

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 March 2024

DOCKET NUMBER: AR20240007462

APPLICANT REQUESTS: correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 29 February 2000 to show:

- her uncharacterized service as honorable
- and her correct time in service (TIS)

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

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 was pregnant and the decision to be discharged was made for her. No one asked her if she wanted to stay. Her first sergeant acted like everything was fine; the next thing she knew she was being mandatorily separated. She was in much longer than her current record shows. Her information was obviously entered incorrectly. The applicant notes on her application that her date of discharge or separation is 21 March 2003.

3. The applicant enlisted in the Regular Army on 30 September 1999, for a 4-year period. The highest rank she attained was private/E-1.

4. Upon completion of basic combat training, she reported to Fort Rucker, AL, for advanced individual training (AIT) on 3 January 2000. The applicant's service record shows she did not complete AIT.

5. The applicant's service record is void of the complete facts and circumstances surrounding her discharge. However, her DD Form 214 shows she was discharged on 29 February 2000, under the provisions of Army Regulation 635-200 (Personnel Separations-Enlisted Personnel), Chapter 8, by reason of pregnancy. Her service was uncharacterized, with separation code KDF, and reentry code 3. She was not awarded a military occupational specialty. Her DD Form 214 also contains the following entries in item 12 (Record of Service):

- Item 12a (Date entered Active Duty this period) – 30 September 1999
- Item 12b (Separation date this period) – 29 February 2000
- Item 12c (Net Active Service this period) – 5 months, 1 day

6. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active-duty service. The evidence of record shows the applicant was in an entry-level status at the time of her separation. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

7. Regulatory guidance states, enlisted women who are medically diagnosed as being pregnant may, after the unit commander has counseled her concerning her options, entitlements, and responsibilities, voluntarily request separation under Army Regulation 635-200, Chapter 8, by reason of pregnancy. If a Soldier is still in an entry level status, her service will be uncharacterized.

8. The Board should consider the applicant's argument and/or evidence 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. Upon review of the applicant's request and available military records, the Board recognized the applicant's contentions that she was discharged due to pregnancy without being given the opportunity to remain in service, and that her discharge date was incorrectly recorded. Asserting that she served longer than the time reflected on her DD Form 214 and that her separation was involuntary.

2. The Board noted the applicant's DD Form 214 shows a characterization of service as uncharacterized, with a net active service of 5 months and 1 day. She did not complete

advanced individual training (AIT) and was not awarded a military occupational specialty. In accordance with regulatory guidance, Soldiers separated within the first 180 days of active duty are considered to be in entry-level status. An uncharacterized discharge in such cases is administrative and does not reflect negatively on the Soldier's performance or conduct. The Board found no evidence of error or injustice in the characterization of service. Additionally, the record does not support the applicant's claim of extended service beyond the documented separation date. Her DD Form 214 accurately reflects the conditions as they existed at the time of separation, including her time in service. The Board determined that the applicant's DD Form 214 is correct as issued and denied relief for upgrade of her discharge and correction of her time in service.

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 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 Army Board for Correction of Military Records (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 regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body.

3. Army Regulation 635-5 (Personnel Separations-Separation Documents), in effect at the time, prescribed the separation documents that must be prepared for Soldiers upon release or discharge from active duty.

a. The DD Form 214 (Certificate of Release or Discharge from Active Duty) 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.

b. Block 12 (Record of Service) requires extreme care in completing as post-service benefits, final pay, retirement credit, and so forth are based upon this information. Entry requirements are as follows: Item 12a (Date Entered Active Duty (AD) This Period) Enter the beginning date of the continuous period of AD for issuance of this DD Form 214, for which a DD Form 214 was not previously issued. Item 12b (Separation Date This Period) Enter the Soldier's transition date. This date may not be the contractual date if Soldier is separated early, voluntarily extends, or is extended or retained on active duty for the convenience of the Government. Item 12c (Net Active Service This Period) Enter the amount of service this period, computed by subtracting item 12a from 12b.

4. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 8 establishes policy and procedures and provides authority for the voluntary separation of enlisted women because of pregnancy. This chapter applies to all Active Army enlisted women, Army National Guard, and U.S. Army Reserve enlisted women ordered to active duty. Enlisted women who are medically diagnosed as being

pregnant may, after her unit commander has counseled her concerning her options, entitlements, and responsibilities, request separation under this chapter. If a Soldier is still in an entry level status, her service will be uncharacterized.

b. A separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status. For Regular Army Soldiers, entry-level status is the first 180 days of continuous active duty.

c. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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.

d. An under honorable conditions (general) discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

5. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) 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.

//NOTHING FOLLOWS//