

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 March 2025

DOCKET NUMBER: AR20240008122

APPLICANT REQUESTS:

- an upgrade of her under other than honorable conditions discharge to honorable
- Veteran benefits associated with an honorable discharge
- a video appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Letter (Complete statement is available in supporting documents 5 pages)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Doctor Statement – provides overview of the applicant's mental health (Complete statement is available in supporting documents 2 pages)
- Diagnosis and Treatment Plan – provides the applicant's diagnosis of Military Sexual Trauma (MST) and Post Traumatic Stress Disorder (PTSD). (Complete diagnosis and treatment plan is available in supporting documents 5 pages)
- Photo – of the applicant's grandfather
- License – North Carolina Board of Massage & Bodywork Therapy

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 proudly served in the U.S. Army from 1981 to 1984, completing Primary Leadership Development Course training in South Korea, earning the Army Achievement Medal, and being promoted to Specialist 4. She reenlisted for another three-year term but went AWOL in November 1984 due to fear of returning to her duty station. She states she was sexually harassed, physically assaulted, and bullied by her platoon sergeant at Fort Bliss, Texas, and endured domestic abuse from her husband while stationed at Fort Gordon, Georgia. She later sought therapy and was

diagnosed with PTSD. She requests an upgrade of her discharge, believing her leadership failed her and that this upgrade would provide her with the benefits and closure she deserves. "Complete statement is available in supporting documents pages 4 - 8."

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

a. She enlisted in the Regular Army on 31 January 1984; she had continuous honorable service from 31 January 1984 – 15 February 1985

b. She had overseas service in Korea 14 February 1983 until 15 February 1984.

c. On 11 January 1985, she requested separation under the provisions of AR 635-200 (Personnel Separation – Enlisted Personnel), chapter 10 for the good of the service.

d. On 23 January 1985, her commander states the applicant went absent without leave (AWOL) for 44 days and surrendered to military authorities; he recommended she receive under other than honorable conditions discharge (UOTH).

e. DD Form 458 (Charge Sheet) shows court martial were preferred on 11 January 1985; the applicant went AWOL for on or about 27 November 1984 until 10 January 1985.

f. On 30 January 1985, the separation authority approved separation under the provisions of AR 635-200, chapter 10; She will be furnished an Other Than Honorable Conditions Discharge Certificate and be reduced to private (E-1).

g. She was discharged under other than honorable on 15 February 1985. She completed 3 years, 6 months, and 10 days net active service this period. Lost time during this period 27 November 1984 until 9 January 1985.

- She was awarded or authorized:
 - Army Service Ribbon
 - Overseas Service Ribbon
 - Army Achievement Medal
 - Army Good Conduct Medal

4. 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.

5. There is no evidence the applicant has applied to the Army Discharge Review Board for review of her discharge within that board's 15-year statute of limitations.

6. 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.

7. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of her under other than honorable conditions (UOTHC) discharge to honorable. She asserts MST, intimate partner violence (IPV), and PTSD as related to her request.

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 into the Regular Army on 24 June 1981 and had continuous honorable service; she re-enlisted on 31 January 1984.
- DA Form 458 (Charge Sheet) shows court-martial charges were preferred on the applicant on 11 January 1985 for being absent without authority from 27 November 1984 until 10 January 1985.
- On 15 February 1985, the applicant was discharged from active duty under the provisions of AR 635-200, Chapter 10; with an under other than honorable conditions characterization of service. Her DD Form 214 shows she completed 3 years, 6 months, and 10 days net active service this period with lost time during the period of 27 November 1984 until 9 January 1985. She was assigned separation code KFS and the narrative reason for separation listed as "For the Good of the Service-In Lieu of Court-Martial," with reentry code 3b.

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 states, she proudly served in the U.S. Army from 1981 to 1984, completing Primary Leadership Development Course training in South Korea, earning the Army Achievement Medal, and being promoted to Specialist 4. She reenlisted for another three-year term but went AWOL in November 1984 due to fear of returning to her duty station. She states she was sexually harassed, physically assaulted, and bullied by her platoon sergeant at Fort Bliss, Texas, and endured domestic abuse from her husband while stationed at Fort Gordon, Georgia. She later sought therapy and was diagnosed with PTSD. She requests an upgrade of her discharge, believing her leadership failed her and that this upgrade would provide her with the benefits and closure she deserves.

d. Due to the period of service no active-duty electronic medical records were available for review.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected, likely due to the characterization of her service. The applicant provides a letter from her treating therapist, dated 6 May 2024, summarizing her history of physical, emotional, and sexual abuse by her ex-husband while in military service; as well as the kidnapping and withholding of her two children. The therapist notes the applicant's success in her military career while stationed in Korea and away from her abuser. The therapist goes on to report the applicant's experience of sexual harassment and physical assault, by a male sergeant while stationed at Fort Bliss, Texas, which ultimately led to the applicant going AWOL out of fear of physical harm. The therapist further provides the applicant's treatment plan which indicates she is diagnosed with PTSD, Generalized Anxiety Disorder, Major Depressive Disorder, and Alcohol Dependence and is being treated via therapy and medication management.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had the experiences of MST and IPV, and a subsequent diagnosis of PTSD, that mitigates her misconduct.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts experiencing MST and IPV and subsequently being diagnosed with PTSD.

(2) Did the condition exist or experience occur during military service? Yes. The applicant reports experiencing MST and IPV while in military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged due to one specification of being AWOL. She asserts the mitigating experiences of MST and IPV, which would provide mitigation of her misconduct. In addition, she provides medical documentation from her current mental health provider who documents her experiences of IPV and MST and diagnosed her with PTSD, Generalized Anxiety Disorder, Major Depressive Disorder, and Alcohol Dependence. As there is an association between MST/IPV related PTSD and avoidant behavior, there is a nexus between the applicant's experience of MST and her misconduct of being AWOL.

h. Per Liberal Consideration, the applicant's assertion of MST, IPV, and PTSD is sufficient to warrant consideration by the Board.

BOARD DISCUSSION:


After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant’s request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant’s statement and record of service, the frequency and nature of the applicant’s misconduct and the reason for separation. The applicant was charged with absenting himself from his unit from 27 November 1984 until 10 January 1985, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board reviewed and concurred with he medical advisor’s review finding sufficient evidence to support the applicant had the experiences of MST and IPV, and a subsequent diagnosis of PTSD, that mitigates her misconduct.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:XX	:XX	:XX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant’s DD Form 214, for the period ending 15 February 1985 to show an honorable characterization of service.



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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's records shows her DD Form 214 omitted administrative entries in the Remarks block. As a result, amend the DD Form 214 by adding in item 18 the entry "Continuous honorable service 19840131 - 19850215."

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 635-8 (Separations Processing and Documents), currently in effect, provides for the preparation and distribution of the DD Form 214. It states for item 18 (Remarks) to Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except "Honorable", enter "Continuous Honorable Active Service from" (first day of service for which DD Form 214 was not issued) Until (date before commencement of current enlistment).

4. Army Regulation 635-200 (Personnel Separation – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. (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. (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 10 of this regulation states an individual who has committed an offense or offenses, the punishment for any of which includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service. An Under Other than Honorable Discharge Certificate normally is appropriate for a member who is discharged for the good of the service.

d. Paragraph 10–6. Medical and mental examination provides that a medical examination is not required but may be requested by the Soldier under AR 40–501, chapter 8.

5. 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.

6. 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.

7. 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.

8. Section 1556 of Title 10, United States Code, 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 applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//