

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 May 2025

DOCKET NUMBER: AR20240008659

APPLICANT REQUESTS: removal of conscientious objector status from her DD Form 214 (Certificate of Release or Discharge from Active Duty) and from her Army Human Resource Record. A personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Continuation of DD Form 149
- DD Form 214
- Letter of Support
- Client Information 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 application states, in pertinent part:

- Separating under conscientious objector was the quickest and easiest way to get out of the Army
- She chose this method after she was sexually assaulted by a fellow Soldier
- At the time, women were often blamed for being victims of assault
- All of her noncommissioned officers were male, at the time
- She felt uncomfortable by the idea of presenting her sexual assault case to them
- She needed to escape from re-traumatization of seeing her rapist on a daily basis
- In 2005, a Veterans Service Officer encouraged her to file for benefits
- Her claim was denied because of her conscientious objector status
- In 2023, she entered counseling with the Boulder Vet Center

3. The applicant provides and her service record shows:

- She enlisted in the Regular Army and entered active duty on 7 January 2002
- On 30 October 2003, she submitted a request to be discharged as a conscientious objector; she included a reference letter from her father
- On 3 November 2003, she signed a document informing her of her possible non-entitlement to benefits administered by the VA
- On 10 November 2003, she underwent a Report of Mental Health Evaluation, which found she did not suffer from psychological disease, defect or personality disorder of sufficient severity to warrant disposition through military medical channels
- On 12 November 2003, an Army Chaplain completed a memorandum stating she was basing her request on her understanding of her religion and the commandment found in the Torah: "You shall not kill"
- On 13 January 2004, an Army Regulation 15-6 Investigation was conducted; the Investigating Officer found that the applicant and the United States Army would benefit from her separation from the military
- On 14 January 2004, the applicant elected not to submit rebuttal matters to the investigation
- On 29 January 2004, the applicant's company commander recommended approval of her request; on 4 February 2004, her battalion commander recommended disapproval of her request
- On 23 February 2004, a legal review was conducted on her conscientious objector packet; the legal reviewer recommended approval of her request for discharge
- On 5 March 2004, the Commander of Defense Language Institute Foreign Language Center recommended approval of her request for discharge
- On 30 March 2004, the President, Department of the Army Conscientious Objector Review Board, Office of the Deputy Chief of Staff, G-1 approved her request for discharge
- On 4 May 2004, she was honorably discharged accordingly; the narrative reason for separation is blacked out
- On 6 June 2004, W- J- R- M- provided a letter of support; he served with her between the summer of 2002 and the spring of 2004; he noticed a significant change in her behavior and demeanor

4. On 1 April 2025, the Criminal Investigation Division responded to a request for information stating they found no sexual assault records pertaining to the applicant.

5. Based on the applicant's assertion of having multiple medical issues, while in the Army, the ARBA Medical Section provided a medical review for the Board's consideration.

MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting removal of conscientious objector status from her DD Form 214 and from her Army Human Resource Record. On her DD Form 149, the applicant indicated Sexual Assault/Harassment is related to her request. More specifically, she contends that her request to separate as a conscientious objector was the most expeditious route to getting out of the military following a sexual assault that was perpetrated by a fellow Soldier. 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 entered active duty on 07 January 2002, 2) she submitted a request to be discharged as a conscientious objector on 30 October 2003, 3) on 3 November 2003, she signed a document informing her of her possible non-entitlement to benefits administered by the VA, 4) she underwent a mental health evaluation on 10 November 2003, she was psychologically cleared for any administrative action deemed appropriate by command, 5) On 12 November 2003, an Army Chaplain completed a memorandum stating she was basing her request on her understanding of her religion and the commandment found in the Torah: "You shall not kill," 6) On 13 January 2004, an Army Regulation 15-6 Investigation was conducted and it was determined that the applicant and the United States Army would benefit from her separation from the military, 7) the applicant was honorably discharged on 04 May 2004, 8) a memorandum dated 01 April 2025 from the Criminal Investigation Division (CID) shows they found no sexual assault records pertaining to the applicant.

