

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240009055

APPLICANT REQUESTS: an upgrade of her general discharge under honorable conditions to honorable.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Counsel's Brief in Support of Application for Discharge Review, 3 July 2024, indicating the applicant's discharge may be upgraded based on propriety, her discharge was in error, her discharge was inconsistent with military standards of discipline, her discharge was unwarranted considering her character and strong military record, and her post-traumatic stress disorder (PTSD) diagnosis (available for the Board's review)
- Declaration in Support of Application for Discharge Review, providing an account of the applicant's life upon entering the military and overall experience with her immediate commander and military experience (available for the Board's review)
- DA Form 4856 (Developmental Counseling), 10 September 2014
- Headquarters, Airborne and Ranger Training Brigade, Memorandum for Record (Statement by Staff Sergeant S____ J____), 24 September 2014
- Company A, 203d Brigade Support Battalion, 3d Armored Brigade Combat Team, 3d Infantry Division, Memorandum for Record (Statement by Sergeant A____ S____), 5 October 2014
- DA Form 2166-8 (Noncommissioned Officer Evaluation Report) covering the period 1 December 2013 through 5 November 2014, showing her rater rated her overall potential for promotion and/or service in positions of greater responsibility as "Marginal" and her senior rater rated her overall performance as "Poor"; the applicant was not available to sign the report
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Veteran Service Outreach Program Letter, 30 September 2017, stating the applicant was referred for her related conditions, her sexual trauma-PTSD, and assessment (available for the Board's review)
- Department of Veterans Affairs (VA) Medical Documentation (Psychotherapy progress notes for military sexual trauma-related PTSD) (available for the Board's review)

- Self-Authored Statement, 22 June 2018
- VA Decision Letter, 27 July 2018, showing the applicant receives 100-percent service connection for PTSD
- Under Secretary of Defense Memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations (commonly known as the Wilkie Memorandum), 25 July 2018
- Office of the Under Secretary of Defense Memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of Their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment) (commonly known as the Kurta Memorandum), 25 August 2017
- Secretary of Defense Memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD) (commonly known as the Hager Memorandum), 3 September 2014

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 defers to counsel.
3. Counsel states the applicant's discharge may be upgraded based on propriety, her discharge was in error, her discharge was inconsistent with military standards of discipline, her discharge was unwarranted considering her character and strong military record, and her PTSD diagnosis.
4. A review of the applicant's service record shows:
 - a. She enlisted in the Regular Army on 12 April 2010.
 - b. The DD Form 1408 (Armed Forces Traffic Ticket), 5 September 2014, shows she received a ticket for child endangerment.
 - c. On 5 September 2014, her company commander counseled her to inform her of separation proceedings for commission of a serious offense under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c.

d. On 8 September 2014, she provided a sworn statement attesting that she was unaware the driver of the vehicle was drunk (available for the Board's review).

e. On 19 September 2014, her immediate commander notified her of her intent to separate her for commission of a serious offense under the provisions of Army Regulation 635-200, paragraph 14-12c. Her commander recommended characterization of her service as general under honorable conditions. She acknowledged the notification on 30 September 2014.

f. She was advised by consulting counsel of the basis for the contemplated action to separate her for commission of a serious offense under the provisions of Army Regulation 635-200, paragraph 14-12c, and its effects and of the rights available to her.

g. On 5 October 2014, she provided a statement attesting that she did not commit a serious offense, there was no attempt to endanger her child. She loves her child very much and is an excellent mother to her. She was sober; had she known the driver was not sober, she would have driven the vehicle herself. The driver showed no signs of being under the influence of alcohol. She was not around the driver the entire time they were at the unit Organization Day (available for the Board's review).

h. Her immediate commander recommended approval of her separation with characterization of her service as general under honorable conditions.

i. On 5 November 2014, she was discharged under honorable conditions (general) under the provisions of Army Regulation 635-200, paragraph 14-12c, for misconduct (serious offense). She completed 4 years, 6 months, and 24 days of net active service during this period with no lost time. Her DD Form 214 shows she was awarded or authorized the following:

- Army Commendation Medal
- Army Good Conduct Medal
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Army Service Ribbon
- Certificate of Achievement

5. On 28 September 2016, the Army Discharge Review Board denied her request for an upgrade of her discharge. The board reviewed her discharge processing and found it proper and equitable.

