

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 August 2025

DOCKET NUMBER: AR20240011834

APPLICANT REQUESTS:

- an upgrade of her under other than honorable conditions discharge
- restoration of her grade to E-3

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

- DD Form 149 (Application for Correction of Military Record)
- VA Form 10-5345, 5 September 2024

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 is requesting a review and upgrade of her discharge, and her rank restored. This would allow her to receive her benefits from the Department of Veterans Affairs (VA) and provide for herself. The applicant indicates post-traumatic stress disorder (PTSD) on the DD Form 149 as a condition related to her request.
3. A review of the applicant's service record shows:
 - a. She enlisted in the Regular Army on 25 July 1989.
 - b. Her DA Form 2-1 (Personnel Qualification Record) shows she served in Germany from 13 December 1989 to 17 July 1992. It also lists in Item 18 (Appointments and Reductions) the following:
 - private, E-2 (PV2) – 25 January 1990
 - private first class, E-3 (PFC) – 1 June 1990
 - specialist (SPC) – 1 September 1991
 - PFC – 7 March 1994

- private, E-1 (PVT) – 6 May 1994

c. On 28 April 1994, the applicant's company commander notified the applicant of his intent to separate her under the provisions of Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), chapter 14-12b and chapter 14-12c for patterns of misconduct and abuse of illegal drugs. The specific reasons for his proposed recommendation were for failure to take responsibility to recover dishonored checks made and uttered in her name; failure to maintain sufficient funds; failure to obey a lawful order for which she received an Article 15 on 3 March 1994; and for testing positive for marijuana on 23 March 1994.

d. The applicant's separation processing noted the applicant received nonjudicial punishment: however, the service record is void of the documentation.

e. On 29 April 1994, after consultation with legal counsel, she acknowledged the rights available to her and the effect of waiving said rights.

f. On 29 April 1994, her immediate commander initiated separation action against the applicant for a pattern of misconduct and abuse of illegal drugs. He recommended that she receive an under other than honorable conditions discharge. The intermediate commander recommended approval.

g. On 6 May 1994, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation, under the provisions of Chapter 14, AR 635-200, paragraph 14-12b (1)(2) (Patterns of Misconduct) and paragraph 14-12c (2) (Commission of a Serious Offense-Use of Illegal Drugs). She would be issued an under other than honorable conditions characterization of service and reduced to the lowest enlisted grade.

h. On 11 May 1994, she was discharged from active duty with an under other than honorable conditions discharge in the grade of E-1. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 4 years, 9 months, and 17 days of active service. She was assigned separation code JKK and the narrative reason for separation listed as "Misconduct." It also shows she was awarded or authorized:

- Army Service Ribbon
- National Defense Service Medal
- Overseas Service Bars
- Marksman Marksmanship Qualification Badge (M-16)
- Army Good Conduct Medal

4. On 2 December 2024, the applicant was notified by the Army Review Boards Agency that she was required to provide a copy of medical documentation to support her claim of PTSD. The applicant was provided 30 days to submit supporting documentation with a suspense of 2 January 2025. On 1 January 2025, the applicant responded via email stating that she was never diagnosed with PTSD.

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. The applicant is applying to the ABCMR requesting an upgrade of her Under Other Than Honorable Conditions (UOTHC) discharge. Her request for restoration of her grade to E-3 is outside of the scope of this Advisory and will not be addressed. On her DD Form 149, the applicant indicated Posttraumatic Stress Disorder (PTSD) is 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 25 July 1989, 2) on 28 April 1994 she was notified by her commander of his intent to separate her under the provisions of AR 635-200, chapter 14-12b and 14-12c for patterns of misconduct and abuse of illegal drugs. The specific reasons identified for the specified action were documented as failure to take responsibility to recover dishonored checks made and uttered in her name, failure to maintain sufficient funds, failure to obey a lawful order, and for testing positive for marijuana on 23 March 1994, 3) the applicant was discharged on 11 May 1994 under the provisions of AR 635-200, paragraph 14-12c(2) with the narrative reason for separation documented as 'misconduct' and separation code of 'JKK,' 4) on 01 January 2025 the applicant responded to an email from ARBA requesting a copy of medical documentation to support her claim of PTSD. The applicant stated that she had never been diagnosed with PTSD and thus was unable to provide the requested documentation.

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. The applicant did not include any medical records for review as part of her application. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. There were no military medical records available for review.

d. A review of JLV was void of medical information and void of any documentation showing that she has been service-connected through the VA for any conditions.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant had a condition or experience during her time in service that mitigated her misconduct. However, she contends that her misconduct was related to PTSD, and, per liberal guidance, her assertion is sufficient to warrant the Board's consideration.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant contends her misconduct was related to PTSD.

(2) Did the condition exist or experience occur during military service? Yes, per the applicant's assertion.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There were no medical records available for review and the applicant provided no medical documentation supporting her assertion of PTSD. In absence of documentation supporting her assertion, there is insufficient evidence to establish her misconduct was related to or mitigated by PTSD and insufficient evidence to support an upgrade based on BH mitigation. However, she contends that her misconduct was related to PTSD, and, per liberal guidance, her assertion is sufficient to warrant 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 determination requests for upgrade of her characterization of service. The Board found there is insufficient evidence to support the applicant had a condition or experience that mitigated her misconduct. The Board agreed there is no evidence supporting the applicant was experiencing PTSD or a mental health condition while on active service. Based on this, the Board determined relief was not warranted and denied the request for relief.

2. This board is not an investigative body. The Board determined despite the absence of the applicant's medical records, they agreed the burden of proof rest on the applicant, however, she did not provide any supporting documentation, and her service record has

insufficient evidence to support the applicant's contentions of behavioral health concerns.

3. Prior to closing the discussion, the Board noted and concurred with the administrative note below to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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 correction of the records of the individual concerned.

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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's record shows his DD Form 214, for the period ending 11 May 1994, is missing important entries that affect her eligibility for post-service benefits. As a result, amend the DD Form 214 by adding the following entries in item 18 (Remarks):

- SOLDIER HAS COMPLETED FIRST FULL TERM OF SERVICE
- CONTINUOUS HONORABLE SERVICE FROM 890725 UNTIL 930923

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 635-5 (Separation Documents), in effect at the time, 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.

4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (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. Paragraph 3-7b (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.

5. 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//