

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 April 2024

DOCKET NUMBER: AR20230001386

APPLICANT REQUESTS:

- reconsideration of his previous request to change his uncharacterized discharge to an honorable discharge and to change the narrative reason for separation to a medical condition.
- in effect, any awards and medals authorized for his time in service.

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)
- Transcript from Penn Foster Career School, 5 April 2006
- Infantry School Training Certificate, 29 February 2008
- Department of Veterans Affairs (VA) Medications and Problems and Conditions Document
- DD Form 2586 (Verification of Military Experience and Training), 1 April 2015

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 AR20090016322 on 4 February 2010 and in Docket Number AR20150016882 on 23 March 2017.

2. The applicant states, in effect, he is requesting these changes for VA service-connections, for U.S. Army accountability for injuries he incurred/aggravated on active duty, U.S. Army accountability for life altering events, and recognition for his active component service during wartime.

3. The applicant provides the following documentation:

- a. A transcript from Penn Foster Career School, dated 5 April 2006.

b. A certificate from the 198th Infantry Brigade, U.S. Army Infantry School, which states he successfully completed individual infantry training at the 198th Infantry Brigade, Course Number 8007C from 2 November 2007 to 29 February 2008.

c. A document from the VA, which shows a list of his medications and both active and inactive problems and conditions he was treated for by the VA. This list shows he was treated multiple times for chronic back pain, depression, post-traumatic stress disorder (PTSD), personal history of traumatic brain injury (TBI), mood disorder, and adjustment disorder with mixed anxiety and depression.

d. DD Form 2586 dated 1 April 2015, which provides a list of the applicant's military experience and training history data. This document shows he completed Army course 11C (Indirect Fire Infantryman).

4. A review of the applicant's service record shows:

a. DD Form 2808 (Report of Medical Examination), dated 10 October 2007, shows the applicant was qualified for service at the time of entry.

b. DD Form 2807-1 (Report of Medical History), dated 10 October 2007, shows the applicant answered "no" to recurrent back pain or any back problems.

c. DD Form 4 (Enlistment/Reenlistment Document) shows he enlisted in the Regular Army on 22 October 2007. He was assigned to Fort Benning, GA, for completion of One Station Unit Training (OSUT).

d. DA Form 4856 (Developmental Counseling Form), dated 12 December 2007, shows the applicant received an initial counseling for a discharge under the provision of Army Regulation (AR) 635-200 (Personnel Separations – Active Duty Enlisted Administrative Separations), chapter 5-11, separation of personnel who did not meet procurement medical fitness standards. The counseling stated the applicant returned from the medical facility with a recommendation for a condition that existed prior to service (EPTS). It stated that the applicant was unable to perform his duties as a Soldier. The chain of command would continue to monitor his conduct, in hopes that it would improve and enable him to continue with the remainder of his training. He was informed that if he were involuntarily separated, he could receive an entry-level separation (uncharacterized), honorable discharge, or a general, under honorable conditions discharge. He was informed that if he had less than 181 days of continuous service, he could receive an uncharacterized discharge.

e. DA Form 4707 (Entrance Physical Standards Board (EPSBD)) Proceedings, dated 13 December 2007, shows he was evaluated at the U.S. Army Medical

Department Activity, Fort Benning, GA, during the seventh week of training and identified as having a condition that EPTS. It also shows:

(1) The applicant had a history of low back pain that started in his sixth week of basic combat training. His back pain was associated with pushups and other training. He then slipped and fell on a wet range. He did not relate a history of back pain prior to his entry into the service. The evaluating physician noted that the applicant was unable to complete the physical training required to graduate from basic combat training.

(2) Upon examination the applicant was diagnosed with anterolisthesis L5-S1, symptomatic. The evaluating physician recommended that he be separated from military service.

