

b. He was released from ADT, discharged from the Reserve of the Army, and returned to the ARNG on 3 July 1991.

c. He was separated under the provisions of Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation), chapter 5, by reason of "physical disability prior to entry on active duty – medical board."

d. He completed 1 month and 5 days of active service this period.

e. He had 2 months and 5 days of total prior active service and 1 year, 3 months, and 6 days of total prior inactive service.

f. He was assigned a separation code of KFN and a reentry code of 3.

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 (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 in essence requesting a referral to the Disability Evaluation System and/or a discharge upgrade. He states:

"During 63B (Light Wheeled Vehicle Mechanics) training, the repetitive lifting of heaving parts and working on various vehicles from odd positions led to my prior service physical disability to be aggravated and worsen. To this day, I am still experiencing severe pain in my back from the 63 B training. I did report this issue while on active duty and was referred to the Ft Leonard Wood Hospital for evaluation and was later discharged for a Prior to active-duty physical disability.

At this time, I do not believe there was an Aggravated for made worse a reason for disability or separation code and I was not offered at the time to apply. I am only asking for this change now because I would like to get a Certificate of Eligibility for a Home Loan and this is where I discovered my separation code issue."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His signed DD 214 shows the former Army National Guard

Soldier entered active duty on 29 May 1991 and received an uncharacterized discharge on 3 July 1991 under the provisions in Chapter 5 of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (17 October 1990): Expeditious Discharge. The military separation code KFN denotes "Disability, Existed Prior to Service, Med Board."

d. No medical documentation and no additional documentation other than the applicant's DD 214 were submitted with the application. The applicant has no records in iPERMS. Because of the period of Service under consideration, there are no clinical encounters in AHLTA. JLV shows he initiated care with the Veterans Hospital Administration in February 2021 and has two VA Service-connected disability ratings: Chronic Adjustment Disorder (70%) and Tinnitus (10%). His medical problem list in JLV contains no musculoskeletal conditions.

e. There is no evidence the applicant had any service incurred or permanently service aggravated medical condition which would have failed the medical retention standards of chapter 3, AR 40-501 prior to his discharge. Thus, there was no cause for referral to the Disability Evaluation System.

f. 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 his own, he simply had a medical condition which was, unfortunately, not within enlistment standards.

g. It is the opinion of the Agency Medical Advisor that neither a referral of his case to the DES nor a discharge upgrade is warranted.

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. Upon review of the applicant's petition, available military records and the medical review, the Board concurred with the advising official finding that neither a referral of his case to the DES nor a discharge upgrade is warranted. The opine noted there no evidence the applicant had any service incurred or permanently service aggravated medical condition which would have failed the medical retention standards.
2. The Board determined the applicant completed 1 month and 5 days and was separated under the provisions of Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation), chapter 5, by reason of "physical disability prior

to entry on active duty. The Board agreed 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 for upgrade of his uncharacterized character of service or referral of his case to the DES. Therefore, the Board denied relief.

3. Referral to the IDES occurs when a Soldier has one or more conditions which appear to fail medical retention standards as documented on a duty liming permanent physical profile. The DES compensates an individual only 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.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

3/29/2024

X

[Redacted Signature]

CHAIRPERSON

[Redacted Name]

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 635-40 governs the evaluation for physical fitness of Soldiers who may be unfit to perform their military duties because of physical disability. Chapter 5 of the regulation in effect at the time provided for separation of an enlisted Soldier for non-service aggravated EPTS conditions when the Soldier requests waiver of a Physical Evaluation Board (PEB). This chapter is applicable to enlisted Soldiers on active duty for more than 30 days. Separation under the authority of this chapter is not to be confused with separation under the provisions of Army Regulation 635-200, chapter 5, which provides for involuntary separation within the first 6 months of entry onto active duty for failure to meet procurement fitness standards. If the time period exceeds 6 months, or if the condition is disqualifying under Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, a Soldier is entitled to evaluation by a PEB or may waive evaluation under this chapter. The case must meet the conditions set forth below:

- Soldier is eligible for referral into the disability system.
- The Soldier does not meet medical retention standards as determined by a Medical Evaluation Board.

- The disqualifying defect or condition existed prior to entry on current period of duty and has not been aggravated by such duty.
- The Soldier is mentally competent.
- Knowledge of information about his or her medical condition would not be harmful to the Soldier's wellbeing.
- Further hospitalization or institutional care is not required.
- After being advised of the right to a full and fair hearing, the Soldier still desires to waive PEB action.
- Soldier has been advised that a PEB evaluation is required for receipt of Army disability benefits, but waiver of the PEB will not prevent applying for VA benefits.

3. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), prescribe the specific authorities and the reasons for the separation of members from active military service and the SPD codes to be used for these stated reasons. The regulation in effect at the time of the applicant's discharge states that the SPD code KFN, as shown on the applicant's DD Form 214, specified the narrative reason for discharge as "physical disability prior to entry on active duty – medical board" and that the authority for separation under this SPD code was paragraph Army Regulation 635-40, chapter 5.

4. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to ABCMR applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//