

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 May 2025

DOCKET NUMBER: AR20240010254

APPLICANT REQUESTS:

- An upgrade of her under other than honorable conditions character of service
- To restore her rank/grade to staff sergeant (SSG)/E-6

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for period ending 18 June 1991
- Separation documents
- 520th Personnel Service Company, Composite Team Bad Kreuznach (Provisional) Orders 128-279, 17 June 1991 (Reduction)
- Georgia State University Bachelor of Science Degree
- Two Amtrak National Railroad Passenger Corporation letters, 12 December 2012, reflecting the applicant was recognized for her achievements as an employee and as a winner of a 2013 President's Service and Safety Award
- Amtrak Lean Six Sigma Green Belt Certification
- Two Email messages to the Army Review Boards Agency, 15 and 25 March 2025
- In-Service Personal Statement arguing she was innocent of all charges, on the promotion list to sergeant first class/E-7, and selected to attend drill sergeant school
- VA Form 21-0781 (Department of Veterans Affairs (VA) Statement in Support of Claimed Mental Health Disorder(s) Due to an In-Service Traumatic Event(s)), 14 March 2025, reflects the applicant claimed sexual assault by a drill sergeant and sexual harassment by male and female Soldiers

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 not been diagnosed with post-traumatic stress disorder (PTSD) but has attached a VA Form 21-0781 as part of her PTSD-Military Sexual Trauma claim. Due to a predominantly male environment and the strict culture of the military, where leaders did not have respect for female Soldiers, she did not report the sexual encounter with her drill sergeant for fear of retaliation. The drill sergeant demanded that she keep it a secret because he had a family. The trend of sexual harassment continued throughout her time in the military. While in Germany, she lived in the barracks and had to request permission to move off post because of the continuous sexual advances by her female peers while showering. Her male counterparts were even worse, constantly harassing her, asking for sexual favors, and threatening to make her life a living hell. The applicant shared a hotel room and full size bed while attending the Advanced Noncommissioned Officer Course (ANCOC). She shared a hotel room and full-size bed with a female Soldier. She was appalled at the fact that the military would have her in a room with another Soldier that she did not know; she was devastated. That type of treatment weighs heavily on her today. After years of being away from the military, she feels like she is carrying a bag of loaded trauma.

3. A review of the applicant's service record shows:

a. She enlisted in the Regular Army on 30 April 1979; she reenlisted on 3 December 1981 and 17 April 1986 and obtained the rank/grade of SSG/E-6.

b. She served overseas in:

- Panama from 19 September 1979 to 20 April 1982
- Germany 21 May 1984 to 28 May 1986
- Germany 21 June 1988 to 17 June 1991

c. Her Noncommissioned Officer Evaluation Reports reflect:

- March 1986 through May 1986 / Promote Ahead of Peers
- June 1986 through May 1987 / Promote Ahead of Peers
- June 1987 through May 1988 / Promote Ahead of Peer
- June 1988 through May 1989 / Fully Capable
- June 1989 through May 1990 / Among the Best
- June 1990 through September 1990 / Among the Best

d. Criminal Investigation Division (CID) Report of Investigation – Final, 10 August 1990, in coordination with the Office of the Staff Judge Advocate, established there was sufficient probable cause to believe the applicant committed the offenses of Larceny, Altering a Public Record, and False Official Statement.

e. DD Form 458 (Charge Sheet) shows court martial charges were preferred on 26 February 1991, for:

- Two counts of with intent to deceive, sign an official record on or about 8 and 28 February 1990
- Two counts of steal lawful currency, the property of the U.S. Government between on or about 7 March and 5 April 1987, and between 27 January 1989 and 27 January 1990
- One count of, with the intent to defraud, falsely alter a certain writing on a final divorce decree on or about 28 February 1990
- One count of unlawfully alter a public record on or about 28 February 1990
- One count of in a sworn statement wrongfully and unlawfully subscribe under lawful oath a false statement on or about 16 March 1990

f. On 6 June 1991, she requested separation under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 10 for the good of the service.

g. She was advised by consulting counsel of the basis for the contemplated action to separate her and its effects; of the rights available to her; and the effects of any action by her waiving her rights.

h. Her chain of command recommended approval of the request for chapter 10.

i. On 6 June 1991, the separation authority approved separation. He directed discharge under other than honorable conditions and she be reduced to rank/grade private/E-1.

j. Accordingly, she was discharged under other than honorable conditions on 18 June 1991. She completed 12 years, 1 month, and 19 days net active service this period. DD Form 214 shows:

- She was discharged in the rank/grade of private/E-1
- She was awarded:
 - Army Service Ribbon
 - Army Good Conduct Medal (3rd Award)
 - Army Commendation Medal (2nd Award)
 - Overseas Service Ribbon (3rd Award)
 - Army Achievement Medal (4th Award)
 - National Defense Service Medal

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

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

6. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of her under other than honorable conditions (UOTHC) discharge and restoration of her rank to E-6. She contends MST and PTSD 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 30 April 1978, she reenlisted on 3 December 1981 and 17 April 1986.
- DD Form 458 (Charge Sheet) shows court martial charges were preferred against the applicant on 26 February 1991, for:
 - Two counts of with intent to deceive, sign an official record on or about 8 and 28 February 1990
 - Two counts of stealing lawful currency, the property of the U.S. Government between on or about 7 March and 5 April 1987, and between 27 January 1989 and 27 January 1990
 - One count of, with the intent to defraud, falsely alter a certain writing on a final divorce decree on or about 28 February 1990
 - One count of unlawfully alter a public record on or about 28 February 1990
 - One count of in a sworn statement wrongfully and unlawfully subscribe under lawful oath a false statement on or about 16 March 1990
- On 18 June 1991, the applicant was discharged from active duty under the provisions of AR 635-200, Chapter 10; with an under other than honorable conditions characterization of service. Her DD Form 214 shows she was assigned separation code KFS and the narrative reason for separation listed as "For the Good of the Service-In Lieu of Court-Martial," with reentry code 3.

