

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 May 2025

DOCKET NUMBER: AR20240010701

APPLICANT REQUESTS: upgrade her under other than honorable conditions to honorable conditions.

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

- DD Form 149 (Application for Correction of Military Record)
- Three (3) Character Reference Letters shows the applicants is a selfless individual who embodies the qualities of compassion, diligence, and resilience. She remains steadfast in her commitment to providing a loving and nurturing environment for her family
- VA Form 21-0781 (Statement in Support of Claimed Mental Health Disorder Due to an In-Service Traumatic Event) shows the applicant claim for a military sexual trauma (MST) (available for the Board's review)
- Self-Authored Statement (available for the Board's review)

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 in July 1998 after arriving at the Fitness Training Unit (FTU), she dislocated her shoulder and had to remain at the FTU for an additional 2 weeks before being able to leave basic training (she still has problems with her shoulder today). While in the FTU she received a call from the captain's office at Fort Leonardwood, asking if she had been sexually harassed. She denied anything because she had heard of what happens to women who report sexual harassment. She had been told nothing good came out of it, she would be bullied and singled out and the outcome would never be good. Back then it was not something that was taken seriously and was taboo to talk about. Because she chose not to file a report against the individual who sexual harassed her, she was charged with fraternization, given extra

duty, and money was deducted from her pay. She was told graphic letters were intercepted from him that were written to her and her peers complained of the corporal harassing her. After that day the corporal continued with the sexually explicit letters while she remained in basic training. In late September 1998 the corporal showed up at her graduation from basic training. He signed her out in attempt to take her away for the weekend. Once she realized it was him, she stayed with a friend for the weekend.

a. The weekend after graduation she was sent to Fort Gordon by bus. After a while of being on the bus she realized the corporal was following the bus. She had no idea how the corporal was able to keep finding her. Once she arrived at Fort Gordon, she was told she had a visitor and that it is a family member. When she goes to see who was visiting, it was the corporal. Again, he had signed her out saying he was either a cousin or her uncle. She got away from him; and since she was already signed out, she stayed at a small hotel off base until it was time for her to return.

b. In November 1998 she was placed on kitchen patrol (KP) for the week at Fort Gordon. While on KP duty there was a sergeant on duty that was in charge. When she passed by him, he grabbed her and told her to go to the back to get something and the sergeant followed behind her. The sergeant pushed her up against the wall and pressed his body on hers and kissed her. After the kiss she went back to the dishes, and he would pass by every so often and talk to her about how much he enjoyed the kiss. After KP she went back to the barracks and had enough. She realized she was never going to be taken seriously in the army by the men that she worked with and that it would continue to happen to her. She was depressed, suffered from anxiety and had panic attacks. She no longer trusted men and was struggling with her mental health. For years she tried to deal with her issues by self-medicating and masking her issues without seeking proper help because that was not something "normal" to do. You only sought help if you were crazy. It was a taboo topic.

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

- a. She enlisted in the Regular Army on 9 July 1998.
- b. She was absent without leave (AWOL) for 451 days 19981102 to 2000126.
- c. The service record is void of prior documentation of nonjudicial punishment.
- d. DD Form 458 (Charge Sheet) shows court martial charges were preferred on 7 February 2000, for AWOL.
- e. On 7 February 2000 she requested discharge in lieu of trial by court-martial under the provisions (UP) of Chapter 10, AR 635-200.

f. Consistent with the chain of command recommendations, the separation approval authority approved the applicant's request for discharge in lieu of trial by courts-martial.

g. Accordingly, she was discharged with an under other than honorable conditions on 20 March 2001, he completed 1 years, 5 months, and 20 days net active service this period with 451 days of lost time (19981102 to 2000126).

h. On 9 May 2025 the Department of the Army, Criminal Investigation Division (DACID) searched the Army criminal file indexes and revealed no records of being a victim of sexual assault and military police reports are indexed pertaining to the applicant.

4. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade her under other than honorable conditions discharge. She contends she experienced military sexual trauma (MST) and resultant PTSD that mitigates her misconduct. 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 Regular Army on 09 July 1998; 2) Court martial charges were preferred against on 07 February 2000 for being AWOL from 02 November 1998-27 January 2000; 3) The applicant was discharged on 29 March 2001, Chapter 10-In lieu of trial by court-martial. Her character of service was under other than honorable conditions.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service records. The VA's Joint Legacy Viewer (JLV) and VA documentation provided by the applicant were also examined. No additional medical records were available for review.

c. The applicant asserts she was exposed to MST and resultant PTSD while on active service, which mitigates her misconduct. There is insufficient evidence the applicant reported any mental health symptoms or was diagnosed with a mental health condition including PTSD while on active service.

d. A review of JLV provided insufficient evidence the applicant has been diagnosed with a service-connected mental health condition including PTSD by the VA. The applicant also does not receive any service-connected disability. She began to engage with the VA for behavioral health treatment in 2024. She reported being exposed to MST and resultant behavioral health symptoms. In addition, she described experiencing mental health symptoms due to current family and personal stressors. The applicant was diagnosed with non-service connected Adjustment Disorder.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence to support 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 experienced MST and resultant PTSD that mitigates her misconduct.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she experienced MST and resultant PTSD that mitigates her misconduct while on active service.

(3) Does the condition experience actually excuse or mitigate the discharge? Yes, there is insufficient evidence beyond self-report the applicant was experiencing a mental health condition including PTSD, while on active service. The applicant did go AWOL for an extended period of time, and this type of avoidant behavior can be a natural sequelae to PTSD. However, the presence of misconduct is not sufficient evidence of a mental health condition. Yet, the applicant contends she was exposed to MST, and her contention alone is sufficient for the Board's consideration per Liberal Consideration. In addition, the applicant did go AWOL, which can be a response to being exposed to sexual harassment or assault.

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. Based upon the misconduct involved and the mitigation found in the medical review, the Board concluded there was sufficient evidence to upgrade the applicant's characterization of service to General, Under Honorable Conditions.

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: Under Honorable Conditions (General)
- 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 upgrading the applicant's characterization of service.

//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. Army Regulation 635-5 (Separation Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

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

a. Honorable Discharge states 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. General Discharge states 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. Chapter 14 of the regulation states action will be taken to separate a Soldier for misconduct when it is clearly established that despite attempts to rehabilitate or develop him or her as a satisfactory Soldier, further effort is unlikely to succeed.

4. 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.

5. On 3 September 2014, 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 post-traumatic stress disorder (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 applicant's service.

6. 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.

7. Section 1556 of Title 10, United States Code, 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.

//NOTHING FOLLOWS//