

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 August 2025

DOCKET NUMBER: AR20240010081

APPLICANT REQUESTS: in effect:

- show her actual discharge date as 2 November 1993
- show she was discharged due to a disability separation in lieu of honorably discharged
- an opportunity to appear before the Board in person by video/telephone; in the alternative consideration by application based on the records and evidence

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

- DD Form 149 (Application for Correction of Military Record)
- Orders D-11-390438, published by the United States Army Reserve (USAR) Personnel Center, St. Louis, MO
- List of Medications from the My Medications List - My HealtheVet
- Department of Veterans Affairs (VA) Appointments List

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 has a disability. She suffers from post-traumatic stress disorder (PTSD), and she experienced sexual assault/harassment.
3. On 16 May 1985, the applicant enlisted in the United States Army Reserve (USAR) for 8 years.
 - a. Orders 101-20, Military Entrance Processing Station, [REDACTED] dated 16 May 1985 ordered the applicant to initial active duty for training (IADT) (split training) for 8 weeks with a reporting date of 13 June 1985.

b. Order 154-700, Headquarters, United States Army Training Center, Fort Jackson, SC, shows the applicant was released from IADT and returned to her USAR unit in Mobile, AL, effective 13 August 1985.

4. Her service record does not contain a DD Form 214 (Certificate of Release or Discharge from Active Duty). However, it does contain a DD Form 220 (Active Duty Report) showing she served in an active-duty status with Company D, 3d Battalion, 1st Basic Training Brigade, Fort Jackson, SC, from 12 June 1985 to 13 August 1985.

5. Orders D-11-390438, USAR Personnel Center, St. Louis, MO, dated 2 November 1993 shows the applicant was honorably discharged from the USAR, effective this date in the rank of specialist four and she held military occupational specialty 71L (Administrative Specialist).

6. On 17 April 2025, in conjunction with the applicant's request to the ABCMR, the staff of the Board requested a redacted Criminal Investigation Division (CID) and Military Police Report pertaining to the applicant.

7. On 30 April 2025, the CID advised the staff of the Board the agency had no information pertaining to a military sexual trauma investigation involving the applicant.

8. Additionally, her service record does not address a disability, PTSD, nor sexual assault/harassment while she was serving in an active duty or USAR status.

9. Regarding the applicant's request for correction of records to show her actual discharge date as 2 November 1993, Orders D-11-390438, which she provided, and her record contains, correctly shows her actual discharge date from the USAR was 2 November 1993. There is no evidence available to indicate she was serving in any other status on this date.

9. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a disability discharge due to PTSD as a result of military sexual trauma (MST) in lieu of her honorable discharge. 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 United States Army Reserve (USAR) on 16 May 1985 with a reporting date to initial active-duty training (IADT) of 13 June 1985; 2) The applicant was released from IADT and returned to her USAR unit on 13 August 1985; 3) Her service record does not contain the facts and circumstances surrounding her discharge or a DD 214. However, it does contain a DD Form 220 (Active Duty Report) showing she served in an active-duty status with from 12 June-13 August 1985.

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

c. The applicant asserts she experienced PTSD as a result of MST while on active service, which warrants a disability discharge in lieu of her honorable discharge. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including PTSD, while on active service.

d. A review of JLV provided evidence the applicant began to engage with VA for behavioral health treatment in 2018. The applicant reported a history of sexual abuse including MST, and she has been engaged with behavioral treatment at the VA till present. She has been diagnosed with Major Depressive Disorder and PTSD, and she underwent a Compensation and Pension Evaluation in 2018. The applicant was diagnosed with service-connected Neurosis for treatment purposes only. The applicant provided hardcopy medical records from her VA behavioral health providers, dated 01 May 2020, that she has been in treatment for PTSD and Major Depressive Disorder since 2018, but there was insufficient evidence provided on the history of these mental health conditions or their relation to her military service. The applicant also provided her list of medications and VA appointments from 2024.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence the applicant reported a history of experiencing sexual abuse including MST, while on active service to the VA, and as a result, she has been diagnosed with PTSD and Major Depressive Disorder. However, there is insufficient evidence the applicant, during her active service; met criteria for mental health condition including PTSD; determined to not meet medical retention standards for a mental health condition including PTSD; attended six months of consistent mental health treatment without improvement; required two inpatient psychiatric admissions; or was ever placed on a permanent psychiatric profile. Therefore, there is insufficient evidence the applicant's case warrants a referral to IDES to be assessed for a physical disability discharge for a mental health condition including PTSD. In addition, there is insufficient evidence surrounding the events and circumstances which resulted in the applicant's discharge. However, the applicant asserts she was experienced MST and resultant PTSD, which warrant a physical discharge. Per Liberal Consideration, her contention is sufficient for the board's consideration.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No. There is sufficient evidence the applicant reported a history of

