

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 May 2025

DOCKET NUMBER: AR20240009354

APPLICANT REQUESTS:

- in effect, physical disability discharge in lieu of administrative discharge due to unsatisfactory participation
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Form 10-5345 (Request for and Authorization to Release Health Information), 10 July 2024

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. She was raped in April 1981, and made to have sexual intercourse, to include anal sex, with Drill Sergeant J_____ at Fort Jackson, SC. She was a child, just 17 years old at the time. She was going to press criminal charges, but didn't understand the signs and symptoms of military sexual trauma and post-traumatic stress disorder (PTSD).

b. She became so stressed out and ill at Fort Sam Houston because of what happened to her that she couldn't finish the second part of her Military Occupational Specialty (MOS) training. She completed the 91B (Medical Specialist) portion but was too sick to her stomach to complete the 91D (Operating Room Specialist) portion.

c. When she got to her Army National Guard (ARNG) unit in Boise, ID, Chief Warrant Officer Two (CW2) G_____ and his friend took turns having sex with her on two

occasions and he made her suck his penis. She left, and per her discharge paperwork, was unavailable for signature.

d. She wants justice. She was a child serving in the U.S. Army when this all first occurred and was told she could have an easy time or a hard time. The second time she was in Idaho and tried to get help but was denied and told she wasn't eligible. It needs to be on her record, and she wants to file charges against the men who did this. If she hadn't been raped by her Drill Sergeant, she might still be in the service.

e. She doesn't want this to happen to anyone else. Several times, at least seven times in the past, she was told she doesn't qualify for service. She was too embarrassed and often got discouraged. She went on to live a normal life, was able to earn a degree, and become a teacher. Everyday she thinks back with PTSD and gets angry at the Army for causing this and refusing to help her.

3. The acronym "PUHLES" describes the following six physical factors used in the profiling system to classify medical readiness: "P" (Physical capacity or stamina), "U" (Upper extremities), "L" (Lower extremities), "H" (Hearing), "E" (Eyes), and "S" (Psychiatric). Physical profile ratings are permanent (P) or temporary (T). A service member's level of functioning under each factor is represented by the following numerical designations: 1 indicates a high-level of fitness, 2 indicates some activity limitations are warranted, 3 reflects significant limitations, and 4 reflects one or more medical conditions of such a severity that performance of military duties must be drastically limited.

4. A Standard Form 88 (Report of Medical Examination) shows the applicant underwent medical examination on 20 December 1980 for the purpose of U.S. Army Reserve (USAR) enlistment and was found qualified for enlistment with a PULHES of 111111. The summary of defects and diagnoses shows sleepwalking 1 1/2 years ago.

5. A DD Form 4 (Enlistment/Reenlistment Document) shows the applicant enlisted in the USAR on 20 December 1980, at the age of 17.

6. A DD Form 214 (Certificate of Release or Discharge from Active Duty) shows:

- the applicant entered active duty for training (ADT) on 5 March 1981
- she was awarded the MOS 91B
- she was honorably released from ADT on 6 August 1981, due to completion of MOS training and was transferred back to her USAR unit
- she was credited with 5 months and 2 days of net active service this period

7. The applicant's discharge orders from the USAR are not in her available records for review.

8. A second DD Form 4 shows the applicant enlisted in the ARNG on 2 April 1982, for a period of 4 years, 8 months and 17 days.

9. An IDARNG, 748th Medical Detachment memorandum, 7 December 1982, shows:

a. The applicant was informed her failure to attend scheduled training assemblies on 4 - 5 December 1982, caused her to be charged with four periods of absence without leave (AWOL) and she had accrued a total of four in the past 12 months.

b. If charged with nine or more unexcused absences within a 12-month period, she would be declared an unsatisfactory participant and would be discharged from the ARNG.

c. She was also informed the next scheduled drill weekend was 8 – 9 January 1983.

10. A second IDARNG, 748th Medical Detachment memorandum, 10 January 1983, shows:

a. The applicant was informed she had been charged with eight counts of AWOL in the last year and was required to attend all scheduled training assemblies. If unable to attend, she was to contact her unit immediately upon identification of a problem.

b. She was informed the next drill period was scheduled for 5 – 6 February 1983. If she felt she did not want to participate in this scheduled training period and would rather accrue additional periods of AWOL, she was ordered to return all properties issued to her by the military department. She was advised she could expect to receive a discharge characterization of less than under honorable conditions.

11. A third IDARNG, 748th Medical Detachment memorandum, 14 February 1983, shows:

a. The applicant was informed she had been charged with 12 unexcused absences within a 1-year period as she did not submit a request to be excused from the drill periods 1 - 4 on 5 - 6 February 1983.

b. In view of her unexcused absences, she was declared an unsatisfactory participant, and it was recommended her case be considered for separation.

