

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 May 2025

DOCKET NUMBER: AR20240011527

APPLICANT REQUESTS: an upgrade of her characterization of service from under other than honorable conditions to general, under honorable conditions

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 30 August 1982
- Medical Records (12 pages), showing treatment for paranoid schizophrenia and schizoaffective disorder, bipolar type

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 was suffering from mental illness, and she was subjected to sexual harassment while serving in the Army. Her schizophrenia started in 1981. She would like a General Discharge so she can access Department of Veterans Affairs services.
3. A review of the applicant's service record shows:
 - a. She enlisted in the Regular Army on 10 June 1981, for a period of three years.
 - b. She accepted nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice on:
 - 10 September 1981, for without authority, absenting herself from her unit from on or about 7 September 1981 to on or about 8 September 1981

- 7 October 1981, for on or about 26 September 1981, failing to go at the time prescribed to her appointed place of duty
- c. DD Form 458 (Charge Sheet) shows court-martial charges were preferred on 8 July 1982 for being absent without leave (AWOL) from on or about 6 January 1982 to on or about 6 July 1982.
- d. On 9 July 1982, she requested separation under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 10, for the good of the service, in lieu of court-martial.
- e. The chain of command recommended approval and issuance of an under other than honorable conditions discharge.
- f. On 28 July 1982, the separation authority approved the recommended discharge, directed she be reduced to the lowest enlisted grade, and issued an under other than honorable conditions discharge.
- g. Accordingly, she was discharged under other than honorable conditions on 30 August 1982. Her DD Form 214 shows she completed 8 months and 20 days of net active service this period. This form also shows in:
- Item 28 (Narrative Reason for Separation): Administrative Discharge Conduct Triable by Court-Martial
 - Item 29 (Dates of Time Lost During This Period): 7 September 1981 – 7 September 1981 and 6 January 1982 – 5 July 1982
4. On 4 December 2024, the Department of the Army, Criminal Investigation Division provided a response which states a search of the Army criminal file indexes revealed no Sexual Assault or Domestic Violence investigation pertaining to the applicant.
5. On 18 September 1985, the Army Discharge Review Board denied the applicant's request to upgrade her discharge. The Board determined that she was properly and equitably discharged.
6. 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.

MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of her characterization of service from under other than honorable conditions. She contends she experienced sexual harassment and mental health conditions which mitigate 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 the Regular Army on 10 June 1981; 2) The applicant accepted non-judicial punishment (NJP) on 10 September 1981 for being absent from her unit from 07-08 September 1981, and she accepted NJP on 07 October 1981 for failing to be on time to her place of duty; 3) On 08 July 1982, court-martial charges were preferred against the applicant for being AWOL from 06 January-06 July 1982; 4) On 30 August 1982, the applicant was discharged, Chapter 10, Conduct Triable by Court-Martial, with an under other than honorable character of service. She completed 8 months and 20 days of net active service this period.

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

c. The applicant asserts she was experiencing sexual harassment and mental health conditions, which mitigate her misconduct. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition, while on active service.

d. A review of JLV provided insufficient evidence the applicant has been diagnosed with a service-connected mental health condition by the VA, and she does not receive any service-connected disability for a mental health condition. The applicant provided civilian medical documentation from Penn State Health dated between 2022-2024, including a medication list. There is evidence the applicant was diagnosed and treated for Paranoid Schizophrenia and Schizoaffective Disorder, Bipolar Type. There was insufficient evidence provided on the history of these diagnoses beyond that the applicant reported being treated in an inpatient psychiatric hospital for five years when she was in her "50s." There was also insufficient evidence provided on how the applicant's military service was related to her diagnoses.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence to support the applicant had a mental health 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 misconduct? Yes, the applicant asserts she experienced sexual harassment and mental health conditions, which mitigate her misconduct. The applicant provided evidence of being diagnosed with Paranoid Schizophrenia and Schizoaffective Disorder in 2022-2024.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she experienced sexual harassment and mental health condition while on active service that mitigate her misconduct.

(3) Does the condition or experience actually excuse or mitigate the misconduct? No, there is insufficient evidence beyond self-report the applicant was experiencing a mental health condition, while she was on active service. The applicant did provide civilian medical documentation from 2022-2024 of being diagnosed with severe mental health conditions. However, there was insufficient evidence provided that the applicant was experiencing these conditions during her active service. The applicant also reported she was exposed to sexual harassment, which is sufficient for the Board's consideration for mitigation, per Liberal Consideration. The applicant did engage in avoidant behavior such as going AWOL and not being at her place of duty, which could be a natural sequela to her later diagnosed mental health conditions and sexual harassment. However, the presence of misconduct is not sufficient evidence of the presence of a mitigating mental health condition during active service. Yet, the applicant contends she was experiencing a mental health condition and an experience during active service that mitigates her misconduct, and per Liberal Consideration her contention alone is sufficient for the board's consideration.

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 relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the victim-less misconduct and the type of misconduct leading to the applicant's separation, the Board concluded that granting clemency by upgrading to General, Under Honorable Conditions was warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:XXX	:XXX	:XXX	GRANT FULL RELIEF
:	:	:	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 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

//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 635-200 (Personnel Separations - Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 provided that a member who committed an offense or offenses, the punishment for which includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The request for discharge may be submitted at any time after court-martial charges are preferred against the member, regardless of whether the charges are referred to a court-martial and regardless of the type of court-martial to which the charges may be referred. The request for discharge may be submitted at any stage in the processing of the charges until final action on the case by the court-martial convening authority. Commanders will ensure that a member is not coerced into submitting a request for discharge for the good of the service. The member is given reasonable time to consult with a consulting counsel and to consider the wisdom of submitting such a request for discharge. After receiving counseling, the member may elect to submit a request for discharge for the good of the service. The member 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 member 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 member's overall record during their current enlistment. For members who had completed entry level status, characterization of service as honorable was not authorized unless the member's record was otherwise so meritorious that any other characterization clearly would be improper.

b. An honorable discharge is a separation with honor. Issuance of an honorable discharge certificate is predicated upon proper military behavior and proficient performance of duty during the member's current enlistment or period of obligated service with due consideration for the member's age, length of service, grade, and general aptitude. Where a member has served faithfully and performed to the best of his ability and there is no derogatory information in his military record, he should be furnished an honorable discharge certificate.

c. A general discharge is a separation from the Army under honorable conditions. It is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. The recipient of a general discharge is normally a member whose military record and performance is satisfactory.

d. A discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct or for the good of the service.

3. 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; TBI; sexual assault; sexual harassment. Boards were directed 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 that misconduct which led to the discharge.

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 regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. 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.

5. 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. 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//