experiencing a history of sexual abuse including MST while on active service to the VA, and as a result, she has been diagnosed with PTSD and Major Depressive Disorder by the VA. However, there is insufficient evidence the applicant, during her active service; met criteria for mental health condition including PTSD; determined to not meet medical retention standards for a mental health condition including PTSD; attended six months of consistent mental health treatment without improvement; required two inpatient psychiatric admissions; or was ever placed on a permanent psychiatric profile. Therefore, there is insufficient evidence the applicant's case warrants a referral to IDES to be assessed for a physical disability discharge for a mental health condition including PTSD. In addition, there is insufficient evidence surrounding the events and circumstances which resulted in the applicant's discharge. However, the applicant asserts she was experienced MST and resultant PTSD, which warrant a physical discharge. Per Liberal Consideration, her contention is sufficient for the board's consideration.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the medical review, the Board concurred with the advising official that there was no error or injustice.

a. Amend Discharge Date to as 2 November 1993: Deny. The Board noted that her service record does not contain the facts and circumstances surrounding her discharge or a DD 214. However, it does contain a DD Form 220 (Active Duty Report) showing she served in an active-duty status with from 12 June-13 August 1985. Therefore, the Board determined the applicant's discharge was correct and there was no error or injustice. Therefore, should not be amended.

b. Amend Honorable Discharge to Reflect Disability Discharge: Deny. The Board determined the applicant did not demonstrate by a preponderance of evidence that there was any procedural error or error. In addition, the Board concurred with the medical advisory that there is insufficient evidence the applicant's case warrants a

referral to IDES to be assessed for a physical disability discharge for a mental health condition including PTSD. In addition, there is insufficient evidence surrounding the events and circumstances which resulted in the applicant's discharge occurred. Therefore, the Board concluded that her discharge should not be amended.

2. Based upon the misconduct leading to the applicant's separation and the following recommendation found in the medical review related to the liberal consideration:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No. There is sufficient evidence the applicant reported a history of experiencing a history of sexual abuse including MST while on active service to the VA, and as a result, she has been diagnosed with PTSD and Major Depressive Disorder by the VA. However, there is insufficient evidence the applicant, during her active service; met criteria for mental health condition including PTSD; determined to not meet medical retention standards for a mental health condition including PTSD; attended six months of consistent mental health treatment without improvement; required two inpatient psychiatric admissions; or was ever placed on a permanent psychiatric profile. Therefore, there is insufficient evidence the applicant's case warrants a referral to IDES to be assessed for a physical disability discharge for a mental health condition including PTSD. In addition, there is insufficient evidence surrounding the events and circumstances which resulted in the applicant's discharge. However, the applicant asserts she was experienced MST and resultant PTSD, which warrant a physical discharge. Per Liberal Consideration, her contention is sufficient for the board's consideration.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A

The Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	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.

8/15/2025

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 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 will decide cases on the evidence of record. It is not an investigative body. Applicants do not have a right to a video or telephone hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. A DD Form 214 will be prepared for each Soldier as indicated:

a. Reserve Component (RC) Soldiers completing 90 days or more of continuous ADT, Full-Time National Guard Duty, active duty for special work, temporary tours of active duty, or Active Guard Reserve service. Also, RC Soldiers separated for cause or physical disability regardless of the length of time served on active duty.

b. Army National Guard (ARNG) and USAR Soldiers mobilized under Title 10, U.S. Code, sections 12301(a), 12302, or 12304, and ARNG Soldiers called into Federal service under Title 10, U.S. Code, chapter 15 or section 12406, regardless of length of mobilization, when transitioned from active duty. A Soldier who reports to a mobilization station and is found unqualified for active duty will be excluded from this provision. He or she will only receive a DD Form 220 (Active Duty Report).

c. RC Soldiers completing initial ADT that results in the award of an MOS even when the active-duty period was less than 90 days. This includes completion of advanced individual training under the ARNG of the United States Alternate Training Program or USAR Split Training Program.

4. AR 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, established the Army Physical Disability Evaluation System according to the provisions of Title 10, USC, Chapter 61, Retirement or Separation for Physical Disability, and Department of Defense Directive 1332.18 (Disability Evaluation System). It set 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. When a member is being processed for separation for reasons other than physical disability (e.g., retirement, resignation, reduction in force, relief from active duty, administrative separation, discharge, etc.), continued performance of assigned duty (until he or she is referred to the Army Physical Disability Evaluation System for evaluation) creates a presumption that the member is fit for duty. The presumption of fitness may be overcome if the evidence establishes that:

(1) The Soldier was, in fact, physically unable to perform adequately the duties of his or her office, grade, rank or rating for a period of time because of disability. There

must be a causative relationship between the less than adequate duty performance and the unfitting medical condition or conditions.

(2) An acute, grave illness or injury or other significant deterioration of the Soldier's physical condition occurred immediately prior to, or coincident with processing for separation or retirement for reasons other than physical disability and which rendered the Soldier unfit for further duty.

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

6. Title 38, U.S. Code, Part IV is the VA's schedule for rating disabilities. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

//NOTHING FOLLOWS//