

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 August 2025

DOCKET NUMBER: AR20240012684

APPLICANT REQUESTS:

- upgrade of her under honorable conditions (General) discharge
- amendment of the narrative reason to Secretarial Authority

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

- DD Form 149 (Application for Correction of Military Record), 25 September 2024
- Counsel Statement and Brief Presentation (25 pages)
- Exhibits (Ex) Table of Contents
- Ex A: Applicable Statutes and Regulations, Title 10 U.S. Code, Section 1552, Title 10 U.S. Code, Section 1553, Title 32, Code of Federal Regulations (CFR) Section 70.8, Title 32, CFR Section 70.9, Title 32, CFR Section 723.1 and 723.3
- Ex B: memorandum, Principal Deputy Under Secretary of Defense (PDUSD), 24 February 2016 ("Carson Memo")
- Ex C: 25 pages of military service records and 75 pages of medical documents
- Ex D: Declaration of Applicant, 13 September 2024
- Ex E: 13 letters of support and character references
- Ex F: memorandum, Office of the Under Secretary of Defense (OUSD), 25 August 2017 ("Kurta Memo")
- Ex G: memorandum, Under Secretary of Defense (USD), 25 July 2018
- Ex H: Department of Defense Instruction (DoDI) 1332.28 (Discharge Review Board Procedures and Standards) (DRB), 4 April 2004
- Ex I: memorandum, Secretary of Defense, 3 September 2014 ("Hagel Memo")
- Ex J: Department of Justice (DOJ), Federal Bureau of Investigation (FBI) Police Report, 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 annotated on her DD Form 149 application that post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), other mental health, and sexual assault and harassment, are issues or conditions related to her request.

3. The applicant states through counsel in a 25-page brief presentation that she served in Iraq for a year-long deployment and suffered discrimination and sexual assault as the only Black woman serving in her platoon. She experienced numerous traumatic and stressful events during this deployment, including a mortar explosion in her vicinity, the loss of fellow service members who were killed in action, all of which contributed to her eventual adjustment disorder with depression and anxiety with PTSD. She received no meaningful health care during her time in Iraq. She further states, in effect:

- since her discharge she has struggled with physical and mental health conditions
- she set up her own non-profit to help mentor young women
- guidance issued by the Department of Defense gives her ample grounds for a grant of an upgrade, including Carson, Kurta, Wilkie, and Hagel memoranda
- the multiple traumatic events included a mortar attack which occurred at a building near her in Tikrit, Iraq; patterns of harassment against her due to racist behavior of Soldiers senior to her, including a burning a noose in front of her, discussions about slavery and lynching; forcibly being kissed by other Soldiers without her consent; pinning her into a position and holding her against her will
- she has worked in her community as a volunteer
- letters provided from those who know her attest to her volunteerism and professionalism

4. The applicant provides an 8-page declaration, outlining her service and her experiences in Germany and Iraq, noting the effects abuse and trauma resulting in her discharge led to 100% VA Disability Rating for PTSD, depression, and anxiety. She is doing much better now with treatment and is currently sponsoring transitioning service members in her community.

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

a. On 11 May 2005, she enlisted in the Regular Army for 4 years. She attained the rank private first class (PFC).

b. She accepted nonjudicial punishment (NJP) on 3 May 2007 for multiple instances of failing to go to her appointed place of duty at 141st Signal Battalion, Germany, disrespect and disobedience to a noncommissioned officer (NCO). She was reduced to private 2 and was given extra duty and restriction.

c. She deployed to Iraq on 21 September 2007.

d. She accepted NJP on 6 January 2008 for failing to obey lawful orders from a NCO on three occasions and for disrespectful language towards an NCO on two occasions. She was reduced to private 2, forfeited some pay, and received extra duty and restriction. Her appeal was denied.

e. She accepted NJP on 15 August 2008 for disrespectful language and disobedience towards an NCO, and disorderly conduct. Any punishment given was not recorded. Her rank was shown as PFC.

f. On 18 August 2008, her company commander notified her of his intent to initiate her separation under provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 14-12b(2) for patterns of misconduct, advised her of her rights, and he was recommending her for an under honorable conditions (General) characterization of service.

g. On the same date he forwarded his recommendation to the chain of command.

h. On 27 August 2008, she indicated she understood her rights and in so doing understood that she may be ineligible for many or all benefits under Federal and State laws. She elected representation by counsel and provided a statement in her own behalf. This statement is not available for review.

i. On 3 September 2008, the separation authority approved her discharge with an under honorable conditions (General) characterization of service.

j. On 16 September 2008, she returned from Iraq.

k. On 27 September 2008, she was discharged. Her DD Form 214 reflects she was separated under provisions of Army Regulation 635-200, paragraph 14-12b with an under honorable conditions (General) characterization of service. She completed 3 years, 4 months, and 17 days of net active service.

6. On 8 March 2013, the Army Discharge Review Board denied her application for an upgrade of her discharge, finding it was both proper and equitable.