(3) His profile and assignment limitations consisted of no running, jumping, marching, Army Physical Fitness Training, or strenuous activity.

f. DD Form 2697 (Report of Medical Assessment), dated 28 January 2008, shows the applicant underwent a medical assessment for the purpose of separation. The health care provider noted that the applicant had lumbago problems and was on profile. He was also taking the following medications: methocarbamol and naproxen.

g. DA Form 4856 shows the applicant was counseled on 12 February 2008. His drill sergeant stated that after observing the applicant's ability to perform physically for the past few weeks, he did not achieve military standards and he recommended that he be processed out of the military under the provision of AR 635-200, chapter 5-11.

h. DD Form 2967, dated 14 February 2008, shows the applicant underwent an additional medical assessment for the purpose of separation. The health care provider noted that other than back pain, the applicant had no new complaints.

i. On 27 February 2008, the medical approving authority approved the findings and recommendations of the EPSBD proceedings.

j. On the same date, the applicant's EPSBD proceedings were forwarded to the applicant's unit for appropriate action in accordance with AR 635-200, paragraph 5-11.

k. On 3 March 2008, the applicant acknowledged that he was informed of the medical findings. He also acknowledged he understood that legal advice of an attorney employed by the Army was available to him and that he could consult with civilian counsel at his own expense. He further acknowledged he understood he could request a discharge from the Army without delay or request retention on active duty, and if retained he could be involuntarily reclassified into another military occupational specialty

(MOS). After counseling, the applicant concurred with the proceedings and requested a discharge from the Army without delay.

l. On 4 March 2008, the applicant's immediate commander recommended approval of the discharge.

m. On 6 March 2008, the battalion commander recommended approval of the discharge under the provisions of AR 635-200, chapter 11, procurement medical fitness standards.

n. On 7 March 2008, the separation authority approved the recommended discharge.

o. The applicant was discharged on 18 March 2008. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under the provisions of AR 635-200, paragraph 5-11, by reason of failed medical/physical/procurement standards. His service was uncharacterized. This form shows in:

- Item 11 (Primary Specialty): None
- Item 12c (Net Active Service This Period): 4 months and 27 days
- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): None
- Item 14 (Military Education): None
- Item 18 (Remarks): Member has not completed first full term of service.

5. The applicant's service record does not contain any recommendations or orders awarding him any medals or awards for his time in service and his enlisted record brief (ERB) does not list any awards in Section VII (Awards and Decorations).

6. The ABCMR considered the applicant's request to change his uncharacterized discharge to an honorable discharge in ABCMR Docket Number AR20090016322, on 4 February 2010. The Board determined that the evidence of record confirmed the applicant was separated while still in an entry level status based on an EPTS medical condition, after undergoing evaluation by a properly constituted EPSBD. The evidence showed the EPSBD's findings and recommendations were approved by the appropriate medical authority and the applicant agreed with the Board's findings and requested immediate discharge. Therefore, there was insufficient basis to support granting the requested relief.

7. The ABCMR considered the applicant's request to change his uncharacterized discharge in ABCMR Docket Number AR20150016882, on 23 March 2017. The Board determined that the evidence presented did not demonstrate the existence of a

probable error or injustice. Therefore, the Board determined the overall merits of the case were insufficient as a basis for correction of the records of the applicant.

8. The Board should consider the applicant's argument and/or evidence in accordance with the published equity, injustice, or clemency determination guidance.

MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS), and the VA's Joint Legacy Viewer (JLV). The applicant had multiple requests. This review will focus on the applicant's requests for change in reason for discharge to medical discharge; and change in characterization of service to honorable. He indicated that PTSD and TBI conditions were related to his request.

2. The ABCMR ROP summarized the applicant's record and circumstances surrounding the case. The applicant entered active duty for the Regular Army 22Oct2007. Almost 5 months later, he was discharged 18Mar2008 under provisions of AR 635-200, para 5-11 due to failed medical/physical/procurement standards. His service was designated as uncharacterized.

