

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240010865

APPLICANT REQUESTS: upgrade of her under other than honorable conditions (UOTHC) discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 293 (Application for the Review of Discharge)
- Self-Authored Letter
- Statement in Support of Claim
- Medical Documents

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 pertinent part:

- She has dealt with emotional trauma for over 20 years
- The Board should consider her request due to the extreme nature of what she endured
- She was sexually assaulted on a routine basis
- She attempted to report the sexual assault to a captain who then began to participate in repercussions against her
- She endured this physical, emotional, and mental torture until she could not take it
- She was young and uninformed about what she could do to stop this monster
- Her entire career was destroyed along with her mental and emotional stability
- She felt like not one was helping her
- She did not know what else to do so she removed herself
- As a young African American woman, she felt as if she was failed by her superior officers

- All she ever wanted to be was a Soldier and she was an outstanding Soldier until her life was destroyed due to this horrible assault
- She was in fear for her life
- Had this horrible injustice not taken place, she has no doubt she would have served until retirement
- For over 20 years, she has been haunted by what she had to endure
- She has been diagnosed with post-traumatic stress disorder (PTSD), anxiety, and depression and was unable to maintain any form of a healthy relationship due to her distrust for men

3. The applicant provides and her service record shows:

- On 27 January 2003, the applicant enlisted in the Regular Army
- On 27 July 2006, she received a Developmental Counseling Form for being absent without leave (AWOL); she agreed with the counseling and signed the form
- On 20 September 2006, her commander preferred one charge of AWOL from on or about 30 January 2004 to on or about 26 July 2006 against the applicant
- On 23 October 2006, after consulting with counsel, the applicant requested discharge in lieu of trial by court-martial; she included a letter from her attorney, a letter regarding her college enrollment, and letters of support
- On 31 October 2006, the appropriate approval authority approved her request for discharge and directed she receive an UOTHC discharge
- On 9 November 2006, she was discharged from the Army with an UOTHC discharge in lieu of trial by court-martial her separation code was KFS and her reentry code was 4
- On 5 July 2024, she completed a Statement in Support of Claim, wherein she stated she suffered from military sexual trauma (MST)
- The applicant provides medical documents, which will be reviewed by the Army Review Boards Agency (ARBA) Medical Section who will provide an advisory opinion

4. On 28 April 2025, the Criminal Investigation Division responded to a request for information stating there were no sexual harassment/sexual assault investigations pertaining to the applicant.

5. MEDICAL REVIEW:

- a. The applicant is applying to the ABCMR requesting an upgrade of her under other than honorable conditions (UOTHC) discharge to honorable. On her DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD), and Sexual Assault/Harassment are related to her request. 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 Regular Army on 27 January 2003, 2) she was counseled on 27 July 2006 for being absent without leave (AWOL), 3) on 20 September 2006, charges were preferred against the applicant for one specification of going AWOL from on or about 30 January 2004 to on or about 26 July 2006, 4) she was discharged on 09 November 2006 under the provisions of AR 635-200, Chapter 10, with an UOTHC discharge in lieu of trial by court-martial with a separation code of 'KFS' and reentry code of '4,' 5) on 28 April 2025, CID provided a memorandum stating that there were no sexual harassment/sexual assault investigations pertaining to the applicant.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. There was a total of six military medical records available in JLV. The records were void of any BH diagnosis or treatment history. There were not any military medical records included as part of her application.

d. A review of JLV shows the applicant has a 100% service-connected disability rating through the VA for several conditions, to include 70% for PTSD. Two VA Compensation and Pension (C&P) examinations were available for review via VBMS dated on 21 February 2023 and 09 July 2024. Review of the examinations show the applicant was diagnosed with PTSD due to MST during both evaluations, and at the time of her most recent evaluation she was also diagnosed with Alcohol Use Disorder. The applicant included select VA behavioral health treatment records from 2024 through 2025 as part of her application. Review of the records shows that the applicant reported a history of MST and stated that she had experienced symptoms of depression and PTSD for over 20 years as a result. She was diagnosed with PTSD due to MST and started an evidence-based treatment for PTSD in 2025 (Cognitive Processing Therapy (CPT)).

e. In her self-authored statement to the Board, the applicant stated that she was raped on a routine basis while in the military and after making a report she experienced repercussions.

f. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence that the applicant has been diagnosed with PTSD due to MST, which is a potentially mitigating diagnosis/event. This Advisor contends that the applicant's misconduct of going AWOL is mitigated by her diagnosis of PTSD due to MST.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant is 70% service connected through the VA for PTSD due to MST.

