ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 12 February 2025

DOCKET NUMBER: AR20240008206

APPLICANT REQUESTS: correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to show her uncharacterized service as honorable or under honorable (General) conditions.

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

- DD Form 149 (Application for Correction of Military Record)
- Certificates (5 pages), post-service accomplishments, dated 14 June 2014 to December 2019
- Medical documentation (783 pages), dated 2013 to 2023
- Behavioral medicine notes (96 pages), West Virginia University Medicine, dated 2022 to 2023

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:

a. Due to her pregnancy in-service, she was the victim of harassment and discrimination. She experienced “hidden falls” while pregnant which were not properly addressed by a medical provider. She was also the victim of broken profiles after being injured during her second week of basic training. She was never sent to physical therapy as was recommended. The length of time taken to chapter her out resulted in a late term abortion.

b. The above issues left her with memory loss, post-traumatic stress disorder (PTSD), depression, anxiety, chronic back pain, osteoarthritis, central stenosis of the spinal canal, degenerative disc disease, strain of fascia and tendon of lower back and neck, inter-vertebral disc disorder, radiculopathy to the lumbar region; and NSAID and psychiatric medication long term use resulting in GERD, morbid obesity, sleep apnea,

hypertension, diabetes, fatty liver, asthma, irregular heartbeat, high cholesterol, and hiatal hernia.

3. The applicant enlisted in the Regular Army on 14 October 2008. On that same date, she reported to Fort Jackson, SC, for the completion of initial entry training. A review of the applicant's record indicates she did not complete initial entry training.

4. On 6 February 2009, the applicant's immediate commander notified her that he was initiating action to separate the applicant under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 11, for entry level conduct and/or performance. As the specific reason, the commander stated the applicant became pregnant while in an entry-level status. She entered active duty on or about 14 October 2008. Her probable date of conception was 14 October 2008.

5. The applicant acknowledged receipt of the proposed separation notification. She consulted with counsel and further acknowledged understanding that, if approved, she would receive an entry level separation with uncharacterized service. She did not desire to submit a statement in her own behalf.

6. The applicant's immediate commander formally recommended her separation from the U.S. Army, prior to the expiration of her term of service, under the provisions of Army Regulation 635-200, Chapter 11, by reason of entry level conduct and/or performance. Her intermediate commander concurred with the recommendation and further recommended the issuance of an uncharacterized discharge.

7. The separation authority approved the recommended separation action and directed the issuance of an uncharacterized discharge.

8. The applicant was discharged on 13 February 2009, under the provisions of Army Regulation 635-200, Chapter 11, by reason of entry level performance and conduct. Her DD Form 214 shows her service was uncharacterized, with separation code JGA and reentry code RE-3. She completed 4 months of active service. She was not awarded a military occupational specialty.

9. The applicant provides:

a. Five certificates, dated 14 June 2014 to December 2019, show some of the applicant's post-service accomplishments to include the award of her associate's, bachelor's, and master's degrees.

b. 783 pages of civilian medical documentation, dated from 2013 to 2023, and 96 pages of behavioral medicine notes from West Virginia University Medicine, dated from

2022 to 2023, will be reviewed and summarized in the "MEDICAL REVIEW" section of this Record of Proceedings (ROP).

10. 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.

11. MEDICAL REVIEW:

1. The applicant is applying to the ABCMR requesting a correction of her DD Form 214 to show her uncharacterized service as honorable or under honorable (general) conditions. On her DD Form 149, the applicant indicated she was the victim of harassment and discrimination due to being pregnant while in service. She stated that the time it took her to get chaptered out of the service resulted in a late-term abortion. She asserted that her experiences in the military have resulted in memory loss, Posttraumatic Stress Disorder (PTSD), general depression, anxiety, and numerous medical conditions. 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 Regular Army on 14 October 2008, 2) on 06 February 2009, the applicant's commander notified her that he was initiating action to separate her under the provisions of Army Regulation (AR) 635-200, Chapter 11, for entry level conduct and/or performance. As to the specific reason, the command stated the applicant became pregnant while in an entry-level status. She entered active duty on or about 14 October 2008 and the probable date of conception was 15 December 2008, 3) the applicant was discharged on 13 February 2009 under the provisions of AR 635-200, Chapter 11, by reason of entry level performance and conduct, with a separation code of JGA and reentry code of 'RE-3.'

2. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) and Veterans Benefits Management System (VBMS) were also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

3. In-service medical records were available for review from 15 October 2008 through 22 January 2009. During a medical appointment on 08 December 2008, the applicant was diagnosed with Limb Pain, Thigh Strain Right, and Patellofemoral Syndrome Left and was placed on convalescent leave. A medical note dated 03 January 2009 shows she had returned from convalescent leave and was following up due to pain in both knees and her right calf. The applicant presented to a medical appointment on 13

January 2009 due to late menses and nausea. At the time of the encounter the provider documented the applicant was “currently in the process of chapter for other issues.” It was documented that the applicant was pregnant with a note that she was put on the “standard pregnancy profile.” A medical note dated 22 January 2009 shows the applicant was determined to be 6 weeks and 3 days pregnant and the provider put her on a full profile removing her from training. There were no in-service BH-related records available for review.