6. In reaching its determination, the Board may consider the applicant's petition and her service record in accordance with the published equity, injustice, or clemency determination guidance.

7. The U.S. Army Criminal Investigation Command's search of the Army criminal file indexes revealed no records of sexual assault or military sexual trauma pertaining to the applicant.

8. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of her general under honorable conditions discharge to honorable. She contends MST-related PTSD and OMH 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 12 April 2010.
- DD Form 1408 (Armed Forces Traffic Ticket), 5 September 2014, shows she received a ticket for child endangerment.
- On 5 September 2014, her company commander counseled her to inform her of separation proceedings for commission of a serious offense under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12c.
- On 8 September 2014, she provided a sworn statement attesting that she was unaware the driver of the vehicle was drunk.
- On 5 October 2014, she provided a statement attesting that she did not commit a serious offense, there was no attempt to endanger her child. She loves her child very much and is an excellent mother to her. She was sober; had she known the driver was not sober, she would have driven the vehicle herself. The driver showed no signs of being under the influence of alcohol. She was not around the driver the entire time they were at the unit Organization Day.
- On 5 November 2014, she was discharged under honorable conditions (general) under the provisions of Army Regulation 635-200, paragraph 14-12c, for misconduct (serious offense). She completed 4 years, 6 months, and 24 days of net active service during this period with no lost time.

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 via counsel, following her divorce the applicant became a single mother since she was awarded full physical custody of her daughter. On September 5, 2014, she attended an afternoon barbeque for her brigade with her daughter. She was driven to the event and caught a ride back to the barracks with a fellow service member, who also had a 5-year-old child. On the way back, the driver was involved in a car accident. Although the children were in car seats and there

were no injuries, the driver was arrested because she, unbeknownst to the applicant, was suspected of being under the influence of alcohol and was deemed unfit by the military police to operate a vehicle. The applicant had not socialized with the driver at the barbeque and was unaware that she was intoxicated. The applicant did not consume alcohol that afternoon and had no history of problematic drug or alcohol use during her service. At the scene, the military police questioned the applicant and released her and both children into her care. The driver was taken into custody and charged with DUI. Per the applicant's counsel, she was improperly and inequitably discharged from the Army by her commanding officer, who used a drunk-driving incident involving another soldier as the pretext for terminating the applicant's military career. The applicant was neither operating the vehicle nor did she consume any alcohol, as evidenced by the police releasing two children into her care. The applicant and her daughter unwittingly rode in the vehicle with the allegedly intoxicated driver. The applicant's counsel requests an upgrade of her discharge from General (Under Honorable Conditions) to Honorable and amendment of the narrative reason to remove "Misconduct (serious offense)" from her DD Form 214.

d. Active-duty electronic medical records available for review show on 31 March 2014 the applicant participated in a mental status evaluation for the purpose of separation due to "unsatisfactory performance". The report notes the applicant had no prior reprimands or disciplinary action but was being considered for separation due to failing a class. Overall, she did not present with any behavioral health concerns or disorder and was psychiatrically cleared for any administrative action deemed appropriate by command. On 8 September 2014, following the incident with her being the passenger along with her daughter in a car driven by someone who was impaired, the applicant was command referred for an ASAP assessment. The evaluation states the applicant presented as cooperative and provided all necessary information. She did not meet criteria for a substance use disorder and had no prior encounter with behavioral health or ASAP. The applicant was not recommended for treatment, nor was she provided a diagnosis. On 11 September 2014, she participated in a Family Advocacy Program (FAP) assessment due to the filing of a child neglect report related to the incident. She complained of insomnia and anxiety related to this incident and was provided an appointment for a supportive follow-up session. No concerns of child abuse and/or neglect were noted. During a follow-up FAP session on 22 September 2014, she reported being unaware her "battle buddy" was impaired when she rode in her vehicle with her daughter. The applicant continued to receive supportive FAP sessions until her discharge.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 100% service connected for MST-related PTSD.