3. The applicant was discharged for a lumbar condition that was considered to have existed prior to service (EPTS).

a. 11 October 2007, Report of Medical Examination for enlistment. No significant defect or disqualifying diagnoses were noted. Of note, he did not endorse a history of back pain.

b. 7 December 2007, Winder TMC. The applicant was in the 6th week of BCT and presented reporting 6 weeks of back pain. The back pain was worse for the past 3 days due to slip and fall and slid down a hill. He denied a past medical history of back pain. The pain was on the right, without radiation down the legs. He did not report back muscle spasm or leg weakness. The exam showed lower back tenderness on palpation of the right paraspinal region. Diagnosis: Lumbago. Treatment included anti-inflammatory, muscle relaxant and back exercises.

c. 7 December 2007, Martin ACH lumbar spine film revealed anterolisthesis of L5 relative to S1 grade 2 in nature.

d. 10 December 2007, Winder TMC. "Even through SM first stated that his pain started after sliding down hill on range, he had been having back pain for a while before then with the push-ups and other training. SM does not want pain to worsen and feels he will not be able to complete basic training".

e. 13 December 2007, the applicant underwent Entrance Physical Standards Board (EPSBD) Proceedings. The back pain started in the 6th week of BCT, it was noted with push-ups and other training. He denied history of back pain. He slipped and fell on wet ground while on the range. The back exam was normal except for some right paraspinal muscle tenderness. Straight leg testing was negative bilaterally (normal).
Diagnosis: Anterolisthesis L5-S1, Symptomatic. Separation was recommended.

f. 16 December 2007, Emergency Room Loma Linda VAMC. He went to the emergency room for back pain with radiation down the left leg. He received a shot of Toradol (anti-inflammatory) intramuscularly.

g. 16 December 2007, lumbar spine film with obliques: L5 spondylolysis with Grade I spondylolisthesis at L5/S1.

h. 25 January 2008, Winder TMC. The applicant presented for back pain follow up. He reported back pain with radiation to the left buttocks 9/10. In addition, he reported right knee pain for 11 weeks, no history of trauma, pain level 9/10; and right shoulder pain for 6 weeks without history of trauma and pain level 6/10. The lumbar exam exhibited negative straight leg testing. Motor strength was normal. He was treated with ibuprofen, muscle relaxant, and chiropractic consultation. He was given a profile.

i. 6 February 2008, Chiropractic Clinic Martin ACH. This was his first evaluation by chiropractor services. Exam: The lumbosacral spine exhibited tenderness on palpation and bilateral straight leg raising test was positive. His back was adjusted. The specialist indicated he responded well to treatment.

j. 11 February 2008, Enlisted Record Brief showed PULHES 111121.

k. 14 February 2008, Report of Medical Assessment (DD Form 2697) for separation. He reported having Grade 2 Anterolisthesis. He was not taking medication for the condition. He endorsed the condition did not limit his ability to work in his primary military specialty or require geographic or assignment limitations. Answers to these questions were contrary to DD Form 2697 completed 16 December 2007. In the interim, he had begun treatment by a chiropractor.

l. 3 March 2008, Winder TMC. Back pain was now 4/10 (down from 9/10).

m. 11 June 2009, Emergency Department Triage/MD Note Biloxi VAMC. He presented reporting recurrence of back pain (2 days duration without recent injury. Straight leg testing was negative. He was treated with a muscle relaxant and Tramadol (narcotic).

n. 8 September 2009, lumbar spine with obliques: The film was compared to the 16 December 2007 film with resultant impression by radiologist: "Unchanged bilateral spondylolysis and grade 1 anterolisthesis at L5-S1 with narrowing of the disc space".

o. Summary/Opinion: A JLV search revealed the applicant was service connected by the VA for Intervertebral Disc Syndrome 20% and Paralysis of Sciatic Nerve 20%. The JLV search also showed that after discharge from service, the applicant first presented in June 2009 (over one year after discharge) with a complaint of recurrence of his low back pain of 2 days duration. The EPSBD proceedings found that the Anterolisthesis L5-S1, Symptomatic, condition existed prior to service. The condition was temporarily aggravated while in military service. In the ARBA Medical Reviewer's opinion, the evidence that supports the condition was not permanently aggravated by his military service beyond natural progression is the following: For an entire year after service, the applicant did not seek treatment or require prescription pain medication for the lumbosacral condition. Moreover, when he did have recurrence of back symptoms in 2009, symptoms were the same as prior accounts (or better, he did not report radicular symptoms during the June 2009 exacerbation). And finally, lumbosacral films did not show radiographic evidence of progression of the back condition during that period. In the ARBA Medical Reviewer's opinion, based on records available for review, evidence was insufficient to support that the lumbosacral condition failed medical retention standards of AR 40-501 chapter 3 at the time of discharge from service: The in-service examinations of the back did not reveal any functional loss of ROM. In the February 2008 Report of Medical Assessment, the applicant endorsed not having any condition which prevented him from performing his duties/or limited geographic assignment. The chiropractor noted the back condition responded to manipulation/adjustment. The applicant was not issued a permanent level 3 physical profile for the lumbosacral condition. Referral for medical discharge processing was not warranted.

