

IN THE CASE OF: ██████████

BOARD DATE: 20 December 2023

DOCKET NUMBER: AR20230005142

APPLICANT REQUESTS: an upgrade to her characterization of service from uncharacterized to honorable.

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

- DD Form 149 (Application for Correction of Military Record), 14 February 2023
- self-authored statement, 14 February 2023
- medical evidence, 9 December 1993
- certificate, Victory Run, 4 March 1994
- certificate, Completion of Basic Combat Training, 21 April 1994
- certificate, Mobile Subscriber Equipment Transmission Systems Operator Course, 22 June 1994
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 19 September 1994
- medical evidence from Division of Clinical and Reproductive Genetics, 22 February 2005

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, in effect, she had a cyst removed the night before she left for basic combat training, which caused her to fail the Army Physical Fitness Test (APFT) by three sit-ups. She was a good Soldier and is requesting an honorable discharge. She additionally submits a written request to the Board explaining the following:

a. She joined the Army because she wanted to serve her country and follow in her father and other family members footsteps. She enlisted and before she went to basic training she developed a pilonidal cyst, which was located at the bottom of her spine. They tried to drain the cyst; however, this did not work and because of the size

increasing at a quick rate she needed the cyst removed before she attended basic training. She had little healing time but wanted to fulfil her commitment.

b. When in basic training, she maxed her push-up and run; however, she struggled with the sit-up event because her wound was not healed. Every time she participated in sit-ups she struggled with the pain; however, she ended up graduating basic training.

c. She states there was a run event which her "buddy" was unable to finish and started crying, her character wouldn't allow her to fail, and she ran over to her and ran with her the rest of the way, which her "buddy" was able to finish. She also states she earned top of her class; however, because of failing the sit-up event she was unable to be awarded and this was devastating to her.

d. At her first duty station, she was given one or two additional opportunities to pass her sit-ups, but she was unsuccessful and had to be discharged. She was told she would receive a general discharge and did not know she had a say in the matter since she never questioned authority.

3. The applicant enlisted in the Regular Army on 16 February 1994, for a period of 4 years. The highest rank she obtained was private/E-1.

4. She provides, three (3) certificates, for the following:

- participation in the "Victory Run" on 4 March 1994
- completion of Basic Combat Training on 21 April 1994
- completion of Mobile Subscriber Equipment Transmission Systems Operator Course on 22 June 1994

5. Five DA Forms 4856 (General Counseling Forms) show the applicant was counseled for the following:

- on 7 May 1994, failed diagnostic APFT
- on 7 May 1994, poor physical fitness
- on 15 June 1994, failed end of course APFT (1st time)
- on 18 July 1994, failed end of course APFT (2nd time)
- on 27 July 1994, failed end of course APFT (3rd time)

6. She submitted a statement to the command on 5 August 1994, requesting an additional chance to take the APFT. She wanted to remain in the Army and serve her country. She wanted to prove to herself and the Army that she could pass the APFT and continue being a good Soldier.

7. On 8 August 1994, the command recommended separation in accordance with Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), Chapter 11, for entry level performance and conduct, for her inability to pass the APFT.

9. A DA form 3822-R (Report of Mental Status Evaluation) on 8 August 1994, shows she had the mental capacity to participate in the discharge proceedings.

10. On 9 August 1994, she was notified of her commander's intent to initiate separation action under the provisions of AR 635-200, Chapter 11, for entry level status performance and conduct (Trainee Discharge Program).

a. If separation is approved, she would receive an entry level separation with uncharacterized service and not be permitted to reenlist within 2 years from the date of separation without an approved waiver.

b. She had the right to consult with counsel, submit statements in her own behalf, obtain copies of documents that would be sent to the separation authority, request a separation physical, and/or waive the rights in writing.

11. On the same date, she acknowledged notification of the proposed separation. She understood if approved she would receive an entry level separation with uncharacterized service. She did not desire to consult with counsel, nor did she desire to make statement(s) in her own behalf. She did request a separation physical.

12. The separation authority approved the recommended separation, with uncharacterized service and an entry level separation.

13. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was discharged on 19 August 1994, under the provisions of AR 635-200, Chapter 11, by reason of entry level performance and conduct. Her service was uncharacterized, with separation code JGA and reentry code 3. She completed 6 months and 4 days of net active service. She was not awarded a military occupational specialty.

