

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2024

DOCKET NUMBER: AR20230005525

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show in:

- Item 1 (Name (Last, First, Middle)): first name [REDACTED] and middle name as [REDACTED]
- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): National Defense Service Ribbon (NDSM)
- Item 24 (Character of Service): honorable instead of uncharacterized
- and a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant Statement
- Certificate of Live Birth, [REDACTED]
- DD Form 214, 11 October 1991
- Certificate of Special Congressional Recognition, 4 December 1997
- [REDACTED] College, 22 May 1998
- [REDACTED] University [REDACTED] 17 December 2004
- Social Security Card
- [REDACTED] Department of Consumer Affairs, Retired Peace Officer Concealed Carry Weapon (CCW) Card, 15 December 2022
- SF 50 (Notification of Personnel Action), 16 December 2022
- Department of Veterans Affairs (VA) Evidence Intake Center, 20 December 2022
- SF 50, 1 January 2023
- Health Information Card, 29 January 2023

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:

a. He received a medical evaluation at the Military Entry Processing Station (MEPS) on 28 August 1990 for enlistment in [REDACTED] Army National Guard ([REDACTED] ARNG). He was not experiencing any pain or mobility limitations before or during his intake and evaluation process at the MEPS. He was cleared by MEPS for acceptance into the delayed entry program and took an oath for enlistment in the [REDACTED] ARNG. From 28 August 1990 forward, he attended drills in uniform at his local NG unit until his departure for basic training at Fort Sill, OK on 25 June 1991. He had no injuries prior to arriving at the intake processing center at Fort Sill, OK on 26 June 1991.

b. When he arrived at Fort Sill, he participated in all directed and required activities, to include in processing, supply, vaccinations, medical evaluations, exercise, and drill. On 6 July 1991, 11 days into training, he took his first Army Physical Fitness Test (APFT). On 11 July 1991, he reported symptoms of left hip pain to medical staff because he was having difficulty maintaining the daily requirements of intense training. The pain became an unbearable distraction, and the physical limitations began to interfere with his movement and coordination. He had been training daily for 16 days and he could not specifically recall the event that caused or created the condition where the movements and coordination were difficult or awkward. Intake personnel asked if he could recall when he first experienced the symptoms related to his hip. He explained that he noticed slight pain that radiated to his left hip months prior, however, it was not to the extent of physical limitation or the extent of pain that he was experiencing at that time. He was instructed to document three months on the medical slip as the time of onset.

c. To clarify, the symptom that he experienced in the months prior to entering basic training was not the intense pain nor the limited mobility he was experiencing the day that he first reported it. His experience the month prior to entering basic training was a slight irritation, which he knows now was likely a mild symptom of his genetic abnormality (mild hip dysplasia). He documented three months as the moment he first noticed any symptoms in his left hip as he was instructed. It is worthy to note that the irritation he experienced in his left hip did occur during or after a weekend drill with the [REDACTED] ARNG. Activities with the [REDACTED] ARNG drill were troop movements, physical exercise, and multiple mile marches with 60lbs weight.

d. The condition was unknown to him prior to MEPS, during the time of attending drill, and the moment he arrived for basic training. The congenital condition did not prevent him from his daily living activities prior to entering military service, nor attending drill. The congenital condition did not hinder his mobility, nor produce pain, so intense, that he sought medical attention. He did not feel that it was necessary to report the mild symptom within his left hip to medical personnel at Fort Sill because he did not believe that he had an injury or condition which would interfere with training. The irritation that

he was experiencing was comparable to a pinch or a cramp, which normally fade and dissipate over a short period of time and not interfere with his daily activities. Those symptoms did not cause an alarm or concern at the time. As with any physical activity, slight discomfort is expected and does not linger. He dismissed it as growing pain or a symptom of overuse.

e. The pain and mobility limitations he was experiencing and continue experience, was exasperated, or aggravated by activities during his time in the service. The presence of the symptoms began to intensify and increase while in training. When he first reported it, he was referred to radiology for a consultation. The radiology report identified an irregular hip socket, however, a comparison was not explored, nor was sacralization of his hip discovered. Medical personnel did not restrict his training. He returned to full participation with training.

f. On 15 July 1991, he returned for a follow up, 21 days into training, and complained the pain was increasing and mobility was diminishing. He was placed on restriction and given crutches, however, upon returning to the training unit, he was required to continue participating in training activities, despite the intense pain and overwhelming mobility limitations. He was not afforded an opportunity to avoid further injury until a medical evaluation could be developed. An example is in his medical records, where he missed an appointment for a bone scan which was scheduled for 25 July 1991, and a training drill instructor did not respond to his notification that he had a medical appointment and ordered his participation in training that day.