b. 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) was also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. In-service medical records were available for review via JLV from 02 April 2002 through 14 October 2003. The records were void of any BH diagnosis or treatment history. Included as part of her application, a Report of Mental Health Evaluation dated 10 November 2003 shows the applicant was referred by command for "evaluation and management recommendations." All domains of the mental status evaluation (MSE) within normal limits. The evaluating provider documented that the applicant did not suffer from a psychological disease, defect, or personality disorder of sufficient severity to warrant disposition through military medical channels. She was psychologically cleared for any administrative action deemed appropriate by command.

d. A review of JLV shows the applicant is not service-connected for any conditions through the VA. There were no VA Compensation and Pension (C&P) evaluations available for review.

e. The applicant included BH treatment records from the Vet Center as part of her application. An intake assessment through the Vet Center dated 14 March 2023 shows the applicant presented for treatment to address the MST she experienced in the military at the encouragement of a family member, noting she had been experiencing symptoms of PTSD for years. The provider diagnosed the applicant with PTSD due to MST and documented that she would engage in EMDR (an evidence-based treatment for PTSD). The provider documented that the applicant reported her status as a Conscientious Objector had some bearing on her benefits with the VA but was unclear. Review of her treatment records shows she reported to her treating provider that she “thinks she pushed so hard to get out of the Army because of the MST.” On 28 August 2023 and 08 September 2023, it was documented that she reported her PTSD symptoms had been exacerbated after having her claim for VA service-connection closed without explanation and without an evaluation. A Veteran Information Form documented that she had attended individual counseling from 10 January 2023 through 05 June 2024.

f. The applicant included a letter of support for the applicant dated 06 June 2024. The author of the letter reported that they served together in Monterey, California between the summer of 2002 and spring of 2004 and noted a significant change in the applicant’s behavior. It was noted that midway through their service, the applicant became more withdrawn and distant, which was a change in her personality and behavior.

g. The DA Form 1574, IO findings documented that the applicant’s condition met the definition of conscientious objector IAW AR 600-43. It was noted that “her deeply held beliefs against killing, violence, or war in any manner are genuine, sincere, and have only become stronger as her understanding of her role as a soldier-linguist in a combat environment has grown.”

h. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence that she was the victim of MST, which is a potentially mitigating event. This Advisor would contend that there is BH support to upgrade the applicant’s discharge status based on her history of MST.

i. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant reported a history of MST.

(2) Did the condition exist or experience occur during military service? Yes, the applicant reported a history of MST.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant's in-service records are void of any BH diagnosis or treatment history. Since being discharged from the military, the applicant has been diagnosed with PTSD due to MST. The applicant contends that she requested discharge due to being a Conscientious Objector as it was the most expeditious means to separate from the military following MST. As the applicant's contention that she elected to be discharged as a conscientious objector due to MST is plausible and understandable, given that avoidance behaviors are commonly associated with trauma, and a voluntary election for separation may be constituted as an avoidance behavior, there is BH support to update her discharge status to "Secretarial Authority."

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Although the medical review found a potential nexus between the applicant's conscientious objector submission and her behavioral health condition, the Board concluded there was insufficient evidence of an error or injustice. Based upon the lack of any evidence to corroborate the statement of the applicant and the guidance on liberal consideration not related to removal of conscientious objector documents, the Board recommended denying the applicant's requested 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.

//SIGNED//

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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 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. Department of Defense (DoD) Instruction 1300.06 (Conscientious Objectors), provides policy on uniform DoD procedures governing conscientious objectors and processing requests for discharge based on conscientious objection.
 - a. Paragraph 3.2, defines "religious training and/or belief" as a belief in an external power or "being" or deeply held moral or ethical belief, to which all else is subordinate or which all else is ultimately dependent, and which has the power or force to affect moral wellbeing. The external power or "being" need not to be one that has found expression in either religious or societal traditions. However, it should sincerely occupy a place of equal or greater value in the life of the possessor. Deeply held moral or ethical beliefs should be valued with the strength and devotion of traditional religious conviction. The term "religious training and/or belief" may include solely moral or ethical beliefs even though the applicant may not characterize these beliefs as religious in the traditional

sense or may expressly characterize them as not religious. The term "religious training and/or belief" does not include a belief that rests solely upon considerations of policy, pragmatism, expediency, or political views.

