

IN THE CASE OF: ██████████

BOARD DATE: 1 February 2024

DOCKET NUMBER: AR20230007078

APPLICANT REQUESTS:

- an upgrade of her uncharacterized discharge
- 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)
- DA Form 4187 (Personnel Action), dated 21 June 2005
- Existed Prior to Service (EPTS) Counseling, dated 19 September 2005
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 27 October 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 she would like to correct the uncharacterized discharge to a general discharge, since she was adamant she wanted to continue her service and the Army elected to proceed with separation since she was high-risk due to her illness.
3. The applicant provides:
 - a. A DA Form 4187, which shows on 21 June 2005 the applicant was advanced to the rank of private first class in the primary military occupational specialty (PMOS) of 91P (Self-Propelled Artillery Maintainer).
 - b. An EPTS Counseling, dated 19 September 2005, which shows the applicant was recommended for separation due to a medical condition which existed prior to service, polycystic kidney disease and nephritis. The applicant had multiple complaints that resulted in her being referred to Eisenhower Army Medical Center. While there, she had

a kidney biopsy done which showed focal glomerulo sclerosis consistent with glomerulo disease. It was also determined that she had several cysts on her kidney. The applicant concurred with the comments on the same date.

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

a. She enlisted in the U.S. Army Reserve (USAR) on 26 April 2005.

b. A DD Form 2808 (Report of Medical Examination), dated 15 July 2004, shows the applicant underwent an examination for the purpose of enlistment. The applicant's clinical evaluation was marked "not evaluated" in block 41 (Pelvic) and in block 74a (Examinee/Applicant) she was marked qualified for service.

c. The applicant entered active duty on 20 June 2005.

d. The applicant's service record is void of the facts and circumstances surrounding her discharge.

e. On 27 October 2005, she was discharged with uncharacterized service. Her DD Form 214 shows she completed 4 months and 8 days of active service. The narrative reason for separation listed as "Failed Medical/Physical Procurement Standards."

5. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

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

BOARD DISCUSSION:

1. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for consideration of discharge upgrade requests. The Board found the evidence confirms the applicant was in an entry-level status when she was discharged, and uncharacterized service was required by the governing regulation. The Board found no evidence of extraordinary circumstances that would have warranted 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:

<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.

5/6/2024

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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, 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 (AR) 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.

3. AR 635-200 (Active Duty Enlisted Administrative Separations), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a (Honorable Discharge) states an honorable discharge is a separation with honor. 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. Paragraph 3-9 (Uncharacterized Discharge) states a separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status.

c. Chapter 5-11 of the regulation states 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 (AD) or active duty training (ADT) for initial entry training may be separated. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by appropriate military medical authority within 6 months of the Soldier's initial entrance on AD for RA, or during ADT for initial entry training. Unless the reason for separation requires a specific characterization, a Soldier being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conditions, or an uncharacterized description of service if in entry-level status.

4. AR 635-8 (Separation Processing and Documents), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge.

The information entered thereon reflects the conditions as they existed at the time of separation.

//NOTHING FOLLOWS//