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, due to a predominantly male environment and the strict culture of the military, where leaders did not have respect for female Soldiers, she did not report the sexual encounter with her drill sergeant for fear of retaliation. The drill sergeant demanded that she keep it a secret because he had a family. The trend of sexual harassment continued throughout her time in the military. While in Germany, she

lived in the barracks and had to request permission to move off post because of the continuous sexual advances by her female peers while showering. Her male counterparts were even worse, constantly harassing her, asking for sexual favors, and threatening to make her life a living hell. The applicant shared a hotel room and full-size bed while attending the Advanced Noncommissioned Officer Course (ANCOC). She shared a hotel room and full-size bed with a female Soldier. She was appalled at the fact that the military would have her in a room with another Soldier that she did not know; she was devastated. That type of treatment weighs heavily on her today. After years of being away from the military, she feels like she is carrying a bag of loaded trauma.

d. Due to the period of service no active-duty electronic medical records were available for review and the applicant did not submit any hardcopy medical documentation for review.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected, she has not participated in any behavioral health treatment via the VA, and she did not provide any medical documentation substantiating her contention of PTSD. In an email dated 15 March 2025, in response to a request for medical documentation in support of her contention, the applicant states she has not been diagnosed with PTSD.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence, solely based on the applicant's contention, that she experienced MST. However, her experiences of MST would not mitigate her misconduct.

g. Kurta Questions:

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

(2) Did the condition exist or experience occur during military service? Yes. The applicant asserts experiencing MST. However, there is no medical documentation indicating the applicant was diagnosed with any BH condition during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant was discharged due to falsely submitting a divorce decree with an altered date which allowed her to receive payments she was not entitled to, lying about her actions under oath, and stealing from the U.S. government. The applicant selected MST and PTSD on her application as related to her request. However, there is no evidence of any in-service BH diagnoses, and the VA has not service-connected the applicant for

any BH condition. In addition, the VA electronic medical record shows the applicant has not been diagnosed or treated for any mental health condition nor did she provide any medical documentation substantiating any BH diagnosis. However, the applicant asserts MST and her contention is accepted. Regardless of BH condition or experience of MST, the applicant's misconduct of altering an official document, lying under oath, and stealing are not part of the history or natural sequelae of either MST or PTSD and would not mitigate her misconduct. The applicant's misconduct evidenced forethought, planning, and actions to deceive for the purpose of financial gain and to avoid consequences. Specifically, neither MST nor PTSD impair an individual's ability to know right from wrong, understand consequences, and make purposeful, conscious decisions.

h. Per Liberal Consideration, the applicant's assertion of MST and PTSD is sufficient to warrant consideration by the Board.

BOARD DISCUSSION:

1. 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. Based upon the criminal nature of the misconduct leading to the applicant's separation and the lack of mitigation found in the medical review, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.
2. Additionally, based upon the applicant's characterization of service being Under Other Than Honorable Conditions Discharge and the regulatory guidance related to those separated with an OTH characterization, the Board found no error or injustice warranting the restoration of the applicant's rank.
3. The Board did note the applicant completed a period of honorable service which is not currently annotated on the applicant's DD Form 214 and recommended that change be completed to more accurately reflect the military service of the applicant.

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 the applicant's DD Form 214 by adding in Remarks the statement, "Continuous Honorable Service 30 April 1978 to 16 April 1986".

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 upgrading the applicant's characterization of service and/or restoring the applicant's rank.

//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. 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.
3. 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.
4. Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel) in effect at the time, set forth the basic authority for the separation of enlisted personnel.
 - 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.
 - 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. An under other than 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.

d. Chapter 10 (Discharge for the Good of the Service) provided that a Soldier who committed an offense or offenses, the punishment for which includes a bad conduct or dishonorable discharge, may submit a request for discharge in lieu of trial by court-martial. The discharge request may be submitted after court-martial charges are preferred against the Soldier, or, where required, after referral, until final action by the court-martial convening authority. Commanders will ensure that a Soldier is not coerced into submitting a request for discharge in lieu of trial by court-martial. The Soldier will be given a reasonable time to consult with consulting counsel and to consider the wisdom of submitting such a request for discharge. After receiving counseling, the Soldier may elect to submit a request for discharge for the good of the service. The Soldier will sign a written request, certifying that they were counseled, understood their rights, may receive a discharge under other than honorable conditions, and understood the adverse nature of such a discharge and the possible consequences. A discharge under other than honorable conditions was normally appropriate for a Soldier who is discharged for the good of the service. However, the separation authority was authorized to direct a general discharge certificate if such was merited by the Soldier's overall record during their current enlistment. When characterization of service under other than honorable conditions is not warranted for a Soldier in entry-level status, service will be uncharacterized.

5. 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.

6. 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//