

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 March 2025

DOCKET NUMBER: AR20240008335

APPLICANT REQUESTS:

- upgrade of her bad conduct discharge (BCD) to under honorable conditions (general) or honorable
- a favorable change to her reentry code

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

- DD Form 149 (Application for Correction of Military Record)
- Dependent son's medical records (444 pages)

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 her military discharge should be upgraded because it reflects her commitment to serving her country with honor and distinction. Despite the circumstances leading to her discharge, she was dedicated to duty and exhibited exemplary conduct. A discharge upgrade opens doors to opportunities for continued public service allowing her to further utilize her skills and expertise for the betterment of society. She was wrongfully mistreated at her court-martial. It is stated in her son's medical records that he never had "Flat Head Syndrome" (Plagiocephaly).
3. The applicant enlisted in the Regular Army on 14 August 2018. The highest grade she attained was E-4.
4. Court-martial charges were preferred against the applicant for violations of the Uniform Code of Military Justice; however, the relevant DD Form 458 (Charge Sheet) is not available for review.

5. Before a special court-martial on 26 January 2022, at Fort Bliss, TX, by military judge alone, the applicant was found guilty of one specification of endangering the physical health of a child under the age of 16 years by neglect, resulting in plagiocephaly, and that such conduct constituted culpable negligence on or about 5 August 2020.
6. The court sentenced the applicant to punitive separation; BCD without confinement. The sentence was approved on 4 February 2022, and the record of trial was forwarded for appellate review.
7. The U.S. Army Court of Criminal Appeals affirmed the findings and sentence on 21 June 2022.
8. Orders 180-1313, issued by Headquarters U.S. Army Garrison, Fort Sill, Fort Sill, OK on 29 June 2022, reassigned the applicant to the Fort Sill, OK transition point for discharge processing.
9. The applicant was discharged on 6 July 2022. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was discharged under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), by reason of court-martial, with reentry code 4. Her service was characterized as bad conduct. She was credited with 3 years, 10 months, and 23 days of net active service this period.
10. The applicant provides 444 pages of medical records that summarize her son's encounters with medical professionals and various illnesses.
11. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the serious nature of the misconduct leading to the applicant's separation and the lack of any accepted responsibility on behalf of the applicant, the Board concluded there was insufficient evidence of an error or injustice warranting changing the applicant's characterization of 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.

//SIGNED//

X

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 601-210 (Regular Army and Army Reserve Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-6 provides a list of Reentry Eligibility (RE) codes.

- RE code "1" applies to Soldiers completing an initial term of active service, who are considered qualified for enlistment if all other criteria are met
- RE code "2" is no longer in use but applied to Soldiers separated for the convenience of the government, when reenlistment is not contemplated, who are fully qualified for enlistment/reenlistment
- RE code "3" applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, whose disqualification is waivable – they are ineligible unless a waiver is granted
- RE code "4" applies to Soldiers separated from last period of service with a non-waivable disqualification

3. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

a. 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.

b. 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.

c. Chapter 3, Section IV provided that a member would be given a BCD pursuant only to an approved sentence of a general or special court-martial, after completion of appellate review, and after such affirmed sentence has been ordered duly executed.

4. Court-martial convictions stand as adjudged or modified by appeal through the judicial process. In accordance with Title 10, U.S. Code, Section 1552, the authority under which this Board acts, the ABCMR is not empowered to set aside a conviction. Rather, it is only empowered to change the severity of the sentence imposed in the court-martial process and then only if clemency is determined to be appropriate. Clemency is an act of mercy or instance of leniency to moderate the severity of the punishment imposed.

5. 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/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-

marital; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

//NOTHING FOLLOWS//