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 a behavioral health condition. However, the rationale for her discharge, does not appear to require mitigation since there is a credible likelihood that she did not knowingly engage in the misconduct.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts MST, PTSD, and OMH as related to her request.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is 100% service-connected for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged after receiving a ticket for child endangerment due to being the passenger, with her young daughter, in a car that was driven by her inebriated "battle buddy" following their unit's Organization Day barbecue. This was the basis of separation from military service, for commission of a serious offense. In her supporting documents, the applicant states she experienced race-based harassment from her commanding officer who created a toxic work environment and was seeking a pretext to discharge her. Her account is potentially supported by a chapter mental status evaluation, prior to the incident that led to her separation, that indicates the applicant had no prior reprimands or disciplinary action but was being considered for separation due to failing a class. Following the car accident, the applicant provided statements on two separate occasions reporting she was unaware the driver of the vehicle was impaired and there was no attempt to endanger her child. The applicant further states via counsel, had she known the driver was intoxicated she would have driven the car herself since she had not consumed alcohol. The applicant's account is supported by the fact that the military police released two young children into her care and allowed her to drive them home. Overall, there is a greater likelihood than not, that the applicant was unaware of the driver's impaired condition when she decided to ride in the vehicle, and there was no intent to endanger the welfare of her child which was apparently the basis for her discharge. In addition, the applicant is 100% service-connected for MST-related PTSD. The applicant's experience of MST would far outweigh any misconduct associated with her discharge.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, 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 separated for misconduct under the provisions of Army Regulation 635-200, chapter 14-12c (Commission of a Serious Offense). The Board noted the applicant had service connected PTSD for MST, limited counseling and rehabilitation, and was compelled by her statement that she had not socialized with the driver of the vehicle and did not know she (the driver) was under the influence of alcohol. Therefore, the Board determined a change of her characterization of service to honorable was warranted.

2. The Board considered the following Kurta questions:

a. Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts MST, PTSD, and OMH as related to her request.

b. Did the condition exist or experience occur during military service? Yes. The applicant is 100% service-connected for PTSD.

c. Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant was discharged after receiving a ticket for child endangerment due to being the passenger, with her young daughter, in a car that was driven by her inebriated "battle buddy" following their unit's Organization Day barbecue. This was the basis of separation from military service, for commission of a serious offense. In her supporting documents, the applicant states she experienced race-based harassment from her commanding officer who created a toxic work environment and was seeking a pretext to discharge her. Her account is potentially supported by a chapter mental status evaluation, prior to the incident that led to her separation, that indicates the applicant had no prior reprimands or disciplinary action but was being considered for separation due to failing a class. Following the car accident, the applicant provided statements on two separate occasions reporting she was unaware the driver of the vehicle was impaired and there was no attempt to endanger her child. The applicant further states via counsel, had she known the driver was intoxicated she would have driven the car herself since she had not consumed alcohol. The applicant's account is supported by the fact that the military police released two young children into her care and allowed her to drive them home. Overall, there is a greater likelihood than not, that the applicant was unaware of the driver's impaired condition when she decided to ride in the vehicle, and there was no intent to endanger the welfare of her child which was apparently the

basis for her discharge. In addition, the applicant is 100% service-connected for MST-related PTSD. The applicant's experience of MST would far outweigh any misconduct associated with her discharge.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

XXX	XXX	XXX	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 5 November 2014 to show her characterization of service as Honorable.

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, 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 635-200 (Active Duty Enlisted Administrative Separations), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 14 established policy and procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, or absences without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally considered appropriate. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

b. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier'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. A general discharge is a separation from the Army under honorable conditions. When authorized, it is used for a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

3. On 3 September 2014 in view of the foregoing information, 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 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 applicants' service.

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 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.

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 court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards 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.

6. 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//