

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 May 2025

DOCKET NUMBER: AR20240009483

APPLICANT REQUESTS: upgrade her under honorable conditions (general) discharge to honorable.

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

DD Form 149 (Application for Correction of Military 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 applicant states she was chaptered out of the Army for being unable to adapt to military life. She is requesting relief to change the derogatory information so she can use her veterans' benefits. She had emergency surgery in April 1988, and after being released from the hospital, she discovered her husband was cheating on her and she contracted a venereal disease. She snapped and her Commander sent her to the Chaplain which turned into her getting chaptered out of the Army.
3. The applicant enlisted in the Regular Army on 28 July 1987 for 3 years. She held military occupational specialty 94B (Food Service Specialist).
4. She received non-judicial punishment (NJP) under the Uniform Code of Military Justice (UCMJ) for on or about 30 July 1988, without authority fail to go at the time prescribed to the appointed place of duty. The sentence consisted; of reduction to E-1 (suspended for 90 days); 7 days forfeiture pay (\$144.00); and 14 days extra duty.
5. The sentence was vacated due to the applicant being disrespectful in language towards a noncommissioned officer on or about 26 August 1988. The applicant was reduced to the grade of E-1.

6. On 19 September 1988, her immediate commander notified her of his intent to separate her under the provisions of AR 635-200, chapter 13. The specific reasons for the proposed actions are: One Article 15, One Vacation of Suspended Punishments, and 11 counseling statements.

7. On 3 October 1988, having been advised by counsel on the basis for the contemplated action to separate her for unsatisfactory performance under the provisions of AR 635-200 (Personnel Separations – Enlisted Personnel), Chapter 13, and its effects, of the rights available to her, and the effect of any action taken by her in waiving her rights. She understood:

- if she has 6 years of total active and reserve military service at the time of separation, under AR 635-200, chapter 13, she is entitled to have her case heard by an administrative separation board
- she may expect to encounter substantial prejudiced in civilian life if a general discharge under honorable conditions is issued to her
- she will be ineligible to apply for enlistment in the United States Army for a period of 2 years after discharge

8. On 19 October 1988, the separation authority approved the discharge of the applicant under the provisions of AR 635-200, chapter 13, for unsatisfactory performance. He directed she be issued a General Discharge Certificate.

9. Accordingly, on 28 October 1988, she was discharged. Her DD Form 214 shows she completed 1 year, 3 months, 1 day net active service this period. It also shows.

- Item 24 (Character of Service): Under Honorable Conditions (General)
- Item 25 (Separation Authority): AR 635-200, chapter 13
- Item 26 (Separation Code): JHJ
- Item 27 (Reenlistment Code): RE 3 & 3C
- Item 28 (Narrative Reason for Separation): Unsatisfactory Performance

10. There is no evidence the applicant applied to the Army Discharge Review Board for review of her discharge within the Board's 15-year statute of limitations.

11. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to her characterization of service from under honorable conditions (general) to honorable. She contends she experienced an undiagnosed mental health condition, including PTSD, that mitigates her misconduct.

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 Regular Army on 28 July 1987.
- The applicant received NJP for failure to be at her prescribed place of duty on 30 July 1988, but her sentence was vacated due to her being disrespectful in language towards an NCO on 26 August 1988.
- On 19 September 1988, her immediate commander notified her of his intent to separate her under the provisions of AR 635-200, chapter 13. The specific reasons for the proposed actions are: One Article 15, One Vacation of Suspended Punishments, and 11 counseling statements.
- On 3 October 1988, she was advised by counsel on the basis for the contemplated action to separate her for unsatisfactory performance under the provisions of AR 635-200, Chapter 13.
- The applicant was discharged on 28 October 1988 and completed 1 year, 3 months, 1 day net active 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 chaptered out of the Army due to failure to adapt to military life, but she explains that after surgery, she was released and learned that her husband was having an affair. She stated, "I snapped" and was sent to the chaplain, resulting in her discharge. She indicated PTSD as an issue or condition related to her request. The application was void of any mental health or medical documentation. 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 no history of mental health related treatment or diagnoses.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that 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 discharge? Yes. The applicant asserts she had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. The application did not include any medical or mental health records, and there were no records available for review from her time in service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she was experiencing a mental health condition while on active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed no documentation of any mental health condition(s), including PTSD, while on active service, and there were no records provided with the application. There is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service. However, the applicant contends she had a mental health condition or an experience that mitigated her misconduct, and per Liberal Consideration her contention 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 relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the short term of honorable service completed prior to the misconduct leading to the applicant's separation and the lack of mitigating and/or post-service character evidence, the Board concluded there was insufficient evidence of an error or injustice warranting a change to 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 (AR) 635-200 sets forth the requirements and procedures for administrative discharge of enlisted personnel. Chapter 13 of this regulation, in effect at the time, provides for separation due to unsatisfactory performance when in the commander's judgment the individual will not become a satisfactory Soldier; retention will have an adverse impact on military discipline, good order and morale; the service member will be a disruptive influence in the future; the basis for separation will continue or recur; and/or the ability of the service member to perform effectively in the future, including potential for advancement or leadership, is unlikely. Service of Soldiers separated because of unsatisfactory performance under this regulation will be characterized as honorable or under honorable conditions.

a. An honorable discharge is a separation with honor. 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. Only the honorable characterization may be awarded a member upon completion of his or her period of enlistment or period for which called or ordered to active duty or active duty for training, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. A characterization of under honorable conditions may be issued only when the reason for the member's separation specifically allows such characterization. It will not be issued to members upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

3. The Acting Principal Deputy Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 24 February 2016 [Carson Memorandum]. The memorandum directed the BCM/NRs to waive the statute of limitations. Fairness and equity demand, in cases of such magnitude that a Veteran's petition receives full and fair review, even if brought outside of the time limit. Similarly, cases considered previously, either by DRBs or BCM/NRs, but without benefit of the application of the Supplemental Guidance, shall be, upon petition, granted de novo review utilizing the Supplemental Guidance.

4. The Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017 [Kurta Memorandum]. The memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, traumatic brain injury (TBI), sexual assault, or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. 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.

a. Guidance documents are not limited to under other than honorable conditions discharge characterizations but rather apply to any petition seeking discharge relief including requests to change the narrative reason, re-enlistment codes, and upgrades from general to honorable characterizations.

b. An honorable discharge characterization does not require flawless military service. Many veterans are separated with an honorable characterization despite some relatively minor or infrequent misconduct.

c. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with mental health conditions, including PTSD; TBI; or behaviors commonly associated with sexual assault or sexual harassment; and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

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/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.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief based on equity, injustice, or clemency grounds, BCM/NRs 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.

//NOTHING FOLLOWS//