(2) Did the condition exist or experience occur during military service? Yes, the applicant is 70% service connected through the VA for PTSD due to MST. Service connection establishes that the condition existed in-service.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. Review of records shows that the applicant has been diagnosed and 70% service-connected through the VA for PTSD due to MST. As there is an association between avoidance behaviors and trauma, there is a nexus between the applicant's misconduct of going AWOL and her diagnosis of PTSD due to MST. Thus, BH mitigation is supported.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, a minority of the Board found that partial relief was warranted by changing the applicant's characterization of service to under honorable conditions (general), and a majority of the Board found that relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was separated for misconduct under the provisions of Army Regulation 635-200, chapter 14-12c (Commission of a Serious Offense). The Board noted the applicant's MST and concurred with the medical advisory that sufficient evidence supported the applicant had been diagnosed with PTSD due to MST, which is a potentially mitigating diagnosis/event. The majority of the Board determined the discharge and the characterization of service the applicant received upon separation was inequitable and an injustice occurred. Therefore, the Board determined her characterization of service should be upgraded to Honorable.

2. The Board considered the following Kurta questions:

a. Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant is 70% service connected through the VA for PTSD due to MST.

b. Did the condition exist or experience occur during military service? Yes, the applicant is 70% service connected through the VA for PTSD due to MST. Service connection establishes that the condition existed in-service.

c. Does the condition or experience actually excuse or mitigate the discharge? Yes. Review of records shows that the applicant has been diagnosed and 70% service-connected through the VA for PTSD due to MST. As there is an association between avoidance behaviors and trauma, there is a nexus between the applicant's misconduct of going AWOL and her diagnosis of PTSD due to MST. Thus, BH mitigation is supported.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>
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XXX	:	XXX	GRANT FULL RELIEF
:		XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that the applicant's DD Form 214 ending on 9 November 2006 be amended by changing her characterization of service to Honorable.

8/22/2025

X //Signed//

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 635-200 (Personnel Separations – Active Duty Enlisted Administrative Separations) sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.
 - a. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier'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.
 - c. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization. It will not be issued to Soldiers solely upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to AD.
 - d. A discharge under other than honorable conditions is an administrative separation from the Service under conditions other than honorable. It may be issued in lieu of trial by court martial.
 - e. A Soldier who requests discharge as prescribed in chapter 10 may be discharged under other than honorable conditions if he/she has been afforded the opportunity (not less than 72 hours) to consult with a consulting counsel.
 - (1) The Soldier must certify in writing that he/she understands that he/she may receive a discharge under other than honorable conditions.
 - (2) The Soldier must understand the adverse nature and possible consequences of such a discharge.

(3) The Soldier must personally sign a request for discharge. A conditional request is not permitted.

(4) The consulting counsel will sign as a witness, indicating that he/she is a commissioned officer of The Judge Advocate General's Corps. A Soldier may waive consultation with a consulting counsel. Counsel will prepare a statement to this effect that will be attached to the file; the Soldier will state that the right to counsel has been waived.

f. A Soldier who has committed an offense or offenses, the punishment for which under the UCMJ and the Manual for Courts-Martial includes a bad conduct or dishonorable discharge, may submit a request for discharge in lieu of trial by court-martial.

3. Army Regulation 635-5-1 (Personnel Separations – Separation Program Designator (SPD) Codes), in effect at the time, prescribes the specific authorities, reasons for separating Soldiers from active duty, and the SPD codes to be entered on DD Form 214. It shows code KFS is used for discharge In Lieu of Trial by Court-Martial.

4. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) table 3-1 (U.S. Army reentry eligibility codes) states:

a. RE-1: Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army.

b. RE-3: Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation or disqualification is waivable.

c. RE-4: Applies to: Person separated from last period of service with a nonwaivable disqualification.

d. RE-4R: Applies to: A person who retired for length of service with 15 or more years active federal service.

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 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 (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.

7. 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 on the basis of 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.

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.

//NOTHING FOLLOWS//