12. A fourth IDARNG, 748th Medical Detachment memorandum to The Adjutant General, Idaho, 23 February 1983, requested the applicant's discharge under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management), paragraph 7-10, for continuous and willful absence. She accrued a total of 12 periods of

AWOL in the past 3 months and all attempts to contact her failed as she moved and left no forwarding address.

13. State of Idaho, Military Division Order 8-8, 24 February 1983, discharged the applicant under honorable conditions and transferred her to the USAR Control Group (IRR) effective 1 March 1983, under the provisions of National Guard Regulation 600-200, paragraph 7-10.

14. The applicant's National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows she was honorably discharged from the ARNG on 1 March 1983, and transferred to the USAR Control Group (IRR) due to unsatisfactory participation. She was credited with 2 years, 2 months, and 12 days of net service.

15. U.S. Army Reserve Personnel Center Orders D-12-091904, 17 December 1986, honorably discharged her from the USAR Ready Reserve.

16. In the adjudication of this case, the Department of the Army Criminal Investigation Division (DACID), searched Army criminal file indexes and found no CID/Military Police (MP) assault records pertaining to the applicant.

17. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting, in effect, physical disability discharge in lieu of administrative discharge due to unsatisfactory participation. She contends she experienced an undiagnosed mental health condition, including PTSD, and sexual assault/harassment (MST) that mitigates her discharge.

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:

- The applicant enlisted into the U.S. Army Reserves on 20 December 1980 and entered active duty for training (ADT) on 5 March 1981.
- The applicant was discharged from ADT on 6 August 1981 and was credited with 5 months and 2 days of net active service this period. The applicant's discharge orders from the USAR are not in her available records for review.
- A second DD Form 4 shows the applicant enlisted in the ARNG on 2 April 1982, for a period of 4 years, 8 months and 17 days.
- A third IDARNG, 748th Medical Detachment memorandum, 14 February 1983, showed: The applicant was informed she had been charged with 12 unexcused absences within a 1-year period as she did not submit a request to be excused from the drill periods 1 - 4 on 5 - 6 February 1983. She was declared an unsatisfactory participant, and it was recommended her case be considered for separation.

- A fourth IDARNG, 748th Medical Detachment memorandum to The Adjutant General, Idaho, 23 February 1983, requested the applicant's discharge under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management), paragraph 7-10, for continuous and willful absence. She accrued a total of 12 periods of AWOL in the past 3 months and all attempts to contact her failed as she moved and left no forwarding address.
- The applicant's National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows she was honorably discharged from the ARNG on 1 March 1983, and transferred to the USAR Control Group (IRR) due to unsatisfactory participation. She was credited with 2 years, 2 months, and 12 days of net service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts she was sexually assaulted by a drill sergeant and became so stressed that she could not finish the second part of her MOS training. When she arrived at her ARNG unit in Boise, Idaho, she was again sexually assaulted by a CW2 and his friend. She indicated PTSD and MST as issues or conditions related to her request. A Report of Medical Examination dated 20 December 1980 showed no indication of any psychiatric symptoms. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which contains medical and mental health records for both DoD and VA, was reviewed and showed the applicant is 70% service connected for PTSD since April 2023. She initiated mental health services on 10 July 2024 and reported anxiety, sleep difficulty, and a history of sexual assault at age 17. She was diagnosed with Anxiety Disorder and requested individual therapy. However, she was determined to be ineligible and referred to the Vet Center. In January 2025 she reengaged with VA and mental health services, and she was diagnosed with PTSD due to MST and Anxiety. She was trialed on an antidepressant, but it was discontinued due to side effects. The applicant has engaged in supportive therapy and wellness coaching, and her most recent encounter was on 28 April 2025 where she was prescribed an anxiolytic to help with sleep.

e. Compensation and Pension (C&P) examination documents dated 23 May 2024 showed that the applicant endorsed the required number and severity of symptoms to warrant a diagnosis of PTSD. She reported sexual assault by a drill sergeant, which occurred on 7 April 1981 while in boot camp, and sexual assault by a CW2 and his friend when she was in drill status in the Idaho ARNG. The evaluator referenced review of medical records from 10 May 1981 noting hematuria, a pregnancy test on 2 June 1981, and vaginal bleeding reported on 8 June 1981. The evaluation concluded that the

applicant's PTSD was "at least as likely as not incurred or caused by the claimed in-service injury, event, or illness."

