

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 April 2024

DOCKET NUMBER: AR20230009279

APPLICANT REQUESTS: correction to the following blocks of her DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 7 May 2004:

- block 24 (Character of Service) from uncharacterized to honorable
- block 28 (Narrative Reason for Separation) to show she was separated due to a service-incurred medical disability instead of "physical condition, not a disability"

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Department of Veterans Affairs (VA) certification of military service and disability rating
- driver license
- Marriage License
- Certificate of Live Birth

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:

a. She was issued an uncharacterized discharge for a physical condition (not a disability). Since 2004, she has been receiving service-connected disability compensation for the physical conditions caused by her injuries. Her DD Form 214 should be corrected to indicate that the physical condition was, in fact, a disability.

b. When she went to obtain her driver's license, she was told that she could not receive her "veteran" status unless her DD Form 214 is changed to show an honorable

discharge. The letter she has carried since July 2019 showing her honorable status was not good enough. She signed up to serve her country after September 11. She was 32 years old when she went into basic training and although she received injuries during basic training, she was happy to serve her country.

3. The applicant enlisted in the Regular Army on 18 November 2003.
4. A DA Form 2173 (Statement of Medical Examination and Duty Status) shows the applicant was examined on 5 January 2004 for a fracture to the left ankle. The injury was considered to have been incurred in line of duty.
5. The applicant's discharge proceedings are not available.
6. The applicant's DD Form 214 shows she was discharged on 7 May 2004 under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 5-17, by reason of "physical condition, not a disability." The DD Form 214 also shows she was not awarded a military occupational specialty (MOS) and a character of service of uncharacterized.
7. The applicant provided VA documents showing she is receiving service-connected disability compensation for undisclosed medical disabilities.
8. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

MEDICAL REVIEW:

1. 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).
2. The applicant is applying to the ABCMR requesting a change in the narrative reason/separation authority for her 22 February 2005 uncharacterized discharge and in essence, a referral to the Disability Evaluation System. She states:

I was provided an uncharacterized discharge for a physical condition (not a disability). Since 2004, I have been receiving 20 percent disability pay for the physical conditions caused by my injuries. My DD-214 should be corrected to indicate that the physical condition was, in fact, a disability.

3. The Record of Proceedings details the applicant's military service and the circumstances of the case. Her DD 214 shows she entered the regular Army on 18 November 2003 and received an uncharacterized discharge 7 May 2004 under provisions provided in paragraph 5-17 of AR 635-200, Active duty Enlisted Administrative Separations (1 November 2000): Other designated physical or mental conditions.

4. Paragraph 5-17 of AR 635 200 authorizes discharges for conditions which interfere with military service but are not service incurred disabilities. From paragraph 5-17a:

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.

5. The applicant does not identify the exact condition(s) for which resulted in her involuntary administrative separation.

6. A Statement of Medical Examination and Duty Status (DA Form 2173) shows she sustained a "Left Ankle Fracture" ... "All other details unknown" on 5 January 2004. She was seen and treated at General Leonard Wood Army Community Hospital as an outpatient.

7. There is only one clinical encounter in AHLTA and it is from 5 January 2004, the date of injury. The applicant was diagnosed with a completed stress fracture (a stress fracture that had subsequently fracture all the way through the bone) and that she was treated with a walking cast:

X-RAYS today show a nondisplaced transverse fracture of the distal fibula, consistent with a completed stress fracture.

ASSESSMENT: Left distal fibula fracture, nondisplaced and non-angulated.

PLAN: She will be placed in a short-leg walking cast with follow-up in a week for x-ray in plaster, and then, if the position is maintained, she will continue the cast for another 3 weeks. We will see her back at 4 weeks again for x-rays out of plaster. She can use the crutches as she needs them. She is also given a profile for no running, jumping, marching, climbing, crawling, or standing more than 10 minutes per hour. We will also ask physical therapy at the Troop Clinic to assess her for possible PTRP [physical training and rehabilitation program] placement.