g. He participated in intense training activities despite the intense pain and his mobility limitations. This example is reflected in his medical records dated 7 August 1991. On 8 August 1991, he completed a bone scan. The impression was an abnormal bone scan demonstrating findings suggestive of a moderate degree of stress involving the posteromedial aspect of the mid shaft of the left femur. This finding was never developed, and he was not provided a follow up for clinical coordination to determine if a stress fracture existed. He was not placed on medical restrictions, nor was he given medical treatment until the determination of his condition was developed and a treatment plan could be executed. He was integrated back into full training, participating in all activities, despite his complaints, the pain, the increasing mobility limitations, and the likely potential to cause further injury.

h. He submits, the complete integration into the training environment aggravated his condition. The medical service members and training leadership did not assist him with seeking medical care to prevent his current condition. He eventually graduated basic training and then transferred to Advanced Individual Training (AIT). On 19 September 1991, he sought medical assistance, as the pain was increasing, and his mobility was severely restricted. He was experiencing a myriad of symptoms and his mobility was restricted to the point of a combat boot was too heavy to bear, and he would drag his

left foot and could not reach normal range of motion with his left leg. He had extreme difficulty running, walking, marching, and bearing weight (ruck sack). The pain and mobility restrictions were interfering with training and daily living. He sought treatment to manage the condition and learn the medical determination.

i. He entered the service, and he was able to walk distances, exercise intensely, and bear weight evenly on each leg. From basic training to 19 September 1991, while in AIT, he was unable to walk normally, unable to travel and walk a reasonable distance, or exercise suitably. At that point, he suffered from either limping or dragging his left foot because he could not lift his left leg. On 19 September 1991, he was seen by orthopedics, and he was diagnosed with chronic sciatica. Medical personnel determined that his symptoms were present when he entered the service and suggested that he receive an administrative separation.

j. He states, he did not experience the reported pain suffered when he entered the Army. He would have reported it upon arrival on the first day. Additionally, he could not have physically participated in the intense activities required to complete basic training without going unnoticed. He contends that his condition was aggravated by his activities during training in the service, and it remains today with deteriorating effects. He suffers from several conditions related to his left hip, left leg, and lumbar region. He receives ongoing treatment to manage these conditions.

3. The applicant provides:

a. A certificate of live birth dated [REDACTED], showing his name at birth, which reflects the [REDACTED]

b. A Certificate of Special Congressional Recognition, dated [REDACTED] which reflects his name [REDACTED]

c. A certificate which shows he received his associate in arts from [REDACTED] College on 22 May 1998, and it shows his name [REDACTED]

d. A certificate which shows he received his Bachelor of Science in Criminology from [REDACTED] University [REDACTED] on 17 December 2004, and shows his name [REDACTED]

e. His social security card, reflecting [REDACTED].

f. [REDACTED] Department of Consumer Affairs, Retired Peace Officer CCW card, dated 15 December 2022, which shows his name [REDACTED].

g. A copy of his SF 50, dated 16 December 2022, which shows his name [REDACTED].

h. VA evidence intake letter, dated 20 December 2022, and shows [REDACTED]

i. A copy of SF 50, dated 1 January 2023, which reflects [REDACTED]

j. His health information card, which shows his name [REDACTED]

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

a. DD Form 4 (Enlistment/Reenlistment Document) shows he enlisted in the ARNG of the United States on 28 August 1990 with the name [REDACTED]

b. Orders Number 172-32, dated 28 August 1990, issued by the MEPS, [REDACTED] which ordered the applicant to active duty with a reporting date of 25 June 1991 to the MEPS and then to initial active-duty training (IADT), at Fort Sill, OK, with a report date of 26 June 1991 and a reporting date to AIT on 30 August 1991, and reflects [REDACTED]
[REDACTED]

c. His DA Form 2-1 (Personnel Qualification Record) prepared on 27 June 1991, shows his name [REDACTED].

e. He was discharged from active duty on 11 October 1991, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 5-11(c), by reason of not meeting procurement medical fitness standards – no disability. His DD Form 214 shows in:

- Item 1 (Name): contested name
- Item 11 (Primary Specialty): None
- Item 12c (Net Active Service This Period): 3 months and 17 days
- Item 12d (Total Prior Active Service): 5 months and 23 days
- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): Marksman Marksmanship Qualification Badge (M-16 rifle) and Hand Grenade Marksman Qualification Bar
- Item 24: uncharacterized

f. On 11 October 1991, he was discharged from the Reserve of the Army Active Army. His NGB Form 22 (Report of Separation and Record of Service) reflects the contested name.

