compelling evidence of error, injustice, or mitigating factors sufficient to outweigh the basis for her discharge, the Board found no grounds to grant relief. Therefore, the Board denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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 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 135-178 (Army National Guard and Army Reserve – Enlisted Administrative Separations), in effect at the time, established policies, standards, and procedures governing the administrative separation of enlisted Soldiers of the Army National Guard of the United States and the United States Army Reserve.

a. At separation, the following types of characterization of service or description of separation are authorized under this regulation: honorable, general (under honorable conditions), under other than honorable conditions, or uncharacterized (if entry level status).

(1) 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 uncharacterized description is warranted.

(2) If a Soldier's service has been honest and faithful, it is appropriate to characterize that service as under honorable conditions (general). 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.

(3) Service may be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, homosexual conduct, unsatisfactory participation, or security reasons.

b. Due consideration will be given to the Soldier's age, length of service, grade, aptitude, physical and mental condition, and the standards of acceptable conduct and performance of duty.

3. 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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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.

//NOTHING FOLLOWS//