

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 March 2025

DOCKET NUMBER: AR20240007459

APPLICANT REQUESTS: Reconsideration of her previous request to change her narrative reason and reentry code. As a new request, she would like her separation code change.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Self-Authored Statement
- Ellis Clinic Independent Medical Examination letter, with enclosed certification letter (5 pages)
- Support letter from, A.H., a friend of the applicant describes how she changed while in the Army
- Department of Veterans Affairs Rating Decision showing she has service-connected disabilities, with the new claim rated at 0 percent (%) disability, effective 3 August 2023
- Department of Veterans Affairs Rating Decision showing she has service-connected post-traumatic stress disorder (PTSD) with major depressive disorder (claimed as anxiety) with a rating of 70 percent disability, effective 10 September 2021

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 AR20050000891 on 25 August 2005.

2. The applicant claims post-traumatic stress disorder (PTSD) caused by military sexual trauma. The applicant states she was repeatedly sexually assaulted by her supervisor, Master Sergeant H. in Germany. Her supervisor recommended her for an Article 15 for misuse of a meal card and counseled her unjustly because she exposed him. The applicant was punished for her actions, but other inspectors were not. MSG H. did not receive any adverse action. The applicant reported the sexual abuse when she visited the Troop Medical Clinic, but was told to go home and act like it did not happen.

The complete statement is available for the Board to review in the supporting documents.

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

a. The applicant enlisted in the Regular Army on 6 November 1996 for 4 years, extending her enlistment on 26 June 1998 for 10 months.

b. She served in an overseas location in Germany from 1 August 1998 to 17 December 1999 (discharge).

c. She received non-judicial punishment on:

- 11 February 1999, for falsely pretending to be a meal card holder at the dining facility to receive a free meal, a value of \$3; willfully disobeying Staff Sergeant (SSG) G., a noncommissioned officer (NCO), to use her chain of command properly; and making a false official statement to SSG G; she was reduced to Private First Class/E-3
- 6 May 1999, suspended punishment was vacated for being disrespectful to an NCO

d. On 29 November 1999, her commander notified her of his intent to separate her under the provisions (UP) of Army Regulation (AR) 635-200, Chapter 14, paragraph 14-12b, due to a pattern of misconduct.

e. The chain of command recommended approval of the separation, with a general (under honorable conditions) character of service.

f. The separation authority approved the separation and directed a general (under honorable conditions) discharge.

g. Accordingly, she was discharged with an a general (under honorable conditions) on 17 December 1999. Her DD Form 214 shows:

- She completed 3 years, 1 month, and 12 days net active service this period
- She was awarded the Army Achieve Medal
- Separation Cod): JKA
- Reentry Cod): 3
- Narrative Reason: Misconduct

4. On 3 May 2003, the Army Discharge Review Board Decision (ADRB), after careful consideration of her military records and all other available evidence, determined that she was properly discharged; however, the ADRB determined the characterization was

inequitable, and upgraded her discharge to honorable. The ADRB denied her request to change her narrative reason for discharge.

5. On 25 August 2005, in Docket Number AR20050000891, ABCMR denied the applicant's request to change her narrative reason for separation and reentry code.

6. On 6 February 2025, the Criminal Investigation Division (CID) revealed a search of the Army criminal file indexes, which revealed no sexual assault records pertaining to the applicant.

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

8. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting reconsideration of a change to her narrative reason for separation, separation code, and reentry code. She contends she experienced an undiagnosed mental health condition, including PTSD, and sexual assault/harassment (MST) that mitigated her misconduct and warrants this change.

b. 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:

- The applicant enlisted into the Regular Army on 6 November 1996 and extended her enlistment on 26 June 1998.
- On 29 November 1999, her commander notified her of his intent to separate her under the provisions (UP) of Army Regulation (AR) 635-200, Chapter 14, paragraph 14-12b, due to a pattern of misconduct as related to falsely pretending to be a meal card holder to receive a free meal, willfully disobeying an NCO, and making a false official statement.
- The applicant was discharged on 17 December 1999 and completed 3 years, 1 month, and 12 days net active service.
- On 3 May 2003, the Army Discharge Review Board Decision (ADRB) determined that she was properly discharged; however, the ADRB determined the characterization was inequitable, and upgraded her discharge to honorable. The ADRB denied her request to change her narrative reason for discharge.
- On 25 August 2005, in Docket Number AR20050000891, ABCMR denied the applicant's request to change her narrative reason for separation and reentry code.
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c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant provides an extensive account of her MST experience and asserts PTSD and MST as issues or conditions related to her request. Her application includes an Independent Medical Examination by Ellis Clinic dated 19 January 2023, which indicates the applicant reported symptoms of PTSD as well as how her military experience impacted the rest of her life, and the evaluator concluded a diagnosis of PTSD. A VA Rating Decision letter dated 13 February 2024 showed the applicant is 70% service connected for PTSD. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which contains medical and mental health records for both DoD and VA, was reviewed and showed the applicant initially sought mental health care in April 2003 when she reported anxiety associated with unemployment to her primary care provider and was prescribed a medication. When contacted by a mental health provider, she declined need for services. DoD documentation on 16 August 2006 showed that the applicant presented voluntarily to the mental health clinic as an Air Force Reservist who was in tech school, and she expressed anxiety, sleep difficulty, and social isolation, but there was no indication of any follow up contact or treatment. She reengaged with the VA in July 2012 following a suicide attempt by overdosing on antidepressant medication, and she discussed a long history of mental health symptoms stemming from her childhood abuse history. She has routinely engaged with mental health treatment, including vocational rehabilitation and housing assistance, and her current diagnosis is PTSD with her most recent contact in November 2024 where she was seen for medication management.