5. 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, the military electronic medical record (EMR – AHLTA and/or MHS Genesis), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and/or 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 his 11 October 1991 uncharacterized discharge. He states in part:

“I entered service and attended drill with my local [REDACTED] National Guard Unit. I had full and complete intent to fulfil my contract obligation. I served honorably while active in basic training and advanced individual training until an aggravated injury required an administrative separation.”

c. The Record of Proceedings outlines the applicant’s military service and the circumstances of the case. His DD 214 shows the former Army National Guard Soldier entered the active duty on 25 June 1991 and received an uncharacterized discharge on 11 October 1991 under authority provided by paragraph 5-11 of AR 635-200, Personnel Separations – Enlisted Personnel (17 September 1990): Separation of personnel who did not meet procurement medical fitness.

d. From his self-authored statement:

“On 7/11/1991, I reported symptoms of my left hip pain to medical staff because I had difficulty maintaining the daily requirements of intense training. The pain was becoming an unbearable distraction at the time and the physical limitations were beginning to increasingly interfere with my movements and coordination. I had been training daily for 16 days and I could not specifically recall an event which caused or created the condition where my movements and coordination was difficult or awkward.

On this day the intake personnel probed when I could first recall or experience any type of symptom related to my hip leading to the current reporting condition. I explained I noticed a slight irradiation to my left hip months prior, however it was not to the extent of physical limitation or pain intensity I was currently experiencing.”

e. No medical documentation was submitted with the application and his period of service predates the EMR. Neither his separation packet nor documents addressing his involuntary administrative separation were submitted with the application or uploaded into iPERMS.

f. It appears the applicant was referred to an entry physical standards boards (EPTSB) for his preexisting condition (likely his left hip based on his self-authored letter)

under provisions in paragraph 5-11a of AR 635-200. EPTSBs are convened IAW paragraph 7-12 of AR 40-400, Patient Administration. This process is for enlisted Soldiers who within their first 6 months of active service are found to have a preexisting condition or develop a condition which does not meet the enlistment standard in chapter 2 of AR 40-501, Standards of Medical Fitness, but does meet the chapter 3 retention standard of the same regulation. The fourth criterion for this process is that the preexisting condition was not permanently service aggravated.

g. Given his discharge under paragraph 5-11 of AR 635-200 as the separation authority, it must be concluded the board found his condition failed enlistment standards, had existed prior to service, was not permanently aggravated by his service, and was not compatible with continued service.

h. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. For the reserve components, it also includes discharges prior to completing initial entry training (IET). There are two phases - Basic Combat Training (BCT) and Advanced Individual Training (AIT). Because the applicant did not complete BCT, he was in an entry level status at the time of his discharge and so received an uncharacterized discharge. This type of discharge does not attempt to characterize service as good or bad. Through no fault of his own, he simply had a medical condition which was, unfortunately, not within enlistment standards.

i. It is the opinion of the ARBA Medical Advisor that a discharge upgrade is not warranted.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board found the applicant served on active duty between 25 June 1991 and 11 October 1991, a qualifying period for award of the National Defense Service Medal.

2. The evidence presented does not demonstrate the existence of a probable error or injustice pertaining to the applicant's request for amendment of his middle name. The applicant used the contested name during his entire period of service. The Board determined the overall merits of this case are insufficient as a basis for correction of the

records of the individual concerned. Based on the service record and a preponderance of the evidence, the Board denied relief.

3. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed.

4. As it relates to the applicant's request for an upgrade of his characterization of service from uncharacterized to honorable, 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. Soldiers in the Army National Guard are authorized an honorable discharge while in entry-level status only if they complete their active duty schooling and earn their designated military occupational specialty. The applicant did not complete training and was released from active duty due to failure to meet procurement medical fitness standards. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

5. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army 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.

6. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

■ ■ ■ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial 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 11 October 1991, to show award of the National Defense Service Medal.
2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to amending the applicant's middle name or amending the applicant's characterization of service from uncharacterized to honorable.

10/28/2024

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. 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. A separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active-duty service at the time separation action was initiated.

b. Paragraph 3-7a provides 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.

c. Paragraph 3-9 provides that a separation would be described as entry level separation service uncharacterized if processing was initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions were authorized, due to the reason for separation and was warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, determined a characterization of service as honorable was clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization was authorized when the Soldier was separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

d. Paragraph 5-11 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 entrance on active duty or active duty for training for initial entry training would be separated. Medical proceeding, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within 6 months of the Soldier's initial entrance on active duty for regular Army, or during active duty training for initial entry training for Army National Guard of the United States and United States Army Reserve, that the

condition would have permanently or temporarily disqualified the Soldier for entry into military service had it been detected at that time, 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).

e. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

3. Army Regulation 635-8 (Personnel Separations – Separation Processing and Documents), prescribes the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It states DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. It states, Block 1 (Name) to compare the original enlistment contract or appointment order and review the official record for possible name changes. If a name change has occurred, list other names of record in block 18 (Remarks).

4. Army Regulation 600-8-22 (Military Awards) states, the National Defense Service Medal is awarded for honorable active service for any period between 27 July 1950 and 27 July 1954, 1 January 1961 and 14 August 1974, 2 August 1990 and 30 November 1995, and 11 September 2001 and a date to be determined. Army National Guard and U.S. Army Reserve forces personnel on short tours of duty to fulfill training obligations under an inactive duty training program will not be considered as performing active service which qualifies for award of the National Defense Service Medal.

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. 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//