

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2025

DOCKET NUMBER: AR20240007121

APPLICANT REQUESTS: correction to her DD Form 214 (Certificate of Release or Discharge from Active Duty) to by changing the reason and authority for discharge to pregnancy (motherhood) and a personal appearance before the Board via video/telephone.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214

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:

a. She was married at the time of her discharge from the military and was looking forward to becoming a mother. Many women in her unit were having miscarriages due to the toxic gases at their job location. She almost had a miscarriage and requested to switch to another unit so that she would not be exposed to the toxic chemicals, which was denied. Therefore, she opted to be discharged for her unborn child's safety.

b. She wants to take advantage of VA benefits. Her husband was also in the military, and she supported him and acted as the Family Readiness Group (FRG) Representative. She is proud to have served her country as an Army Soldier.

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

a. She enlisted in the Regular Army on 28 January 1993. Shortly thereafter, she became pregnant, and she voluntarily elected to separate from the Army on 20 September 1993 due to pregnancy pursuant to Army Regulation 635-200, Chapter 8.

b. The applicant's commander recommended approval and on 25 October 1993, the separation authority approved her request.

c. She was honorably released from active duty due to pregnancy on 1 December 1993. Her DD Form 214 shows she received a separation code MDF and RE Code 3. She completed 10 months and 4 days net active service.

4. By regulation, (AR 15-185), the ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. 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.

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.

a. The applicant requested that the narrative reason for separation be amended from "pregnancy" to "parenthood." However, based on the facts as they existed at the time of separation and the applicable regulatory guidance, the Board determined that the original narrative reason was appropriate and properly applied.

b. At the time of the applicant's separation, Army Regulation 635-200, Chapter 8, governed the discharge of enlisted personnel due to pregnancy. The regulation clearly distinguished between separation for pregnancy and separation for parenthood, with specific criteria and procedural requirements for each. The applicant's personnel records, including medical documentation and separation orders, reflect that the discharge was initiated and processed under the provisions for pregnancy, not parenthood. There is no evidence that the applicant requested separation due to parenthood responsibilities or that such a determination was made by the command.

c. Furthermore, the narrative reason for separation is intended to accurately reflect the basis for discharge as documented in the official record at the time of separation. The Board found no error or injustice in the application of the regulation or in the characterization of the narrative reason. Therefore, the request to amend the narrative reason from "pregnancy" to "parenthood" is not supported by the record or by applicable policy.

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
: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). Chapter 8- Separation of enlisted Women-Pregnancy.

a. This chapter establishes policy and procedures and provides authority for voluntary, separation of enlisted women because of pregnancy. This Chapter applies to all Active Army enlisted women and ARNGUS and USAR enlisted women ordered to AD, except for ARNGUS and USAR Soldiers found to be pregnant upon entry on-IADT, to whom paragraph 5-11 applies.

b. When pregnancy is the only medical condition upon which separation is based, separation will be accomplished without a medical or physical evaluation board. If there are medical conditions which disqualify the enlisted woman for retention, processing will be accomplished under the provisions of Army Regulation 40-3 (Medical, Dental, and Veterinary Care) and Army Regulation 635-40 (Physical Evaluation for Retention, Retirement or Separation).

4. Army Regulation 635-5 (Separation Processing and Documents): currently in effect, prescribes policy and procedural guidance relating to transition management. It consolidates the policies, principles of support, and standards of service regarding processing personnel for transition. Paragraph 5-6 states for item 28 (Narrative Reason

for Separation)-this is based on regulatory or other authority and can be checked against the cross reference in Army Regulation 635-5-1.

5. Army Regulation 601-210, Table 3-1 included a list of the Regular Army RE codes:

- RE-1 applies to Soldiers completing their term of active service who are considered qualified to reenter the U.S. Army; they are qualified for enlistment if all other criteria are met
- RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. They are ineligible for enlistment unless a waiver is granted
- RE-4 applies to Soldiers who are separated from their last period of service with a nonwaivable disqualification; they are ineligible for enlistment

6. Army Regulation (AR) 635-5 (Separation Processing and Documents), currently in effect, prescribes policy and procedural guidance relating to transition management. It consolidates the policies, principles of support, and standards of service regarding processing personnel for transition. Paragraph 5-1 (When to Prepare the DD Form 214 (Certificate of Release or Discharge from Active Duty) 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.

//NOTHING FOLLOWS//