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support that the applicant experienced MST resulting in PTSD, which likely contributed to her missing drill and her eventual discharge from the Idaho ARNG. Although orders from the Idaho ARNG indicate a general discharge under honorable conditions, the applicant's NGB Form 22 showed character of service as honorable.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts she had an undiagnosed mental health condition, including PTSD resulting from MST, at the time of the misconduct (being AWOL from drill for 12 periods). VA records showed she is 70% service connected for PTSD associated with MST and has received mental health services for PTSD since July 2024.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she experienced MST while on active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records revealed no documentation of any mental health symptoms or condition(s) while on active service. While there is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition on active service, the applicant asserts a fully mitigating BH experience, MST. As there is an association between MST and avoidant behavior, such as being AWOL, there is a nexus between her experience of MST and her pattern of misconduct.

h. While the applicant is considered 70% disabled by the VA due to MST/PTSD, there is insufficient evidence of an in-service mental health disability that would warrant a referral to the Disability Evaluation System (DES). The DES compensates an individual only for service incurred medical condition(s) that have been determined to disqualify him or her from further military service, and there is insufficient evidence that the applicant did not meet retention standards in accordance with AR 40-501.

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 misconduct leading to the applicant's separation and the mitigation found in the medical review, the Board concluded there was sufficient evidence to upgrade the applicant's discharge order (Order 8-8), dated 24 February 1983, to show her characterization of service to show Honorable. However, based upon the findings outlined in the medical review related to changing the applicant's narrative reason for separation to medical disability/retirement, the Board concluded there was insufficient evidence of an error or injustice related to the applicant's current narrative reason for separation.

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 reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Honorable
- Separation Authority: No change
- Separation Code: No change
- Reentry Code: No change
- Narrative Reason for Separation: No change

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 changing the narrative reason for separation to medical disability or medical retirement.

//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. 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 (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), 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.

3. Title 10, U.S. Code, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 (Discharge Review Board (DRB) Procedures and Standards) and Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a Medical Evaluation Board (MEB); when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an Military Occupational Specialty (MOS) Medical Retention Board; and/or they are command-referred for a fitness-for-duty medical examination.

b. The disability evaluation assessment process involves two distinct stages: the MEB and Physical Evaluation Board (PEB). The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise his/her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether or not a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. Service members who are determined to be unfit for duty due to disability either are separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a one-time severance payment, while veterans who retire based upon disability receive monthly military retired pay and have access to all other benefits afforded to military retirees.

c. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

4. Army Regulation 635-40 establishes the Army Disability Evaluation System and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

a. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in military service.

b. Soldiers who sustain or aggravate physically unfitting disabilities must meet the following line-of-duty criteria to be eligible to receive retirement and severance pay benefits:

(1) The disability must have been incurred or aggravated while the Soldier was entitled to basic pay or as the proximate cause of performing active duty or inactive duty training.

(2) The disability must not have resulted from the Soldier's intentional misconduct or willful neglect and must not have been incurred during a period of unauthorized absence.

5. Army Regulation 40-501 provides information on medical fitness standards for induction, enlistment, appointment, retention, and related policies and procedures. Soldiers with conditions listed in chapter 3 who do not meet the required medical standards will be evaluated by an MEB and will be referred to a PEB as defined in Army Regulation 635-40 with the following caveats:

a. U.S. Army Reserve (USAR) or Army National Guard (ARNG) Soldiers not on active duty, whose medical condition was not incurred or aggravated during an active duty period, will be processed in accordance with chapter 9 and chapter 10 of this regulation.

b. Reserve Component Soldiers pending separation for In the Line of Duty injuries or illnesses will be processed in accordance with Army Regulation 40-400 (Patient Administration) and Army Regulation 635-40.

c. Normally, Reserve Component Soldiers who do not meet the fitness standards set by chapter 3 will be transferred to the Retired Reserve per Army Regulation 140-10 (USAR Assignments, Attachments, Details, and Transfers) or discharged from the Reserve Component per Army Regulation 135-175 (Separation of Officers), Army Regulation 135-178 (ARNG and Reserve Enlisted Administrative Separations), or other

applicable Reserve Component regulation. They will be transferred to the Retired Reserve only if eligible and if they apply for it.

d. Reserve Component Soldiers who do not meet medical retention standards may request continuance in an active USAR status. In such cases, a medical impairment incurred in either military or civilian status will be acceptable; it need not have been incurred only in the line of duty. Reserve Component Soldiers with non-duty related medical conditions who are pending separation for not meeting the medical retention standards of chapter 3 may request referral to a PEB for a determination of fitness

6. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10, U.S. Code, section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating of less than 30 percent.

7. National Guard Regulation 600-200 (Enlisted Personnel Management) prescribes the criteria, policies, processes, procedures and responsibilities to classify, assign utilize, transfer within and between States, provides special duty assignment pay, separate and appoint to and from Command Sergeant Major ARNG and Army National Guard of the United States enlisted Soldiers. Paragraph 7-10, in effect at the time, provides for the separation of Soldiers for unsatisfactory participation amounting to 9 or more unexcused absences within a 1-year period. Assignment/Loss Code CW (Continuous Willful Absence) will be used.

8. 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.

9. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Paragraph 2-11 states applicants do not have a right to a formal hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//