14. She additionally provides:

a. Medical evidence on 9 December 1993, stating the chief complaint for this appointment is a bump in between the buttocks and in right inguinal area, this document shows an assessment of pilonidal cyst and referred for management with possible drainage vs antibiotics and drainage.

b. Medical evidence on 13 December 1993, stating the "status post incision and dressing of a pilonidal abscess" wound was clean and healing well.

c. Medical evidence on 15 December 1993, stating she was post incision and dressing of pilonidal abscess, wound was cleaning well.

d. Medical evidence on 22 December 1993, stating the wound was healing well, she was advised after basic combat training to have the pilonidal cyst removed.

e. Medical evidence on 22 February 2005, stating her "surgical history was remarkable for removal of a cyst on the bottom of her spine approximately 12 years ago."

15. There is no indication the applicant applied to the Army Discharge Review Board (ADRB) for review of his discharge within that Board's 15-year Statute of Limitations

16. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active-duty service. The evidence of record shows he was in an entry-level status at the time of her separation. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

17. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance

18. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, an ABCMR denial (28 January 1998, AC96-10784A), the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting an upgrade of her 15 November 1996 uncharacterized discharge. She states:

"I had a cyst removed right before basic [training] that caused me to fail my sit-ups by three. I was a good Soldier otherwise."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. Her DD 214 for the period of Service under consideration shows she entered the Regular Army for initial entry training on 16 February 1994 and

was discharged 19 August 1994 under provisions provided in chapter 11 of AR 635-200, Personnel Separations – Enlisted Personnel (17 September 1990), for falling below entry level performance and conduct standards.

d. Submitted medical documentation shows the applicant underwent an uncomplicated irrigation and debridement of a pilonidal cysts in December 1993. A pilonidal cyst is almost always near the coccyx (tailbone) at the top of the buttocks. A pilonidal cyst is an unusual pocket in the skin that usually contains hair and skin debris.

e. The applicant was counseled for having failed the sit-ups event of a diagnostic Army physical fitness test (APFT) on 7 May 1994. She failed her first end of course APFT on 14 June 1994. She went on to fail her second attempt on 18 July 1994 and her third attempt 27 July 1994.

f. On 5 August 1994, she requested another try to Pass the APFT. While she addressed her challenge with the sit-ups, there is no mention of a cyst in her four-paragraph memorandum.

g. On 8 August 1994, her company commander informed her of his initiation of separation action under provisions in chapter 11 of AR 635-200 because of her inability to pass an end of course APFT.

h. She underwent a pre-separation mental status evaluation on 8 August 1994 at which time the provider documented a normal examination and cleared her for separation. Though she requested a separation physical examination, the documents are not available for review.

i. His recommendation for her separation was approved by the battalion commander.

j. JLV records show she is not registered with the Veterans Hospital Administration.

k. The applicant may have had a pre-existing condition which prevented her from successfully completing the sit-up event of the APFT, but that does not mitigate her three APFT failures which were the cause for separation. Even had residuals of the cyst removal been the cause of her failures, she would likely have been discharged under paragraph 5-11 of AR 635-200 for failing to meet procurement standards due to her pre-service condition.

l. It is the opinion of the ARBA medical advisor that a discharge upgrade is unwarranted.

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. The Board determined the governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. Upon review of the applicant's petition and available military records, the Board concurred with the advising official finding a discharge upgrade is unwarranted. The Board noted applicant did not receive a military occupational specialty (MOS). The Board determined there is insufficient evidence of in-service mitigation to overcome the three-time APFT failures. The Board agreed based on the evidence, the character of service the applicant received upon separation was not in error or unjust. Therefore, the Board denied relief.

2. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

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 for correction of the records of the individual concerned.

1/2/2024

X [REDACTED]

CHAIRPERSON
[REDACTED]

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, USC, 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. AR 635-200, in effect at the time, 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. Readiness is promoted by maintaining high standards of conduct and performance.

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 is 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 11 provides that separation under this chapter applies to Soldiers who are in an entry level status and, before the date of the initiation of separation action, have completed no more than 180 days of continuous active duty and have demonstrated that they cannot or will not adapt socially or emotionally to military life. Entry level status is defined as the first 180 days of continuous active duty. It further states that the character of service for members separated under the provisions of this chapter will be uncharacterized.

d. Section II (Terms):

(1) Character of service for administrative separation - A determination reflecting a Soldier's military behavior and performance of duty during a specific period of service. The three characterizations are honorable, general (under honorable conditions), and under other than honorable conditions. The service of Soldiers in entry-level status is normally described as uncharacterized.

(2) Entry-level status - For Regular Army Soldiers, entry-level status is the first 180 days of continuous active duty or the first 180 days of continuous active duty following a break of more than 92 days of active military service.

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 (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 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.

//NOTHING FOLLOWS//