

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 December 2023

DOCKET NUMBER: AR20230005894

APPLICANT REQUESTS:

- correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 26 July 2002 to show her service was characterized as "Under Honorable Conditions (General)" rather than "Uncharacterized"
- to appear before the Board via video/telephone

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Standard Form (SF) 93 (Report of Medical History)
- SF 88 (Report of Medical Examination)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), Section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states she was told her characterization of service would be changed from "Uncharacterized" to "Under Honorable Conditions (General)."
3. The applicant's complete military records, including her DA Form 4707 (Entrance Physical Standards Board (EPSBD)) separation proceedings, are not available for review. Therefore, this case is being considered based on limited documents.
4. An SF 93 and an SF 88 show the applicant underwent a pre-enlistment medical examination on 22 November 1999. She did not initially qualify for enlistment because she was overweight. She lost weight and was deemed qualified for enlistment on 22 January 2000.
5. The applicant enlisted in the Regular Army for a period of 4 years on 7 February 2000.

6. Orders and her DD Form 214 show she was discharged on 21 April 2000 with an "Uncharacterized" characterization of service. She was credited with completion of 2 months and 15 days of net active service. She did not complete initial entry training and was not awarded a Military Occupational Specialty. The authority for her separation was Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-11, by reason of "Failure to Meet Procurement Medical Fitness Standards." She was assigned Separation Code "JFW" and Reentry Code "3."

7. Army Regulation 635-200, in effect at the time, stated commanders were to separate Soldiers who were not medically qualified under procurement medical fitness standards when they enlisted. EPSBD proceedings were required to be convened within the Soldier's first 6 months of active duty service, and had to establish the following:

- medical authority had identified the disqualifying medical condition(s) within 6 months of the Soldier's initial entry on active duty
- the condition(s) would have permanently disqualified the Soldier from entry into military service, had they been detected earlier
- the medical condition did not disqualify him/her for retention in military service
- Soldiers disqualified under this provision could request retention on active duty; the separation authority made the final determination

8. The applicant was in an entry-level status at the time of her separation processing. As a result, her service was described as "uncharacterized" in accordance with governing regulations.

9. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier did not serve on active duty long enough for his or her character of service to be rated.

10. By regulation, an applicant is not entitled to a hearing before the Board. Hearings may be authorized by a panel of the Board or by the Director of the ABCMR.

11. 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 her 21 April 2000 uncharacterized discharge. She states: "Discharge was supposed to be upgraded to general from uncharacterized.

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. The applicant's DD 214 for the period of service under consideration shows she entered the regular Army for basic combat training on 7 February 2000 and was discharged on 21 April 2000 under provisions provided by paragraph 5-11 of AR 635-200, Active Duty Enlisted Administrative Separations (26 June 1996): Separation of personnel who did not meet procurement medical fitness standards.

d. The applicant's pre-entrance Report of Medical History shows the applicant was without significant medical history. The provider documented scoliosis on the first page of the accompanying Report of Medical Examination. The remaining pages of the examination are not available for review, but his subsequent enlistment indicates he was found physically qualified for enlistment.

e. The applicant's pre-entrance Report of Medical History and Report of Medical Examination show she was in good health, without significant medical history or conditions though she did exceed the weight standard for her height. She was determined qualified for enlistment and airborne training.

f. No other medical documentation was submitted with the application and there are no encounters in the EMR. JLV shows she is not registered with the Veterans Administration.

g. Neither the applicant's separation packet nor documentation addressing her administrative separation was submitted with the application or uploaded into iPERMS.

h. The applicant's paragraph 5-11 of AR 635-200 separation authority indicates she was referred to an Entry Physical Standards Board (EPSBD) under provisions provided in paragraph 5-11 of AR 635-200. EPSBDs 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 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.

i. Her Entrance Physical Standards Board (EPSBD) Proceedings (DA Form 4707) was not available for review. Given her paragraph 5-11 of AR 635-200 administrative separation without evidence to the contrary, it must be assumed the board determined her medical condition had existed prior to service, had not been permanently

aggravated by her military service, did not meet one or more medical enlistment/induction standards, and was not compatible with continued military service.

j. The DES only compensates an individual for service incurred medical condition(s) which have been determined to disqualify him or her from further military service. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service; or which did not cause or contribute to the termination of their military career. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

k. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Through no fault of her own, she simply had a medical condition which was, unfortunately, not within enlistment standards.

l. It is the opinion of the ARBA Medical Advisor that an upgrade of her discharge is unwarranted.

BOARD DISCUSSION:

The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of requests for changes to discharges. The Board noted the applicant was in an entry-level status when she was discharged for failure to meet procurement medical fitness standards, and the Board found no evidence of unique circumstances that would have been a basis for assigning her a character of service. Based on a preponderance of the evidence, the Board determined her uncharacterized service is not in error or unjust.

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.

2/15/2024

X _____

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, USC, Section 1552(b), provides that applications for correction of military records must be filed within three 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 three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Title 10, USC, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. 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 regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice has occurred by a preponderance of the evidence. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. 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.

4. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

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

b. 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. A general discharge is a separation from the Army under honorable conditions. When authorized, it was issued to a Soldier whose military record was satisfactory but not sufficiently meritorious to warrant an honorable discharge.

d. Paragraph 3-9, in effect at the time of the applicant's separation, provided that a separation would be described as entry level with uncharacterized service if processing was initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions was 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.

e. 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 entrance on active

duty, active duty for training, or initial entry training would be separated. Medical proceedings, 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, 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. A Soldier disqualified under this provision could request retention on active duty; the separation authority made the final determination.

f. 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.

5. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. This regulation prescribed that the separation code "JFW" was the appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200, paragraph 5-11, by reason of failure to meet procurement medical fitness standards. Additionally, the SPD/Reentry Eligibility (RE) Code Cross Reference Table established that RE code "3" was the proper reentry code to assign to Soldiers separated under this authority and for this reason.

6. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, governed the evaluation for physical fitness of Soldiers who might be unfit to perform their military duties due to a disability. It states the mere presence of an impairment did not, of itself, justify a finding of unfitness due to physical disability. In each case, it was necessary to compare the nature and degree of the physical disability with the duty requirements of the Soldier, based on his or her office, grade, rank, or rating; and a Soldier was presumed to be in sound physical and mental condition upon entering active duty.

//NOTHING FOLLOWS//