4. The applicant indicated that PTSD and TBI conditions were related to his request for medical discharge.

a. More than one year after discharge from military service, the applicant was first seen by BH services as a referral from primary care due to a positive PTSD screen in June 2009 (26Jun2009 Social Work Note). He was diagnosed with Depression. He was psychiatrically admitted in July 2009 for worsening depressive symptoms the prior few months in the context of a best friend being murdered as well as the applicant having to move (from California) away from his brother after being assaulted by him (21Jul2009 Mental Health Inpatient H&P). The applicant reported depression, low

energy, guilt, poor social interaction, and passive suicide ideation. He stated symptoms had been noticeable after discharge from the Army one year prior due to back pain/injury. The applicant had also been diagnosed with PTSD and TBI. He reported being involved in intense combat in Iraq (Fallujah) and being in close proximity to multiple explosions (21Jul2009 Mental Health Inpatient H&P Note). He described trauma related visions and smells (blood and iron), fear of driving on the roads, and fear of IEDs (26Oct2009 MH Note). Later, he reported the death of a soldier killed in the Horn of Africa in 2007 as a stressor (11Jan2010 MH Note). The applicant's assertions of events that were suggestive of combat origin for the PTSD condition, were not consistent with evidence in official military records which indicate the applicant did not deploy (for example, DD Form 214, Enlisted Record Brief, and documentation in orders). The applicant also reported chronic life stressors involving physical/emotional (no sexual) abuse by family. He was raised by his mother until she was jailed, and he was placed in foster care 1992-2003. In April 2013, the applicant was diagnosed with Delusional Disorder, Persecutory Type (well encapsulated with delusion only involving police and insurance company/agent) in the context of his having communicated homicidal thoughts because of paranoid and persecutory beliefs of being harassed and victimized by them. The Delusional Disorder diagnosis was not carried forward beyond the immediate visit(s). In 2009, he was working as a cashier at a Quick Stop. After VA vocational rehab services, in 2012, he took a job as a medical reimbursement technician.

b. The following accounts reported by the applicant in regard to the origin of his TBI condition were also not consistent with evidence contained in the DD 214 and Enlisted Record Brief: In 2009, the applicant reported being in close proximity to multiple explosions while in Iraq (Fallujah) (21Jul2009 Mental Health Inpatient H&P Note). In 2010, he reported experiencing the following TBI symptoms after a mortar blast in 2007: LOC (loss of consciousness), loss of balance, poor coordination, sensitivity to light, etc. (7 October 2010 Physical Medicine Rehab/TBI Consult, Loma Linda VAMC). In October 2012, the applicant stated that during his active-duty service, he sustained a head injury in 2008 enroute to Fallujah (9 October 2012 TBI Consult Lebanon VAMC). He reported a mortar attack in 2007 while traveling in an armored truck: He heard a whistle, experienced LOC, and awoke on the ground after the vehicle blew up. He walked 10 miles back to FOB. Post-mortar, he had rectal bleeding; numbness in the right buttock; a fractured nose; and right eye ptosis. He stated that he had low back pain ever since this 2007 mortar attack (19 October 2012 Consultation Report, Lebanon VAMC). These accounts were mixed in with the following post military service incident which was corroborated by objective documentation in the otolaryngology surgery record, dental record, head CT and maxillofacial CT records: In April 2009 (one year after discharge from service), the applicant reported that he was assaulted in his sleep by his brother (07Apr2009 Emergency Department Note, Loma Linda VAMC). He denied LOC. He sustained a 6 x 3 cephalohematoma (bruising and edema to the left orbit and left forehead), comminuted nasal fractures with septal deviation to the left resulting in

obstructed breathing in both nostrils, and several skin abrasions. He also stated he was struck on the head with a rifle butt by persons of authority "to motivate me".

