

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 March 2025

DOCKET NUMBER: AR20240007655

APPLICANT REQUESTS:

- upgrade of her uncharacterized service to honorable
- if possible, reinstatement of her security clearance while in service
- a personal appearance hearing before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- DD Form 293 (Application for the Review of Discharge or Dismissal from the Armed Forces of the United States), 18 January 1991
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 24 July 1990

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 requests that her discharge be changed due to the ambiguous nature of the characterization. An upgrade would allow the privileges and benefits earned by a service member. She further solicits about the possibility of reinstatement of her previously held security clearance.

3. Reinstatement of the applicant's security clearance is outside the purview of the ABCMR; therefore, this contention will not be further discussed in this record of proceedings.

4. On her DD Form 149, the applicant indicates other mental health issues is related to her request.

5. She enlisted in the Regular Army on 17 April 1990.
6. The applicant's record reveals three DA Forms 4856 (General Counseling Form), dated 9 July 1990 and 10 July 1990. She was counseled for twice failing her training and her lack of desire to complete the course. She concurred with all the counseling and noted she did not desire to be in the Army anymore.
7. The applicant's commander notified her on 16 July 1990 that she was initiating action to release her from active duty for transfer to the Individual Ready Reserve under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11, due to entry level performance and conduct. Her commander cited, as the specific reason for the proposed action as academic failure.
8. She acknowledged receipt of the separation notification on 16 July 1990. She stated she understood that, if approved, she would receive an uncharacterized, entry level separation and its effects. She did not desire to consult with counsel, elected not to make any statements in her own behalf, and did not request a separation physical.
9. The applicant's immediate commander recommended her separation from the Army on an unspecified date, under the provisions of Army Regulation 635-200, Chapter 11, due to her academic failure and desire to be discharged from the service.
10. The separation authority approved the recommended separation action and directed the issuance of an entry-level separation with uncharacterized service.
11. The applicant was released from active duty on 24 July 1990. The DD Form 214 she was issued shows she was discharged under the provisions of Army Regulation 635-200, paragraph 11-3a, by reason of entry level status. She completed 3 months and 8 days of net active service. Her service was uncharacterized.
12. U.S. Army Reserve Personnel Center, St. Louis, MO, Orders D-01-201958, 19 January 1992, discharged her from the Ready Reserve with an entry level status discharge effective 17 January 1992.
13. There is no indication the applicant applied to the Army Discharge Review Board for an upgrade of her discharge within its 15-year statute of limitations.
14. MEDICAL REVIEW:
 - a. Background: The applicant is requesting an upgrade of her uncharacterized discharge to honorable. The applicant selected OMH on her application as related to her request but provides no explanation.

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:

- Applicant enlisted in the Regular Army on 17 April 1990.
- Applicant's record reveals three DA Forms 4856 (General Counseling Form), dated 9 July 1990 and 10 July 1990. She was counseled for twice failing her training and her lack of desire to complete the course. She concurred with all the counseling and noted she did not desire to be in the Army anymore.
- Applicant's commander notified her on 16 July 1990 that she was initiating action to release her from active duty for transfer to the Individual Ready Reserve under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 11, due to entry level performance and conduct. Her commander cited, as the specific reason for the proposed action as academic failure.
- Applicant was released from active duty on 24 July 1990. Her DD Form 214 shows she was discharged under the provisions of Army Regulation 635-200, paragraph 11-3a, by reason of entry level status. She completed 3 months and 8 days of net active service. Her service was uncharacterized, with separation code LGA, and RE code 3.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant requests that her discharge be changed due to the ambiguous nature of the characterization. An upgrade would allow the privileges and benefits earned by a service member. She further solicits about the possibility of reinstatement of her previously held security clearance.

d. Due to the period of service no active-duty electronic medical records were available for review and the applicant did not provide any contemporaneous medical documentation indicating any behavioral health condition.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected and there is no evidence she has been treated for any behavioral health condition.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a behavioral health condition during military service that could potentially mitigate her discharge.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant selected OMH on her application as related to her request.

(2) Did the condition exist or experience occur during military service? No. There is no medical documentation indicating the applicant was diagnosed with any BH condition during military service or after her discharge.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There is insufficient evidence of any mitigating BH condition. There is no evidence of any in-service BH diagnoses, the VA has not service-connected the applicant for any BH condition, and there are no VA electronic records indicating she has been treated for any other mental health condition. And while the applicant selected OMH on her application, she did not provide any medical documentation substantiating any BH diagnosis. Despite her selection of OMH on her application, the applicant did not indicate the mental health diagnosis she is claiming as potentially mitigating her discharge.

h. Per Liberal Consideration guidelines, her selection of OMH on her application is sufficient to warrant consideration by the Board.

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. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The Board reviewed and concurred with the medical advisor's review finding insufficient evidence to support the applicant had a behavioral health condition during military service that could potentially mitigate her discharge. The applicant did not complete training and was released from active duty due to entry level status. The Board determined her DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

3. 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

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 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. The ABCMR may, in its discretion, hold a hearing. 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), sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of enlisted members for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

a. Chapter 3 states a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.

b. Paragraph 3-7a provides that 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.

c. Paragraph 3-7b provides that a 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.

d. Chapter 11 provides for the separation of personnel because of unsatisfactory performance or conduct (or both) while in an entry-level status. When separation of a Soldier in an 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, he or she will normally be separated per this

chapter. Service will be uncharacterized for entry-level separation under the provisions of this chapter.

4. 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 Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder; traumatic brain injury; sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. 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.

5. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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.

//NOTHING FOLLOWS//