4. A review of JLV shows the applicant is 30% service-connected through the VA for Thigh Condition, Limited Flexion of Knee, and Limited Extension of Thigh. She is not service-connected for any BH conditions. A BH Disability Benefits Questionnaire (DBQ) available via VBMS dated 11 April 2024 shows the applicant was diagnosed with Bipolar I Disorder with Psychotic Features and Adjustment Disorder with Depressed and Anxious Mood. A VA Rating Decision Letter available via VBMS dated 08 August 2024 shows the applicant’s claim for service connection for PTSD to include insomnia/loss of memory was denied. Review of the letter shows that the available medical evidence was found insufficient to confirm a link between her current symptoms and an in-service stressor.

5. Review of VA treatment records available via JLV shows that she has been diagnosed and treated through the VA for Bipolar Disorder, Unspecified, Unspecified Trauma-Related Disorder, Chronic, PTSD, Major Depressive Disorder, Severe, Recurrent with Psychosis by history, and Borderline Personality Disorder. A VA treatment note dated 19 December 2024 documented that she reported experiencing “sexual harassment, injustice, discrimination, etc.” in-service. It was further documented that she stated her husband at the time and family did not support her pregnancy which “ultimately led to her having an abortion around 14-15 weeks and still has nightmares about this moment.” A psychiatric consult note dated 29 October 2023 documented that the applicant reported a “significant history of trauma including, domestic abuse, alleged physical abuse during her military service, as well as multiple abortions and early teen pregnancy.”

6. As part of her application, the applicant included numerous civilian BH records.

- BH records included from Hospital San Juan Capestrano for periods of treatment in 2022 and 2023 were in Spanish and no translation of the records was provided as part of the application; however, the prescribed medications were documented in the record in English and include: Effexor XR (antidepressant), Cymbalta (antidepressant), Melatonin (Sleep) Restoril (sleep), Klonopin (anxiety), Trazodone (antidepressant/sleep), Depakote ER (mood stabilizer), Abilify (antipsychotic), Risperdal (antipsychotic), Ativan (anxiety), Prozac (antidepressant), and Wellbutrin (antidepressant). Several hospital admission cover sheet(s) show she was admitted on several occasions to Hospital San

Juan Capestrano. The admitting diagnoses were noted as Bipolar Disorder, Current Episode Manic Severe with Psychotic Features (date of admission 26 November 2023), Bipolar II Disorder, (date of admission 30 October 2023), Major Depressive Disorder, Recurrent, Severe, without Psychotic Features (date of admission 23 October 2023), Depression, Unspecified (date of admission: 13 July 2022), Anxiety Disorder, Unspecified (date of admission: 14 July 2022).

- A SHA Interim Discharge Summary note dated 07 October 2022 shows her diagnoses as PTSD, Bipolar Disorder, and Major Depressive Disorder (MDD). Review of the documentation shows that she reported she was in the military and due to her PTSD, there are many times when she relives moments, sees flashes of lights, hears noises, and is sensitive to loud noises. The discharge medications were documented as Bupropion, Clonidine, Divalproex, Docusate, Fluoxetine, Melatonin, and Olanzapine.

- The applicant included additional civilian health records from West Virginia University (WVU) Medicine showing a history of treatment for both BH and physical-health concerns. The BH-related records will be summarized as part of this Advisory. A WVU Medicine note dated 31 July 2019 for the purposes of bariatric surgery shows the following BH-related diagnoses on her problem list: Attention Deficit/Hyperactivity Disorder (ADHD), (29 July 2018), Depression, Generalized Anxiety Disorder (GAD) (26 September 2018), Posttraumatic stress Disorder (PTSD) (29 July 2018), and Social Anxiety Disorder (29 July 2018). A patient summary generated from WVU on 29 January 2024 shows additional BH-related concerns/diagnoses included on her problem list to include suicidal ideation (12 March 2022), Mood Disorder (19 September 2022), and Moderate Episode of Recurrent Major Depressive Disorder (29 July 2018). Review of records shows that the applicant sought individual psychotherapy and medication management on-and-off from WVU medicine from 10 March 2022 through 11 July 2023 for issues related to trauma, depression, and anxiety. It was noted that the applicant reported experiencing traumatic memories from basic training pertaining to her treatment due to pregnancy while in training. The applicant was diagnosed with PTSD, MDD, Recurrent, Moderate, GAD, Social Anxiety Disorder, and ADHD throughout the course of treatment. Records also show she was trialed on numerous medications for treatment of her symptoms (e.g., Prozac, Wellbutrin, Zyprexa, Depakote, and Propranolol). A note titled MedStar Montgomery Medical Center Discharge Instructions shows she was admitted from 13-17 July 2023 with her diagnoses noted as MDD, Recurrent Episode, Severe; Chronic PTSD.
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7. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a BH condition or experience in-service that contributed to her discharge. However, she contends that she was the

victim of harassment and discrimination which resulted in PTSD and Other Mental Health Issues, and, per liberal guidance, her assertion is sufficient to warrant the Board's consideration.

8. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends she was the victim of harassment and discrimination in-service resulting in PTSD and Other Mental Health Issues.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of the applicant's in-service medical records was void of any BH diagnosis or treatment history. The applicant is not service connected through the VA for any BH conditions. Post-discharge, the applicant has been diagnosed and treated for several BH conditions to include PTSD, MDD, Bipolar Disorder, GAD, Social Anxiety Disorder, Borderline Personality Disorder, and ADHD. The applicant was discharged due to Entry Level Performance and Conduct due to becoming pregnant while in an entry-level status. As there is no association between the applicant's assertion of PTSD or Other Mental Health Issues and the basis for her separation, there is insufficient evidence to support an upgrade for behavioral health reasons. As such, her discharge for Entry Level Performance and Conduct appears to be fair and equitable from a BH perspective and an upgrade based on BH reasons is not supported.

9. While the applicant's discharge is fair and equitable per AR 635-200, Chapter 11-3b, review of the applicant's VA records show that applicant reported a history of Military Sexual Trauma (MST) and intimate partner violence (IPV) that occurred during military service, though it is acknowledged by this Advisor that no association was made between these incidents and the basis of her discharge. Per the Kurta Memorandum for Liberal Consideration, it is of note that service members who report sexual assault or sexual harassment receive heightened screening under today's standards to ensure the causal relationship of possible symptoms and the discharge basis is fully considered, and that the characterization of service is appropriate. It is further noted that while Veterans who were discharged under prior procedures or before a verifiable diagnosis may not have suffered an error because the separation authority was unaware of their condition or experience at the time of discharge. Thus, when comparing similarly situated individuals under today's standards, commanders who are fully informed of such conditions and causal relationships may opt for a less prejudicial discharge to ensure the veteran retains certain benefits, such as medical care. Thus, while the basis for separation is unrelated to the applicant's post-military BH diagnoses, additional

factors that the applicant has since reported having occurred during her military service (i.e., IPV and MST) are worthy of consideration by the Board.

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 his characterization of service. Upon review of the applicant's petition, available military records and medical review, the Board concurred with the advising opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a BH condition or experience in-service that contributed to her discharge.

2. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends she was the victim of harassment and discrimination in-service resulting in PTSD and Other Mental Health Issues.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of the applicant's in-service medical records was void of any BH diagnosis or treatment history. The applicant is not service connected through the VA for any BH conditions. Post-discharge, the applicant has been diagnosed and treated for several BH conditions to include PTSD, MDD, Bipolar Disorder, GAD, Social Anxiety Disorder, Borderline Personality Disorder, and ADHD. The applicant was discharged due to Entry Level Performance and Conduct due to becoming pregnant while in an entry-level status. As there is no association between the applicant's assertion of PTSD or Other Mental Health Issues and the basis for her separation, there is insufficient evidence to support an upgrade for behavioral health reasons. As such, her discharge for Entry Level Performance and Conduct appears to be fair and equitable from a BH perspective and an upgrade based on BH reasons is not supported.

3. The Board noted the applicant's contentions that her in-service pregnancy resulted in harassment, discrimination, and inadequate medical care, ultimately contributing to

significant physical and behavioral health conditions. She further asserts that the delay in processing her separation led to a late-term abortion and long-term medical complications. However, the Board determined the applicant did not complete initial entry training and was separated under the provisions of Army Regulation 635-200, Chapter 11, for entry-level performance and conduct. At the time of separation, she was in an entry-level status, defined by regulation as the first 180 days of continuous active duty. The Board found the applicant's DD Form 214 appropriately reflects an uncharacterized discharge, which is not intended to be a negative reflection of service, but rather an administrative designation indicating insufficient time in service to assess character. Based on this, the Board denied relief.

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 (USC), 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. Section 1556 of Title 10, USC, 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 ABCMR applicants (and/or their counsel) prior to adjudication.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 3 provides that 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 3-9, in effect at the time of the applicant's separation, provided that a separation would be described as entry level with uncharacterized service if processing was initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions was authorized, due to the reason for separation and was warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, determined a characterization of service as honorable was clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization was authorized when the Soldier was separated by reason of selected

changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

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.

e. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier were in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

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 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 to 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.

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.

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 on the basis of 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//