c. Summary/Opinion: Regarding the applicant's contending that his request for medical discharge was related to PTSD and TBI conditions, the 3 September 2014 Secretary of Defense Liberal Guidance Memorandum and the 25 August 2017 Clarifying Guidance were considered and the ARBA Medical Reviewer made the following observations: JLV search revealed the applicant was not service connected by the VA for a mental health condition nor for traumatic brain injury. There were no BH visits/records while the applicant was in military service. The PTSD stressors reported in the available record could not be linked to in-service events/experiences. The TBI events reported could also not be linked to in-service events. The applicant was diagnosed with Major Depressive Disorder which in at least one BH note was linked to chronic back pain; that notwithstanding, psychosis, mania, MST, nor acts of extreme honor were found in the applicant's service record that would warrant a change from the current uncharacterized designation of his service.

BOARD DISCUSSION:

1. The applicant's contentions, the military record, and regulatory guidance were carefully considered. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted.

2. The ABCMR staff and the Board conducted a thorough review of the applicant's record and previous two considerations.

a. The review did not reveal any awards to which the applicant was entitled.

b. The applicant was properly separated in accordance with the regulations in effect at the time, after his records were carefully considered by an Existed Prior to Service Board (EPSBD). The EPSBD determined the manifestation of his medical condition, which was present before the date of entry on active military service (or so close to that date of entry that the disease could not have started in so short of a period) was accepted as proof that the condition was an EPTS condition. The applicant was then discharged, because he would not have been accepted for military service had the military been previously aware of his condition.

c. His characterization of service is appropriate, as he served less than 180 days of military service.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	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 to amend decision of the ABCMR set forth in Dockets Number AR20090016322, dated 4 February 2010, and AR20150016882, dated 23 March 2017.

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

a. Paragraph 5-11 specifically provided that Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment or who became medically disqualified under these standards prior to entry on active duty or active duty for training for initial entry training, may be separated. Such conditions must have been discovered during the first 6 months of active duty. Such findings would result in an entrance physical standards board (EPSBD). A medical proceeding conducted by an EPSBD, regardless of the date completed, must have established that a medical condition was identified by appropriate medical authority within 6 months of the Soldier's initial entrance on active duty, the condition would have permanently or temporarily disqualified the Soldier for entry into the military service had it been detected at the time of enlistment, and the medical condition did not disqualify the Soldier from retention in the service under the provisions of Army Regulation 40-501 (Standards of Medical Fitness), chapter 3. The characterization of service for Soldiers separated under this provision will normally be honorable but will be uncharacterized if the Soldier has not completed more than 180 days of creditable continuous active-duty service prior to the initiation of separation action.

b. An uncharacterized separation is an entry-level separation. A separation will be described as an entry-level separation if processing is initiated while a member is in entry-level status, except:

(1) When characterization under other than honorable conditions is authorized by the reason for separation and is warranted by the circumstances of the case.

(2) When the Secretary of the Army, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty.

(3) The Soldier has less than 181 days of continuous active military service, has completed Initial Entry Training, has been awarded a military occupational specialty (MOS), and has reported for duty at a follow-on unit of assignment.

c. Paragraph 3-7a states that 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.

2. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) governs the evaluation of physical fitness of Soldiers who may be unfit to perform their military duties because of physical disability. It states that according to accepted medical principles, certain abnormalities and residual conditions exist that, when discovered, lead to the conclusion that they must have existed or have started before the individual entered the military service. Examples are manifestation of lesions or symptoms of chronic disease from date of entry on active military service (or so close to that date of entry that the disease could not have started in so short a period) will be accepted as proof that the disease existed prior to entrance into active military service.
3. Army Regulation 40-501 governs medical fitness standards for enlistment, induction, appointment, retention, and separation. Chapter 2 provides the physical standards for enlistment/induction and refers to conditions which may result in failure of procurement standards. It states an occurrence or history of any condition, including, but not limited to the spine or sacroiliac joints, with or without objective signs that requires limitation of physical activity or frequent treatment is disqualifying.
4. 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.
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 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.

6. 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.

7. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//