7. On 23 June 2025, the Army Review Boards Agency requested the U.S. Army Crime Records Center to provide any redacted Criminal Investigation Division or Military Police Record of Investigation of Military Sexual Assault/Trauma, in response to the applicant's issues. Its search of the Army criminal files indexes revealed no records pertaining to the applicant.

8. 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. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to her characterization of service from under honorable conditions (general) to honorable and a change to the narrative reason for separation. She contends she experienced an undiagnosed mental health condition, including PTSD, TBI, and sexual assault/harassment (MST) 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 11 May 2005.
- The applicant received NJP for multiple instances failing to be at her appointed place of duty on 3 May 2007.
- She deployed to Iraq on 21 September 2007 and accepted NJP on 6 January 2008 for failing to obey lawful orders on three occasions and disrespectful language to an NCO on two occasions.
- She accepted NJP on 15 August 2008 for disrespectful language and disobedience towards an NCO, and disorderly conduct.
- On 18 August 2008, her company commander notified her of his intent to initiate her separation under provisions of Army Regulation 635-200, paragraph 14-12b(2) for patterns of misconduct, which was approved on 3 September 2008.
- On 16 September 2008 she returned from Iraq.
- The applicant was discharged on 27 September 2008 and completed 3 years, 4 months, and 17 days of net active service.

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 experienced racial discrimination and MST while serving, and during her deployment to Iraq, she encountered several traumatic events, including mortar attacks and loss of fellow service members. She did not receive meaningful healthcare while in Iraq and has been suffering from anxiety and depression. She indicated PTSD, MST, TBI, and "other mental health" as issues or conditions related to her request. An evaluation by a medical doctor for QTC Medical Group with examination date of 24 November 2009 showed the applicant reported cognitive and other symptoms associated with TBI, but there was no indication of functional impairment. A psychological evaluation by a psychologist was performed at the same date, and the applicant reported experiencing racism and sexual harassment, and she attributed some symptoms to having been near a mortar attack. Despite the number of symptoms she reported, the evaluator diagnosed her with Bipolar Disorder not otherwise specified (NOS) and Adjustment Disorder with mixed depression and anxiety. A number of VA

mental health records were included in the application, and those will be summarized below. A VA Rating Decision letter dated 10 April 2010 showed the applicant is 50% service connected for Adjustment Disorder with depression and anxiety, and the claim was denied for TBI and PTSD. A second Rating Decision letter dated 23 June 2010 showed her rating for Adjustment Disorder was increased to 70 percent, and the rating is dated back to 28 September 2008. Another psychological evaluation dated 26 May 2011 was also noted, and the applicant reported deployment related trauma exposure (i.e. mortar exploded across the street; witnessing others being killed and losing a close comrade). She was diagnosed with PTSD and Alcohol and Marijuana Abuse secondary to PTSD. A VA Rating Decision letter dated 6 September 2011 indicated a change in the applicant's mental health diagnosis to PTSD and an increase in her disability to 100 percent. A Review Disability Benefits Questionnaire (DBQ) from 29 December 2015 concluded diagnoses of Somatic Symptom Disorder, Other Specified Bipolar Disorder, and Cannabis Use Disorder, and a VA Rating Decision letter dated 2 January 2016 continued her 100% service connection for PTSD. There are two additional VA letters showing the same. A Report of Mental Status Evaluation dated 8 August 2008 showed no indication of any mental health symptoms or diagnoses, and the applicant had capacity to understand and participate in the proceedings. A Report of Medical Examination dated 9 August 2008 showed no indication of any psychiatric symptoms and that the applicant was qualified for service. A Report of Medical History, completed by the applicant on 7 August 2008, showed she indicated anxiety/panic attacks, trouble sleeping, and depression/excessive worry, and she had been evaluated or treated for a mental condition. It was noted by the evaluator that the applicant reported she had been treated for adjustment disorder with anxiety and somatoform disorder within the previous eight months. There was evidence the applicant reported mental health symptoms but insufficient evidence that the applicant was diagnosed with PTSD or another 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 the applicant's initial encounter with mental health was on 28 February 2008 when she was referred due to multiple physical health problems with no known etiology. She discussed worries about family back home (she was deployed) and interpersonal problems with coworkers, and she was diagnosed with Adjustment Disorder. Psychological testing was conducted and indicated the applicant had a tendency to deal with psychological problems through somatic complaints, and she was diagnosed with Somatoform Disorder. Documentation from a Chapter 14 Mental Status Evaluation on 8 August 2008 discussed the applicant's misconduct and problems within her unit. She denied combat-related trauma exposure and symptoms of PTSD or depression, and there was no indication of a diagnosis.

