

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 August 2025

DOCKET NUMBER: AR20240011261

APPLICANT REQUESTS:

- reconsideration of her previous request to upgrade her bad conduct discharge (BCD) to an under honorable conditions (general) discharge
- her narrative reason for separation be changed from "Court-Martial, Other" to "Secretarial Authority" with a corresponding separation code

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

- DD Form 149 (Application for Correction of Military Record)
- Brief in Support of Application for Correction of Records (6 pages), with exhibits –
 - Exhibit 1 – DD Forms 214 (Certificate of Release or Discharge from Active Duty), for the periods ending 7 February 1987 and 18 December 1996
 - Exhibit 2 – DD Form 4 (Enlistment/Reenlistment Document)
 - Exhibit 3 – DA Form 2-1 (Personnel Qualification Record – Part II)
 - Exhibit 4 – Court-Martial Orders
 - Exhibit 5 – Community Chefs Center, Limited Liability Company (LLC) Information
 - Exhibit 6 – Character Reference, 4 February 2023
 - Exhibit 7 – Character Reference, 13 February 2023
 - Exhibit 8 – Magazine Article
 - Exhibit 9 – 4 Photographs
 - Exhibit 10 – Behavioral Health Letter and 5 previously considered letters of recommendation

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20150016476 on 16 March 2017.
2. The applicant defers to counsel, and counsel states in a 6-page Brief in Support of Application for Correction of Records that the applicant enlisted as a private first class

on 1 October 1987 and served as a 92G (Food Service Specialist). Her first duty station was at the National Training Center, Fort Irwin, CA. Despite her positive attitude and willingness to serve, she was singled out based on her sexual orientation, which at the time was not condoned by the military. She continued to provide her service details and asserts that she was pressured into confessing and pleading guilty to 3 specifications of using and distributing methamphetamines which led to her court-martial and BCD on 18 December 1996.

b. She has worked hard since her discharge and has become a mentor and leader within her community. She continues to be a role model as she works with children in developing essential life skills. The Community Chefs Center, LLC., helps children learn about food, nutrition, its health benefits, and teaches children how to properly prepare meals, introduces children to new types of fresh vegetables, and how to make a variety of stocks, sauces, and other menu items. She received national recognition for her involvement in the Community Chef Center. She has demonstrated that her character since her discharge has been honorable and is warranted a discharge upgrade.

c. She has been seeing a behavioral health provider since 2016 to help her move past the negative impacts her military service had upon her. She continues to suffer from her experiences, and will continue to suffer this injustice, unless her discharge is upgraded to reflect the honorable service she performed as a Soldier.

3. The applicant provides through counsel:

- a statement, wherein she explains her service experiences, to include that someone cut the break line on her military vehicle, but it was never investigated, and she was being "watched by the military" she has medical records to show the attempts on her life
- more information for her community project as described above
- two reference statements attesting to her character
- a magazine article showing information about her and her wife's business
- 4 photographs of her community work
- Social Worker letter noting she had been involved in the primary care of applicant since 30 November 2021 and was familiar with her mental health history

4. A review of the applicant's service records show:

- after having prior service in the Delayed Entry Program, she enlisted in the Regular Army on 13 October 1987 and held the military occupational specialty 92G (Food Service Specialist)
- on 30 October 1991, before a special court-martial convened at Fort Irwin, CA, she plead and was found guilty of three specifications of wrongfully using methamphetamine and wrongfully distributing methamphetamine

- the court sentenced her to confinement for 4 months, reduction to the lowest enlisted rank/grade of private (PV1)/E-1, forfeiture of \$502 pay per month for 4 months, and a BCD
- on 23 December 1991, the convening authority approved the sentence and, except for the BCD, ordered it executed, the record of trial was forwarded to the Judge Advocate General of the Army for review by the Court of Military Review
- Special Court-Martial Orders Number 1, 31 January 1995 show the U.S. Army Court of Military Review affirmed the finding of guilty and sentence, the portion of the sentence pertaining to confinement had been served and the BCD was ordered duly executed
- on 18 December 1996, she was discharged, under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), Chapter 3, with a narrative reason for separation "court-martial, other" and a separation code "JJD" the DD Form 214, she was issued confirms –
 - she was discharged in the lowest enlisted grade and her service was characterized as BCD
 - she was credited with completed 8 years, 10 months, and 26 days of active service, with lost time from 30 October 1991 to 6 February 1992 and excess leave from 14 February 1992 to 18 December 1996

5. On 16 March 2016 in Docket Number AR20150016476 the Board considered the applicant's petition to upgrade her BCD. After careful consideration, the Board concluded that the narrative reason for separation was not in error or unjust and denied relief. The board also noted her belief that she was discharged for homosexuality was unfounded, the evidence of record clearly showed she was prosecuted and convicted by a court-martial of various drug offenses to which she pled guilty.

6. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting reconsideration of an upgrade to her characterization of service from bad conduct discharge (BCD) to under honorable conditions (general) and a change to her narrative reason for separation. She contends she experienced an undiagnosed mental health condition 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 13 October 1987.

- The applicant pled and was found guilty of three specifications of wrongfully using methamphetamine and wrongfully distributing methamphetamine before a special court-martial on 30 October 1991.
- Special Court-Martial Orders Number 1, 31 January 1995, show the U.S. Army Court of Military Review affirmed the finding of guilty, and the BCD was ordered duly executed.
- The applicant was discharged on 18 December 1996 and was credited with completing 8 years, 10 months, and 26 days of active service with lost time from 30 October 1991 to 6 February 1992 and excess leave from 14 February 1992 to 18 December 1996.

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 singled out because of her sexual orientation, and she was pressured into confessing and pleading guilty to three specifications of using and distributing methamphetamines. She also stated she has suffered mentally because of her experiences, and she indicated "other mental health" as an issue or condition related to her request. A letter from a social worker at the Marietta Vet Center dated 12 July 2022 showed that the applicant initiated treatment in November 2021 for "readjustment issues and concerns related to her time in the military." Symptoms of PTSD are listed, and the provider references "traumatic events" that occurred while the applicant was serving in the Army. There was insufficient evidence that the applicant was diagnosed with a 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 records. The applicant is ineligible for VA services because of her discharge, and Vet Center records are not available for review.

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 at the time of the misconduct. She provided a letter from her Vet Center provider from 2022 that did not provide a diagnosis but did indicate a history of PTSD associated symptoms, which stemmed from her military 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) while on active service. While the applicant did provide a letter from her mental health provider, 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:

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 and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of her characterization of service. The Board determined based on medical review, there is insufficient evidence beyond self-report that the applicant was experiencing a mental health condition while on active service.

2. The Board considered the following 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 at the time of the misconduct.

(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 conditions while on active service. While the applicant did provide a letter from her mental health provider, there is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service.

3. The Board concurred with the medical advisor's review finding insufficient evidence to support that the applicant had a condition or experience that mitigates her misconduct. The Board agreed the applicant has not demonstrated by a preponderance of evidence an error or injustice warranting the requested relief, specifically upgrade of the BCD, a change to the narrative reason for separation and the corresponding separation code.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XX	XX	XX	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 amendment of the ABCMR decision rendered in Docket Number AR20150016476 on 16 March 2017.



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 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 (ABCMR) applicant's (and/or their counsel) prior to adjudication.

2. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities for separating Soldiers from active duty and the separation codes to be entered on the DD Form 214. The separation code is an administrative code used to designate the narrative reason for separation. The separation code "JJD" is the appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200, Chapter 3, by reason of a court-martial sentence. The SPD/RE Code Cross Reference Table included in the regulation establishes that RE code "4" is the proper code to assign members separated with separation code "JJD."

3. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that

a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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 was 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 Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 3 provided that an enlisted person would be given a BCD pursuant only to an approved sentence of a general or special court-martial, after completion of appellate review, and after such affirmed sentence has been ordered duly executed.

4. Court-martial convictions stand as adjudged or modified by appeal through the judicial process. In accordance with Title 10, USC, Section 1552, the authority under which this Board acts, the ABCMR is not empowered to set aside a conviction. Rather,

it is only empowered to change the severity of the sentence imposed in the court-martial process and then only if clemency is determined to be appropriate. Clemency is an act of mercy or instance of leniency to moderate the severity of the punishment imposed.

5. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service 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 condition (UOTHC) 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 to 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 DRBs and 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, Boards 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//