8. The Warrior Training and Rehabilitation Program, or WTRP, previously known as physical training and rehabilitation program (PTRP), provides a modified basic combat training (BCT) and/or one station unit training (OSUT) environment designed to return Soldiers to regular initial military training programs with higher levels of motivation, fitness, training, and education than when they entered, while providing them the quality health care they need to rehabilitate their injuries. The results of this evaluation are unknown, and while she would appear to have been a good candidate for the program, she may have declined it and instead opted to be separated rather than extend her time in basic combat training.

9. There are no further clinical encounters but several radiologists' reports for a left ankle injury/fracture. The first report is the day of injury and shows the applicant is in a cast with no significant displacement of the fracture. Radiographs obtained one month

later revealed the injury was doing well, with the report stating, "There is a healing fracture of the distal fibula with callus formation." A bone scan obtained 25 March 2024 revealed "Healing distal fibula fracture" and "Mild stress reaction changes of the knees, tibial shafts, feet, and ankles."

10. Neither her separation packet nor other documentation addressing her discharge were submitted with the application or uploaded into iPERMS. Hence, the condition(s) and circumstances under which he was processed for separation are unknown.

11. JLV shows she has two 10% VA service-connected disability ratings, one for left lower leg condition and the other for "Lumbosacral or cervical strain."

12. Paragraph 5-17 of AR 635-200 is frequently applied to stress fractures as they are not permanent disabilities: They almost uniformly heal in a healthy individual once the repetitive physical stresses are discontinued.

13. There is no probative evidence the applicant had any duty incurred medical condition which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to his discharge. Thus, there was no cause for referral to the Disability Evaluation System.

14. 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.

15. It is the opinion of the ARBA Medical Advisor that neither a change in her separation authority nor a referral of her case to the Disability Evaluation System is warranted.

BOARD DISCUSSION:

1. The applicant's contentions, the military record, and regulatory guidance were carefully considered. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted.

2. The applicant's characterization of service was properly classified as uncharacterized, because she completed less than 181 days of continuous active military service, she did not complete initial entry training, she was not awarded a military occupational specialty, nor had she reported for duty at a follow-on unit of assignment.

3. The Board concurs with the opinion of the medical advisor. There is no probative evidence the applicant had any duty incurred medical condition which would have failed the medical retention standards; therefore, there was no cause for referral to the Disability Evaluation System.

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.

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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 635-200 sets forth the basic authority for the separation of enlisted personnel. The regulation in effect at the time of the applicant's separation, dated December 2003, states in:

a. Paragraph 3-9, a separation would be described as entry level with uncharacterized service if processing were initiated while a Soldier was in an entry-level status, except when:

(1) An under other than honorable conditions characterization is authorized under the reason for separation and is warranted by the circumstances of the case.

(2) Headquarters, Department of the Army, on a case by case basis, determined a characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

(3) The Soldier has less than 181 days of continuous active military service, has completed initial entry training, has been awarded an MOS, and has reported for duty at a follow-on unit of assignment.

b. Paragraph 5-17, commanders may approve separation under this paragraph on the basis of other physical or mental conditions not amounting to disability per Army Regulation 635-40 (Disability Evaluation for Retention, Retirement or Separation) and excluding conditions appropriate for separation processing under paragraph 5-11 (Separation of personnel who did not meet procurement medical fitness standards) or 5-13 (Separation because of personality disorder) that potentially interfere with assignment to or performance of duty. Such conditions may include, but are not limited to chronic air or seasickness, enuresis, sleepwalking, dyslexia, severe nightmares, claustrophobia, 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.

(1) When a commander determines that a Soldier has a physical or mental condition that potentially interferes with assignment to or performance of duty, the commander will refer the Soldier for a medical examination and/or mental status evaluation in accordance with Army Regulation 40–501 (Standards of Medical Fitness). A recommendation for separation must be supported by documentation confirming the existence of the physical or mental condition.

(2). Separation processing may not be initiated under this paragraph until the soldier has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

c. Glossary-Section II (Terms), for Regular Army Soldiers, entry-level status is the first 180 days of continuous active duty.

3. Title 38, U.S. Code, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

4. Title 38, Code of Federal Regulations, Part IV is the VA Schedule for Rating Disabilities. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a veteran throughout their lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

5. 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//