e. An Initial PTSD Disability Benefits Questionnaire dated 25 January 2024 showed that the applicant endorsed the required number and severity of symptoms to warrant a diagnosis of PTSD, and she was also diagnosed with Major Depressive Disorder, Recurrent, Moderate. The primary stressors associated with her PTSD were noted as childhood trauma (raped between the ages of 5-14 by family friend, brother, and mother's boyfriend) and being raped and sodomized by her supervisor on 15 September 1998 while stationed in Germany. She also disclosed a sexual assault by her new supervisor, a first sergeant.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support that the applicant had a condition or experience that partially mitigates her misconduct. The applicant asserts a fully mitigating experience, MST, and she is 70% service connected through the VA for PTSD resulting from childhood trauma and MST. As there is an association between MST and disregard for authority, there is a nexus between her experience of MST and her misconduct related to willfully disobeying an NCO. However, her misconduct related to pretending to be a meal card holder in order to get a free meal and making a false

statement are not natural sequelae to mental health conditions associated with trauma exposure or stressful events. However, in 2003 the ADRB determined her characterization was inequitable and upgraded her discharge to honorable, but they denied her request to change her narrative reason for discharge. Additionally, in August 2005 the ABCMR denied her request to change her narrative reason for separation and reentry code. In accordance with Liberal Consideration, a change to the narrative reason for discharge to something more favorable, such as AR 635-200, Chapter 5-14, "other designated physical or mental condition" could be considered by the board, but there is no indication that a referral to the Disability Evaluation System or disposition through medical channels is warranted.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? NA; request is for change to narrative reason for separation

(2) Did the condition exist or experience occur during military service? NA; request is for change to narrative reason for separation

(3) Does the condition or experience actually excuse or mitigate the discharge? NA; request is for change to narrative reason for separation

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. Upon review of the applicant's request, available military records and medical review, the Board considered the advising official finding sufficient evidence to support that the applicant had a condition or experience that partially mitigates her misconduct. The opine also noted in accordance with Liberal Consideration, a change to the narrative reason for discharge to something more favorable, such as AR 635-200, Chapter 5-14, "other designated physical or mental condition" could be considered by the board.

2. The Board notwithstanding the advising opine, determined under liberal consideration changes to the applicant's narrative reason, separation code and RE Code are not warranted. Evidence of record shows, at the time of separation, documentation supports the applicants narrative reason for separation properly identified on the DD Form 214. Based on this, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	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 AR20050000891 on 25 August 2005.

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, USC, section 1556 (Ex Parte Communications Prohibited) 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 applicant's (and/or their counsel) prior to adjudication.

2. Army Regulation 635-5 (Separation Documents), in effect at the time, 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. The information entered thereon reflects the conditions as they existed at the time of separation.

3. Army Regulation 635-5-1 (Separation Program Designators) provides separation program designator (SPD) codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The narrative reason for the separation will be entered in block 28 of the DD Form 214 exactly as listed in the appendices. SPD code JKA is listed with narrative reason "Misconduct," under regulatory authority AR 635-200, Chapter 14, paragraph 14-12b.

4. 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 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

c. Paragraph 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

5. Army Regulation 601-210 (Regular Army and Reserve Enlistment Program), in effect at the time, governs eligibility criteria, policies and procedures for enlistment and processing of persons, with or without prior service, into the Regular Army and the U.S.

Army Reserve. Reentry eligibility (RE) codes are used for administrative purposes only and are not to be considered derogatory in nature. They are codes used for identification of an enlistment processing procedure. Table 3-1 lists the following:

RE-1 applies to persons immediately eligible for reenlistment at time of separation.

RE-3 applies to persons who may be eligible with waiver based on reason for separation.

6. 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.

7. 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.

8. 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//