The applicant initiated care at the VA on 6 October 2008 and reported to her primary care provider that she was "touched inappropriately while in Iraq and was reported; pt denies any (history) of rape." She was evaluated by a therapist and prescriber and

reported symptoms of depression, and she was diagnosed with Major Depressive Disorder. A neuropsychological evaluation, including objective testing, was conducted on 28 October 2008, and the results showed average cognitive functioning with a slight weakness in auditory attention span and reduced ability to concentrate. This was attributed to her high level of emotional distress, and she was diagnosed with Major Depression with a rule out diagnosis of PTSD. Results from a CT scan showed no abnormalities.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient 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 a mental health condition, including PTSD, at the time of the misconduct. DoD mental health records showed the applicant was diagnosed with Adjustment Disorder and Somatoform Disorder while on active service. VA records showed she is 100% service connected for PTSD dating back to 28 September 2008, and shortly after her discharge, she was diagnosed and treated for Major Depressive Disorder. She also reported MST during her initial encounter with VA. Subsequent records showed diagnosis of PTSD. Documentation from October 2008 did not confirm a diagnosis of TBI and attributed the applicant's cognitive symptoms to her emotional distress.

(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. She deployed to Iraq from September 2007 to September 2008.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records revealed documentation of mental health condition(s) while on active service, and the applicant is 100% service connected for PTSD related to MST and deployment-related trauma exposure. There is insufficient evidence of a TBI of sufficient severity to be considered a mitigating condition. Nonetheless, the applicant asserts a fully mitigating behavioral health experience, MST, and there is an association between MST and the applicant's behavior consisting of her pattern of misconduct (i.e. disrespect for authority; disrespectful behavior). In accordance with Liberal Consideration, a nexus can be drawn between her mental health condition, including MST, and her pattern of misconduct.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, 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.

- Upgrade to Character of Service: Grant. The applicant was separated for a pattern of misconduct. The Board noted that applicant had three NJP's for failing to go to place of duty, disrespect, and failing to obey a lawful order. However, the Board concurred with the medical advisory official that there is sufficient evidence to support that the applicant had a condition or experience that mitigates her misconduct. The applicant was diagnosed with adjustment disorder and Somatoform Disorder while on active service and is 100% service connected for PTSD dating back to 28 September 2008, and shortly after her discharge, she was diagnosed and treated for Major Depressive Disorder. Therefore, the Board determined there was sufficient evidence to warrant an upgrade to her character of service due to her mental health diagnosis and liberal consideration guidance and granted relief.
- Change Narrative Reason for Separation to Secretarial Authority: Grant. The applicant was separated for misconduct; however, the Board concurred with the medical advisory official that supports she had a condition or experience that mitigates her misconduct. The Board also notes her service in combat in Iraq, and her claim of an MST. Therefore, based on a preponderance of the evidence, and clemency, the Board concluded that her narrative reason for separation should be changed and granted relief.

2. Based upon the misconduct leading to the applicant's separation and the following recommendation found in the medical review related to the liberal consideration:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts she had a mental health condition, including PTSD, at the time of the misconduct. DoD mental health records showed the applicant was diagnosed with adjustment disorder and Somatoform Disorder while on active service. VA records showed she is 100% service connected for PTSD dating back to 28 September 2008, and shortly after her discharge, she was diagnosed and treated for Major Depressive Disorder. She also reported MST during her initial encounter with VA. Subsequent records showed diagnosis of PTSD. Documentation from October 2008 did

not confirm a diagnosis of TBI and attributed the applicant’s cognitive symptoms to her emotional distress.

(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. She deployed to Iraq from September 2007 to September 2008.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records revealed documentation of mental health condition(s) while on active service, and the applicant is 100% service connected for PTSD related to MST and deployment-related trauma exposure. There is insufficient evidence of a TBI of sufficient severity to be considered a mitigating condition. Nonetheless, the applicant asserts a fully mitigating behavioral health experience, MST, and there is an association between MST and the applicant’s behavior consisting of her pattern of misconduct (i.e. disrespect for authority; disrespectful behavior). In accordance with Liberal Consideration, a nexus can be drawn between her mental health condition, including MST, and her pattern of misconduct.

The Board concluded there was sufficient evidence of an error or injustice warranting a change to the applicant’s characterization of service and narrative reason for separation.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant’s DD Form 214, for the period

ending 27 September 2008 to show in:

Item 24: (Character of Service): Honorable
Item 28 (Narrative Reason for Separation): “

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. Section 1556 of Title 10, U.S. 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.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) 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.

a. Paragraph 3-7a provides 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 is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter.

c. Paragraph 14-12b provides guidance for Soldiers subject to action for a pattern of misconduct. A pattern of misconduct may include discreditable involvement with civil or military authorities; discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found

in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

4. 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.

5. On 25 August 2017, The acting Under Secretary of Defense for Personnel and Readiness provided clarifying guidance which expanded the 2014 Secretary of Defense memorandum, that directed the BCM/NRs and DRBs to give liberal consideration to veterans looking to upgrade their less-than-honorable discharges by expanding review of discharges involving diagnosed, undiagnosed, or misdiagnosed mental health conditions, including PTSD; traumatic brain injury; or who reported sexual assault or sexual harassment.

6. 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/NR) 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.

//NOTHING FOLLOWS//