b. Paragraph 5.1, states the criteria set forth herein provide policy and guidance in considering applications for separation or for assignment to non-combatant training and service based on conscientious objection. Consistent with the national policy to recognize the claims of authentic conscientious objectors in the Military Service, an application for classification as a Conscientious Objector may be approved (subject to the limitations of paragraph 4.1) for any individual:

- 5.1.1. Who is conscientiously opposed to participation in war in any form;
- 5.1.2. Whose opposition is based on religious training and/or belief; and
- 5.1.3. Whose position is firm, fixed, and deeply held

c. Paragraph 5.2.1, states in order to find that an applicant's moral and ethical beliefs are against participation in war in any form and are held with the strength of traditional religious convictions, the applicant must show that these moral and ethical convictions once acquired, have directed the applicant's life in the way traditional religious convictions of equal strength, depth, and duration have directed the lives of those whose beliefs are clearly found in traditional religious convictions. In other words, the beliefs upon which conscientious objection is based must be the primary controlling force in the applicant's life.

4. Army Regulation 600-43 sets forth policy, criteria, responsibilities, and procedures to classify and dispose of military personnel who claim conscientious objection to participation in war in any form or to the bearing of arms.

a. Paragraph 1-5a(1), stipulates that conscientious objection claims after entering the military will not be considered when the requests are based on a claim of conscientious objection that existed before enlistment and satisfied the requirements for classification as a Conscientious Objector according to Section 60) of the Military Selective Service Act, as amended (Title 50, U.S. Code, Appendix 4560)), and other provisions of law when such a claim was not presented before enlistment. However, a claim based on conscientious objection growing out of experiences before entering military service, which did not become fixed until after the person's entry into the service, will be considered.

b. Paragraph 1-5a(5)(a), states in pertinent fact that, the most important consideration is not whether applicants are sincere in wanting to be designated as a conscientious objector, but whether their asserted convictions are sincerely held. Sincerity is determined by an impartial evaluation of each person's thinking and living in totality, past and present. The conduct of persons, in particular their outward

manifestation of the beliefs asserted, will be carefully examined and given substantial weight in evaluating their applications.

c. Paragraph 1-5b, states in pertinent part that relevant factors that should be considered in determining a person's claim of conscientious objection include training in the home and church; general demeanor and pattern of conduct; participation in religious activities; whether ethical or moral convictions were gained through training, study, contemplation, or other activity comparable in rigor and dedication to the process by which traditional religious convictions are formulated; and credibility of persons supporting the claim.

d. Paragraph 1-5a(5)(b), states in pertinent part that church membership or adherence to certain theological tenets are not required to warrant separation or assignment to non-combatant training and service. Mere affiliation with a church or other group that advocates conscientious objection as a tenet of its creed does not necessarily determine a person's position or belief. Conversely, affiliation with a church group that does not teach conscientious objection does not necessarily rule out adherence to conscientious objection beliefs. Applicants may be or may have been a member of a church, religious organization, or religious sect; and the claim of conscientious objection may be related to such membership. If so, inquiry may be made as to their membership, the teaching of their church, religious organization or sect, as well as religious activity. However, the fact that these persons may disagree with, or not subscribe to, some of the tenets of their church does not necessarily discredit their claim. The personal convictions of each person will dominate so long as they derive from the person's moral, ethical, or religious beliefs. The task is to decide whether the beliefs professed are sincerely held and whether they govern the claimant's actions in word and deed.

e. Paragraph 1-5c, states in pertinent part that the burden is on the applicant to establish a claim of conscientious objection as grounds for separation or assignment to non-combatant training and service. To this end, applicants must establish, by clear and convincing evidence, that the nature or basis of the claim comes within the definition of criteria prescribed in AR 600-43 for conscientious objection and that their beliefs are sincere. They have the burden of determining and setting forth the exact nature of the request; that is, whether they request separation based on Conscientious Objector (1-0) or reassignment to non-combatant training and service based on Conscientious Objector (1-A-0).

f. Appendix D-4a, states that during the conduct of the entire investigation, the IO should remember that a Conscientious Objector is a person who is sincerely opposed, because of religious or deeply held moral or ethical (not political, philosophical, or sociological) beliefs, to participating in any form (1-0) or to participating as a combatant (including training in tactics or weapons) in any form (1-A-0).

5. Title 10, U.S. Code, section 1556 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//