

IN THE CASE OF: ██████████

BOARD DATE: 10 April 2024

DOCKET NUMBER: AR20230007575

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to amend item 28 (Narrative Reason for Separation)
- a telephonic/video appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Letter from Patient Administration
- Consent for Release of Personal Records by Executive Agencies
- Medical Record, dated from 7 February 2002 to 10 March 2008

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 is requesting item 28 of his DD Form 214 to be corrected because it is erroneous, as his medical records indicate otherwise.
3. The applicant provides:
 - a. A letter from the Chief, Patient Administration, dated 9 March 2017, that provides information pertaining to furnished copies of the applicant's electronic health record from the Veterans Affairs Records Management Center and AMEDD Record Processing Center.
 - b. A Consent for Release of Personal Records by Executive Agencies, dated 20 April 2023, that requests congressional assistance in correcting his DD Form 214.

c. Medical record that details his appointments, diagnosis, medications, and dispositions from 7 February 2002 to 10 March 2008, available in its entirety for the Board to review.

4. Review of the applicant's service record shows:

a. He enlisted in the Regular Army on 2 April 2003 for a term of 3 years.

b. A DD Form 2808 (Report of Medical Examination), dated 2 April 2003 shows the applicant as "normal" for all items during his clinical evaluation and is qualified for service.

c. Orders 231-370 issued by Headquarters, 3rd Infantry Division and Fort Stewart on 18 August 2004 discharged him from the Regular Army effective 27 August 2004

d. On 27 August 2004, he was discharged from active duty in accordance with Chapter 5-17 of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) with an honorable characterization of service. His DD Form 214 shows he completed 1 year, 4 months, and 26 days of active service. It also shows in item 28 physical condition, not a disability.

5. The applicant's service record is void of the separation proceedings and the mental and medical documents that support the separation proceedings.

6. Regulatory guidance states:

a. 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.

b. In item 28, enter the narrative reason for separation as shown in AR 635-5-1 based on the regulatory or other authority.

7. 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 a change in the narrative reason for separation in block 28 of his DD 214. He states in the request to his congressional representative:

“My DD 214 need to be fixed. It says personality disorder with depressed mood. I see a counselor for my issues from the Army. The chapter 5-17 is worded to make my issues non-service connected which is untrue and unfair. Prior to service, I did not have these issues. My medical records do not indicate that a chapter 5-17 was warranted.”

c. The Record of Proceedings details the applicant’s military service and the circumstances of the case. His DD 214 for the period of Service under consideration shows he entered the Regular Army on 2 April 2003 and was honorably discharged on 27 August 2004 under the separation authority provided by paragraph 5-17 of AR 635-200, Active Duty Enlisted Administrative Separations (1 November 2000): Other designated physical or mental conditions. It does not lists a period of service in a hazardous duty pay area.

d. Paragraph 5-17a of AR 635-200:

Commanders specified in paragraph 1–19 may approve separation under this paragraph on the basis of other physical or mental conditions not amounting to disability (AR 635–40) and excluding conditions appropriate for separation processing under paragraph 5–11 or 5–13 that potentially interfere with assignment to or performance of duty. Such conditions may include, but are not limited to—

- (1) Chronic airsickness.
- (2) Chronic seasickness.
- (3) Enuresis.
- (4) Sleepwalking.
- (5) Dyslexia.
- (6) Severe nightmares.
- (7) Claustrophobia.

(8) Other disorders manifesting disturbances of perception, thinking, emotional control or behavior sufficiently severe that the soldier's ability to effectively perform military duties is significantly impaired.

e. There are three mental health encounters in the EMR, all in July 2004. The first is dated 6 July 2004 and shows the applicant had been diagnosed with Adjustment Disorder with Disturbance of Emotions and Conduct and was pending separation from the Army:

"Pt (patient) mood and affect was angry and irritable. Pt denied S/I H/I (suicidal ideation, homicidal ideation). Judgment and thought process intact within normal limits. Pt stated that he is just waiting for his unit to hurry up and process his chapter. Pt stated that his 1SG just tells him they are "working on it". Pt stated that he is just simply tired of people hassling him.

Pt has not made any plans for life outside the military yet but has received a job offer from Brown & Root. Pt said that the only thing that has kept him from going AWOL [absent without leave] is fear of a dishonorable discharge. Pt said that his frustrations with his unit are too numerous to mention. Pt said that some of his unit members keep telling him that he is "going to the desert" with them. Pt said he will go AWOL rather than deploying with his unit."

f. His next encounter was on 12 July 2004 and showed he had been offered an opportunity to remain in the Army but declined it, and that he blamed his problems in the Army on being bi-racial:

"Pt stated that he talked with his commander, and she offered to send him to another unit at Ft Stewart to attempt a rehabilitative transfer. Pt declined that offer ... Pt said that he just wants to leave the Army as soon as possible ...

Pt said that he has had a lot of problems in his unit because he is bi-racial and 'light skinned.' Pt stated that he was warned by his family that he would be subject to persecution because of his appearance from the time he was a small child. Pt said that all of his life that warning has held true."

g. The final encounter was on 21 July 2004 and covered the issues already discussed. It stated he had been read his chapter, was looking forward to leaving the Army as soon as possible, and had been contacted by Brown & Root and could possibly start working for them 15 August 2004.

h. The next entry is a 2015 mental health VA C&P showing the applicant did not have PTSD and "does not have a mental disorder that conforms with DSM-5 criteria."

Neither the applicant's separation packet nor documents addressing his involuntary administrative separation were submitted with the application or uploaded into iPERMS. However, it appears the applicant was separated from the Army for adjustment disorder with an inability and/or lack of motivation to adapt to a military lifestyle.

i. Paragraph 3-36 of AR 40-501, Standards of Medical Fitness (29 August 2003), states that adjustment disorders are not a cause for referral to the disability process as they do not constitute a disability:

"3-36. Adjustment disorders

Situational maladjustments due to acute or chronic situational stress do not render an individual unfit because of physical disability but may be the basis for administrative separation if recurrent and causing interference with military duty."

j. JLV shows he has been awarded a single VA service-connected disability rating of 10% for "Residuals of Foot Injury" (left).

k. It is the opinion of the Agency medical advisor a change in the applicant's DD 214 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 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 medical review, the Board concurred with the advising official finding a change in the applicant's DD 214 is not warranted. The opine noted the applicant had three mental health encounters in the EMR, all in July 2004. Evidence shows the applicant had been diagnosed with adjustment disorder with Disturbance of Emotions and Conduct and was pending separation from the Army:

2. The Board determined based on the advising opine, at the time of the applicant's separation, the documentation supports the narrative reason for separation is properly identified on the DD Form 214. As such, the Board determined under liberal consideration changes to the applicant's narrative reason are not warranted. Therefore, the Board denied relief.

2. 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:

<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.

4/11/2024

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, 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. 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 635-5 (Separation Documents) states:

a. 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.

b. In item 28, enter the narrative reason for separation as shown in AR 635-5-1 based on the regulatory or other authority.

//NOTHING FOLLOWS//