

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2025

DOCKET NUMBER: AR20240008986

APPLICANT REQUESTS:

- upgrade of her under honorable conditions (general) discharge
- a different narrative reason for separation
- correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to reflect military occupational specialty (MOS) completion
- correction of her DD Form 214 to add a "Gulf War" ribbon
- 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)
- self-authored letter
- civilian identification documents
- marriage certificate
- various in-service records

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. The events that led up to her decision to accept the discharge, especially what occurred during her last few months of service in a small Army Detachment, were avoidable and it is a matter of principle that she receive an honorable discharge.

b. She arrived at Fort Devens with an active profile, due to multiple lower extremity injuries that were diagnosed after boot camp. She suffered from excruciating foot and shin pain when running. However, her drill sergeant repeatedly ordered her to break profile. She received formal counseling for refusing to run and also reprimanded for "not

jumping" on numerous occasions. Any behavioral problems were a direct result of pressure from the command for her to complete the Army physical fitness test (APFT). Her attitude and morale had noticeably diminished.

c. In the end, she lost her pride in the uniform, and faith in herself caused by a toxic environment. She was unfairly targeted due to injuries sustained in basic training and prevented by a detachment commander from following the strict profile prescribed by military doctors. Despite everything, she is thankful for her time in the Army.

3. On her DD Form 149, the applicant notes post-traumatic stress disorder (PTSD) issues are related to her request.

4. On 17 July 1992, the applicant enlisted in the Regular Army for, 3 years. The available record does not reflect that she was awarded an MOS.

5. The applicant received formal counseling on the following dates/for:

- 5 February 1993; not being at appointed place of duty
- 17 February 1993; not being at appointed place of duty
- 18 February 1993; sleeping on duty
- 10 March 1993; failing diagnostic APFT

6. Medical note dated 10 March 1993, shows the applicant was placed on limited/restricted duty with no running until 16 March 1993, then run at her own pace until 23 March 1993.

7. The applicant received additional counseling on the following dates/for:

- 18 March 1993; lack of motivation, teamwork, and general complacency
- 6 April 1993; not attempting run due to lack of motivation
- 12 April 1993; not being at appointed place of duty

8. On 13 April 1993, the applicant accepted non-judicial punishment under Article 15 of the Uniform Code of Military Justice, for failing to go to her Special Physical Training formation, on or about 10 April 1993. Her punishment included seven days restriction and extra duty.

9. On 29 April 1993, the applicant's commander notified the applicant that he was initiating actions to separate her under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 13, for unsatisfactory performance. As the specific reasons, the commander noted the applicant's inability to pass the APFT, lack of motivation and general attitude towards military. Further, it was evident she lacked the potential to become a productive Soldier.

10. On 3 May 1993, the applicant acknowledged she had been afforded the opportunity to consult with counsel for consultation. She indicated she understood she could expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions were issued to her. She further understood she would be ineligible to apply for enlistment in the U.S. Army for a period of two years after discharge. She declined to submit a statement in her own behalf.

11. The applicant's commander formally recommended her separation from the Army under the provisions of Army Regulation 635-200, Chapter 13.

12. The separation authority approved the recommended separation action on 4 May 1993, and directed the applicant's discharge with issuance of an under honorable conditions (general) discharge.

13. On 5 May 1993, the applicant underwent a mental status evaluation. She was diagnosed with an adjustment disorder with physical complaints. However, she was psychiatrically cleared to participate in any administrative action deemed appropriate by the command.

14. The applicant was discharged on 7 May 1993. Her DD Form 214 confirms she was discharged under the provisions of Army Regulation 635-200, Chapter 13, for unsatisfactory performance. Her service was characterized as under honorable conditions (general). She completed 9 months and 21 days of net active service this period.

15. Additionally her DD Form 214 shows she was awarded or authorized the Sharpshooter Badge Rifle, M-16. The available record is void of any document that shows the applicant was awarded or authorized a "Gulf War" ribbon.

16. 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.

17. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of her under honorable conditions (general) discharge. She contends PTSD is related to her request. 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 17 July 1992; 2) The applicant was counseled multiple times between February-April 1993 for misconduct such as not being at her place of duty, sleeping on duty, not attempting to run, and lacking motivation; 3) On 13 April 1993, the applicant accepted non-judicial punishment for failing to go to her Special

Physical Training formation; 4) On 29 April 1993, the applicant's commander notified her that he was initiating actions to separate her under, Chapter 13, for unsatisfactory performance. As for the specific reasons, the commander noted: the applicant's inability to pass the APFT, lack of motivation, and general attitude towards military; 5) On 7 May 1993, the applicant was discharged, Chapter 13, for unsatisfactory performance. Her service was characterized as under honorable conditions (general). She completed 9 months and 21 days of active service.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) and military medical documentation provided by the applicant were also examined.

c. The applicant asserts she experienced PTSD, which mitigates her misconduct. There is evidence the applicant had experienced physical injuries such as a broken foot and shin splints during her active service along with having her wisdom teeth removed. There is also evidence she was experiencing difficulty passing her APFT in more than one event. There was evidence in her medical record that she was also experiencing difficulty adjusting to military life and experiencing some depressive symptoms such as lack of motivation, difficulty sleeping, and low mood. The applicant was seen for a psychiatric consultation on 14 April and 4 May 1993. She was evaluated by a military clinical psychologist and diagnosed with an Adjustment Disorder with physical complaints. She was recommended for an administrative separation as a result.

d. A review of JLV provided insufficient evidence the applicant has been diagnosed or treated for a service-connected mental health condition including PTSD, and the applicant does not receive any service-connected disability.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a condition or experience that mitigates her misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts she experienced PTSD which mitigates her misconduct. The applicant was diagnosed with an Adjustment Disorder while on active service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she experienced PTSD which mitigates her misconduct. The applicant was diagnosed with an Adjustment Disorder while on active service.

(3) Does the condition experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant experienced PTSD, while he was on active service. The applicant was experiencing difficulty adapting to military life and her injuries. She was identified as experiencing an Adjustment Disorder by behavioral health services and recommended for an administrative separation as a result. However, there is insufficient evidence the applicant was unable to understand the consequences of her actions/misconduct prior. Yet, the applicant contends she was experiencing a mental health condition that mitigates her misconduct, and per Liberal Consideration her contention alone is sufficient for the board's consideration.

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 partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the Board made the following findings related to the requested relief:

- Discharge upgrade: DENY, based upon the short term of honorable service completed prior to a pattern of misconduct leading to the applicant's separation.
- Change narrative reason for separation: DENY, based upon, in the Board's opinion, the current narrative reason for separation accurately depicts the events leading to the applicant's separation from military service.
- Reflect military occupational specialty (MOS) completion: GRANT, based upon the information reflected on the applicant's DA Form 2-1 showing she held the 98K MOS.
- Add a "Gulf War" ribbon: DENY, based upon a lack of evidence showing the applicant qualified for any of the "Gulf War" award and decorations.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:XXX	:XXX	:XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending block 11 (Primary Specialty) of her DD Form 214 to reflect "98K Non-Morse Interceptor/Analyst".
2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to all other requested relief not depicted above.

//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.
 - a. Paragraph 2-9 states 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.
 - 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 (Separation Processing and Documents) prescribes policy and procedural guidance relating to transition management. It consolidates the policies, principles of support, and standards of service regarding processing personnel for transition. Paragraph 5-6n (Block 14: Military Education) provides: list all formal, in-service (full-time attendance) training courses successfully completed during the period of service covered by the DD Form 214 of at least 1 week or 40 hours duration.

4. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. At the time, this regulation prescribed the SPD Code "JHJ" is the appropriate code to assign Soldiers separated under the provisions of Army Regulation 635-200, for unsatisfactory performance.

5. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the requirements for the administrative 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. Chapter 13 provided for separation due to unsatisfactory performance when in the commander's judgment the individual would not become a satisfactory Soldier; retention would have an adverse impact on military discipline, good order and morale; the service member would be a disruptive influence in the future; the basis for separation would continue or recur; and/or the ability of the service member to perform effectively in the future, including potential for advancement or leadership, was unlikely. Service of Soldiers separated because of unsatisfactory performance under this regulation would be characterized as honorable or under honorable conditions.

6. The Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Navy Records (BCM/NR), on 3 September 2014, to carefully consider the revised 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.

7. 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//