

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 February 2024

DOCKET NUMBER: AR20230007100

APPLICANT REQUESTS: correction of block 23 (Type of Separation) of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show "Medically Discharge" vice Retirement

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 18 September 2013

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 he does not receive a monthly retirement pension and block 23 should show he was medically discharged.
3. The applicant served in the United States Marine Corps and Reserve with active service of 9 years 4 months 29 days and inactive service of 7 years 1 months 19 days from 26 February 1988 through 12 September 2003.
4. The applicant enlisted in the Regular Army on 29 July 2004. He remained on active duty through a series of reenlistments and extensions.
5. A DA Form 199 (Informal Physical Evaluation (PEB) Proceedings) shows an Informal PEB convened on 30 April 2013, wherein the applicant was found physically unfit with a recommended rating of 60 percent and that his disposition be permanent disability retirement.
 - a. The applicant concurred with findings and waived a formal hearing of his case.

b. He did not request consideration of his VA ratings.

c. This case was adjudicated as part of the Integrated Disability Evaluation System (IDES) under the 19 December 2011 Policy and Procedure Directive-type Memorandum (DTM) 11-015.

d. The proceedings were finalized on 17 May 2013.

6. The applicant was honorably retired on 18 September 2013. His DD Form 214 shows:

- block 23 (Type of Separation): Retirement
- block 28 (Narrative Reason for Separation): Disability, Permanent (Enhanced)

BOARD DISCUSSION:

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 and available military records, the Board determined there is insufficient evidence to support the applicant's contention for correction of block 23 (Type of Separation) of his DD Form 214 to show "Medically Discharge" vice Retirement. Evidence in the record show the applicant concurred with findings and waived a formal hearing of his case. Furthermore, the applicant was found physically unfit with a recommended rating of 60 percent and that his disposition be permanent disability retirement by an informal physical evaluation (PEB) proceeding. Based on this, the Board denied relief.

BOARD VOTE:

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

2/22/2024

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. Title 10, U.S. Code, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency, under the operational control of the Commander, U.S. Army Human Resources Command (HRC), is responsible for administering the PDES and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with Department of Defense Directive 1332.18 and Army Regulation 635-40. Soldiers are referred to the PDES when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a medical evaluation board, when they receive a permanent medical profile, P3 or P4, and are referred by an MOS Medical Retention Board, when they are command-referred for a fitness-for-duty medical examination, and when they are referred by the Commander, Human Resources Command.

3. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10 U.S. Code, section 1203, provides for the physical disability separation of a

member who has less than 20 years of service and a disability rating of less than 30 percent.

4. Army Regulation 635-8 (Separation Processing and Documents) provides the guidance for preparing the DD Form 214, and the authorized or required entries for each block. This regulation specifies, only the following entries are authorized in block 23 (Type of Separation) for enlisted personnel:

- Release from Active Duty (REFRAD)
- Discharge
- Retirement
- REFRAD and order to active duty in another status
- Release from Active Duty for Training (ADT)
- Release from custody and control of the Army
- Release from ADT and discharge from the Reserve of the Army and return to the ARNG

//NOTHING FOLLOWS//