

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 February 2025

DOCKET NUMBER: AR20240007369

APPLICANT REQUESTS: reconsideration of her prior request for an upgrade of her uncharacterized discharge.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Rating Decision Letter, 10 April 2024
- Medical Diagnosis from the VA

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR2020000075 on 2 September 2022.

2. The applicant states she is seeking an upgrade of her uncharacterized discharge. She recently received a 100% service-connected VA rating for her post-traumatic stress disorder (PTSD) due to military sexual trauma (MST) during her service. The upgrade would facilitate employment with the government and additional benefits.

3. The applicant provides:

a. A VA Rating Decision, dated 10 April 2024, notified the applicant she was granted 100% service-connected disability for PTSD due to military sexual trauma with major depressive disorder effective 2 May 2023.

b. A Medical diagnosis printout with a list of medical conditions from 2022-2023.

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

a. She enlisted in the Alabama Army National Guard (ALARNG) on 5 January 2005.

b. Her Enlisted Record Brief shows she was in training at Fort Benning, GA. The applicant was assigned to 128th Medical Company (AMB).

c. On 28 September 2007, she was discharged from active duty with an uncharacterized characterization of service. Her DD Form 214 shows she completed 1 month and 28 days of active service. The narrative reason for separation listed as "Failed Medical/Physical/ Procurement Standards."

d. On 1 October 2007, she discharged from the ALARNG with an uncharacterized characterization of service. Her NGB Form 22 (Report of Separation and Record of Service) shows she completed a net service period of 5 years, 7 months and 26 day. However, the date of enlistment as shown in block 4 was 6 February 2002. This is different from her DD Form 4 block 4 (Date of Enlistment/Reenlistment) which shows 5 January 2005.

7. On 2 September 2022, the ABCMR rendered a decision in Docket Number AR2001051795. The Board found the request for discharge upgrade is to show evidence of no misconduct while in the Army and that the applicant was EPTS'd due to the medical condition and not disciplinary issues. An uncharacterized discharge is neither positive nor negative and it is not meant to be a negative reflection of a Soldier's military service. It means the Soldier has not been in the Army long enough for a character of service to be rated as honorable or otherwise. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record.

8. On 20 December 2024, the U.S. Army Criminal Investigation Division (CID) provided information for the processing of this case. CID conducted a search of the Army criminal files indexes regarding the applicant's claims regarding MST and no records were found.

9. 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.

9. 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.

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

11. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting reconsideration of her prior request for a change to her uncharacterized discharge. She contends she experienced PTSD as a result of military sexual trauma (MST) that mitigates her discharge. 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 Alabama Army National Guard (ALARNG) on 5 January 2005; 2) The available record is void of the facts and circumstances which led to the applicant's discharge. On 28 September 2007, she received an uncharacterized discharge from active service. Her DD Form 214 shows she completed 1 month and 28 days of active service. The narrative reason for separation listed as "Failed Medical/Physical/Procurement Standards"; 3) On 2 September 2022, the ABCMR denied the applicant's request for a discharge change due to the applicant's prior medical condition and not disciplinary issues.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service records. The VA's Joint Legacy Viewer (JLV) and VA medical documentation provided by the applicant were also examined.

c. The applicant asserts she experienced PTSD as a result of MST that mitigate her discharge while on active service. There is evidence the applicant was seen at behavioral health services for various physical and mental health concerns starting early in August 2007. She was initially seen at behavioral health services for a "personal problem" and diagnosed with an Adjustment Disorder on 14 August 2007. She was seen again on 29 August 2007, but the full encounter was not available for review. She was diagnosed with Depression and Adjustment Disorder. The applicant was last seen by behavioral health services on 05 September 2007. She reported "feeling better" as she was being discharged shortly. In addition, it was noted she was experiencing significant family stressors which had impacted her performance, and she was again diagnosed with Depression.

d. A review of JLV provided evidence the applicant was initially seen for a PTSD Compensation and Pension (C&P) Evaluation on 27 April 2018. The applicant had the current diagnoses of Bipolar Disorder, Severe Alcohol Use Disorder, and Borderline

Personality Disorder. She described a traumatic childhood, and she attempted to complete Basic Training in 2002, 2005, and 2007. She was noted to have attempted suicide in between her 2005 and 2007 Basic Training attempts. She did not report being exposed to MST during this initial C&P Evaluation. The applicant felt the environment of basic training was traumatic (i.e. being yelled at, sensitive to sounds, weapons, and being told what to do). This was not identified as a potentially traumatic event, and the applicant was not diagnosed with service-connected PTSD at that time, but she was diagnosed with service-connected Bipolar Disorder (50%SC). The applicant began to engage with the VA for physical and mental health treatment in March 2022. She was referred to mental health treatment for PTSD related to her report of MST in April 2022. She was later in April 2022 hospitalized for suicidal ideation and for stabilization of her psychiatric medication in a VA inpatient psychiatric program. The applicant has been engaged in outpatient behavioral health treatment, inpatient psychiatric treatment, and medication management for Bipolar Disorder and PTSD at the VA. On 05 October 2023, the applicant completed another PTSD C&P Evaluation. She was reported to have a history of being diagnosed with PTSD, Bipolar Disorder, Borderline Personality Disorder, and Alcohol use Disorder. The applicant during this evaluation reported in 2002 being exposed to MST during her Basic Training, and she experienced PTSD as a result. Consequently, the applicant was diagnosed with service-connected PTSD (100%SC). The applicant has been actively engaged in various levels of behavioral health care at the VA till present.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence the applicant has been diagnosed with service-connected PTSD as a result of her report of experiencing MST during her first attempt at Basic Training in 2002. There is evidence the applicant had a pre-existing mental health condition, which did not meet medical retention standards, but she attempted to completed Basic Training in 2002, 2005, and 2007. In 2007, there is evidence she was reported to be experiencing mental health symptoms due to difficulty adjusting to military training and a family stressor. She was given an uncharacterized discharge due the applicant's prior mental health condition not disciplinary issues. Per Liberal Consideration, the applicant's diagnosis of service-connected PTSD as a result of MST is sufficient for consideration for the Board for a change to the applicant's discharge. However, the applicant did have pre-existing mental health conditions, which were not compatible with military service and she did report experiencing MST in 2002. The applicant did again attempt to complete Basic Training on two additional occasions. Also, there is insufficient evidence surrounding the events which resulted in the applicant's discharge to provide an appropriate opine on possible mitigation as the result of her mental health condition or experience.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Partially, there is sufficient evidence the applicant has been diagnosed with service-connected PTSD as a result of her report of experiencing MST during her first attempt at Basic Training in 2002. There is evidence the applicant had a pre-existing mental health condition, which did not meet medical retention standards, but she attempted to complete Basic Training in 2002, 2005, and 2007. In 2007, there is evidence she was reported to be experiencing mental health symptoms due to difficulty adjusting to military training and a family stressor. She was given an uncharacterized discharge due to the applicant's prior mental health condition not disciplinary issues. Per Liberal Consideration, the applicant's diagnosis of service-connected PTSD as a result of MST is sufficient for consideration for the Board for a change to the applicant's discharge. However, the applicant did have pre-existing mental health conditions, which were not compatible with military service and she did report experiencing MST in 2002. The applicant did again attempt to complete Basic Training on two additional occasions. Also, there is insufficient evidence surrounding the events which resulted in the applicant's discharge to provide an appropriate opinion on possible mitigation as the result of her mental health condition or experience.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition or experience actually excuse or mitigate the misconduct? N/A.

#### 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, available military records and medical review, the Board considered the advisory opinion of the Agency Medical Advisor that there is sufficient evidence the applicant has been diagnosed with service-connected PTSD as a result of her report of experiencing MST during her first attempt at Basic Training in 2002.

#### 2. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Partially, there is sufficient evidence the applicant has been diagnosed with service-connected PTSD as a result of her report of experiencing MST during her

first attempt at Basic Training in 2002. There is evidence the applicant had a pre-existing mental health condition, which did not meet medical retention standards, but she attempted to completed Basic Training in 2002, 2005, and 2007. In 2007, there is evidence she was reported to be experiencing mental health symptoms due to difficulty adjusting to military training and a family stressor. She was given an uncharacterized discharge due the applicant's prior mental health condition not disciplinary issues. Per Liberal Consideration, the applicant's diagnosis of service-connected PTSD as a result of MST is sufficient for consideration for the Board for a change to the applicant's discharge. However, the applicant did have pre-existing mental health conditions, which were not compatible with military service and she did report experiencing MST in 2002. The applicant did again attempt to complete Basic Training on two additional occasions. Also, there is insufficient evidence surrounding the events which resulted in the applicant's discharge to provide an appropriate opine on possible mitigation as the result of her mental health condition or experience.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A.

3. The Board acknowledged the applicant's diagnosis and the applicability of liberal consideration guidance, it determined that the evidence does not support a change in the characterization of her discharge. The record reflects that the applicant had a pre-existing mental health condition that did not meet medical retention standards and was the basis for her separation. She attempted to complete Basic Training on three separate occasions—2002, 2005, and 2007—and was ultimately discharged in 2007 under the provisions of Army Regulation 635-200, with a narrative reason of "Failed Medical/Physical/Procurement Standards." Her DD Form 214 confirms she completed only 1 month and 28 days of active service, placing her in entry-level status at the time of separation.

4. The Board noted the applicant was discharge from both active duty and the ARNG with an uncharacterized characterization of service. The Board also considered the prior decision rendered in Docket Number AR2001051795, which found the discharge to be proper and equitable, and emphasized that an uncharacterized discharge is not a negative reflection of service but rather a procedural outcome for individuals separated in entry-level status. The Board acknowledged the applicant's report of MST in 2002, notwithstanding the advising official finding sufficient evidence the applicant has been diagnosed with service-connected PTSD as a result of her report of experiencing MST during her first attempt at Basic Training in 2002. The Board determined there was insufficient evidence surrounding the circumstances of her discharge to determine whether her mental health condition or reported experience mitigated her inability to meet retention standards. Reversal of the previous Board determination is without merit and releif is denied.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

|     |     |     |                      |
|-----|-----|-----|----------------------|
| :   | :   | :   | GRANT FULL RELIEF    |
| :   | :   | :   | GRANT PARTIAL RELIEF |
| :   | :   | :   | GRANT FORMAL HEARING |
| XXX | XXX | XXX | DENY APPLICATION     |

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR2020000075 on 2 September 2022.

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, United States 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 Army Board for Correction of Military Records (ABCMR) determines it would be in the interest of justice to do so.

2. Army Regulation 635-200 (Active Duty Enlisted Administrative Separation), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) states 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. Paragraph 3-7b (General Discharge) states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 11 sets policy and provides guidance for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. It states when separation of a member in entry-level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by inability, lack of reasonable effort, or failure to adapt to the military environment, the member normally will be separated per this chapter. 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 for one or more of the following reasons:

- cannot or will not adapt socially or emotionally to military life
- cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation or self-discipline
- have demonstrated character and behavior characteristics not compatible with satisfactory continued service
- failed to respond to counseling

3. 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.

4. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records



(BCM/NRs) to carefully consider the revised post-traumatic stress disorder (PTSD) criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

5. 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. The guidance further describes evidence sources and criteria and requires boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

6. 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.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief based on equity, injustice, or clemency grounds, BCM/NRs 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//