

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 March 2024

DOCKET NUMBER: AR20230009777

APPLICANT REQUESTS:

- correction of his records to show he was discharged for medical reasons instead of for failure to meet weight control standards
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- 8 pages of medical records

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 the reason for his separation be changed from weight control failure to medical discharge to reflect the documented medical condition that led to his discharge from a career he has wanted his entire life. While on active duty, he was diagnosed and treated for hypothyroidism, a condition that makes it difficult to maintain the regulatory weight. In spite of medication and physical training, he was unable to meet standards and he was discharged for failure to meet weight control standards instead of for a medical condition.
3. The applicant enlisted in the Regular Army on 26 July 2006.
4. The applicant's Enlisted Record Brief (ERB) shows that a Flag (suspension of favorable personnel actions), code K (Army Body Composition Program) was imposed against him starting on 10 August 2016. His ERB also shows a Flag code B (involuntary separation or discharge) was imposed against him starting on 10 February 2017.

5. The applicant's separation proceedings are not available. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged on 26 May 2017 under the provisions of Army Regulation 635-300 (Active Duty Enlisted Administrative Separations), chapter 18, by reason of weight control failure. His DD Form 214 also show he was assigned a separation code of "JCR."

6. The applicant provided medical records showing he was diagnosed with hypothyroidism.

7. The applicant submitted an application to the Army Discharge Review Board (ADRB), received by the ADRB on 17 November 2017, requesting a change to the narrative reason for his separation to show he was separated for medical reasons based on his diagnosis of hypothyroidism. During the adjudication of his application, the ADRB Medical Officer stated that based on the applicant's available medical records, he had mild hypothyroidism, which responded successfully to exogenous thyroid hormone. He was placed on thyroid hormone in April 2016 and by December 2016, his thyroid hormone levels had normalized. His weight, however, continued to increase. While severe, untreated hypothyroidism can lead to weight gain, the applicant's level of hypothyroidism was mild and highly unlikely to cause significant weight gain. Additionally, his thyroid condition was successfully treated with exogenous thyroid hormone and, as such, is not responsible for the applicant not meeting body weight standards.

8. On 24 October 2018, the ADRB denied the applicant's request upon finding that his separation was both, proper and equitable.

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/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

2. The applicant is applying to the ABCMR requesting a change in his separation authority and, in essence, a referral to the Disability Evaluation System. He states:

"I am requesting my discharge be amended from Chapter 18 to Medical Discharge to reflect a documented medical condition that led to me being discharged from a

career I have wanted my entire life. While on active duty, I was diagnosed with and treated for Hypothyroidism, a condition that makes it difficult to maintain regulation weight. In spite of medication and physical training, I was unable to meet standards and was summarily discharged under Chapter 18 instead of for a medical condition.”

3. 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 26 July 2006 and was honorably discharged on 26 May 2017 under provisions in chapter 18 of AR 635-200, Active Duty Enlisted Administrative Separations (19 December 2016): Failure to Meet Weight Control Standards.

4. A request for a change in the narrative reason for his separation was denied in by the ADRB on 17 November 2017 (AR20170018729). Rather than repeat their findings here, the board is referred to the record of proceedings. This review will concentrate on the medical evidence in the case and any new evidence submitted by the applicant.

5. All Soldiers are required to undergo a medical evaluation before they are entered into the Army Weight Control Program (AWCP). Paragraph 3-2d of AR 600-9, The Army Weight Control Program (27 November 2006):

“Health care personnel will perform a medical evaluation when a Soldier has a medical limitation, is pregnant, or when requested by the unit commander. A medical evaluation is also required for Soldiers being considered for separation because of a failure to make satisfactory progress in the AWCP, or within 6 months of ETS.”

6. While this examination was not identified, the applicant was diagnosed and began treatment for hypothyroidism in 2016. A 15 September 2017 encounter shows that his condition was under control and he was no longer hypothyroid:

“Hypothyroidism, Unspecified: 33-year-old. male diagnosed with hypothyroidism 1 year ago, has been on Synthroid 175 mcg for most of this time, recent increase to 188 mcg and TSH has decreased. Patient advised to resume the dosing back to 175 mcg.”

7. Paragraph 3-2d(4)(e) and 3-2e of AR 600-9:

“The medial profession will ... [3-2d(4)(e)] Determine whether an individual’s condition is medically disqualifying for continued service. If the Soldier does not meet medical retention standards of AR 40-501, chapter 3, the Soldier will be

referred to an MEB/physical evaluation board (PEB). [3-2e]: If the underlying medical condition does not require referral to an MEB/PEB and a Soldier is classified as overweight, these facts will be documented and the Soldier will be entered into the AWCP except as described in paragraph 3–2b. Commanders will initiate suspension of favorable personnel actions under AR 600–8–2.

8. Though his hypothyroidism may have made weight management difficult for the applicant, it was under medical control and did not fail the medical retention standards in in chapter 3 of AR 40-501, Standards of Medical Fitness (22 December 2016). In fact, this condition is not even listed per se in chapter 3 of AR 40-501 as a referable medical condition.

9. Paragraph 3-2d(1) of AR 600-9 states “If an underlying medical condition cannot be controlled with medication or other medical treatment, the medical professional will refer the Soldier to a medical evaluation board (MEB).” The applicant’s hypothyroidism was under control and so this criterion was not met.

10. Finally, the EMR shows the applicant was intermittently evaluated and treated for several musculoskeletal conditions, including shin splints in 2016. However, Paragraph 3-2d(4) of AR 600-9:

“The use of certain medications to treat an underlying medical disorder or the inability to perform all aerobic events may contribute to weight gain but are not considered sufficient justification for noncompliance with this regulation.”

11. It is the opinion of the ARBA Medical Advisor that neither a change in his separation authority nor a referral of his case to the DES 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 applicant’s contentions, the military record, and regulatory guidance were carefully considered.

2. The Board concurs with the medical advisory opinion, there is no evidence the applicant had a medical condition that warranted referral to the DES.

3. The applicant's request for a personal appearance hearing was carefully considered. However, in this case, the evidence of record and independent evidence provided by the applicant 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:

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.

6/6/2024

X █

CHAIRPERSON

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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. Chapter 18 provides that Soldiers who fail to meet the body fat standards set forth in Army Regulation 600-9 (The Army Body Composition Program) are subject to involuntary separation per this chapter when such condition is the sole basis for separation. Separation proceedings may not be initiated under this chapter until the Soldier has been given a reasonable opportunity to meet the body fat standards, as reflected in counseling or personnel records.
 - a. Soldiers who have been diagnosed by health care personnel as having a medical condition that precludes them from participating in the Army body fat reduction program will not be separated under this chapter.
 - b. If there is no underlying medical condition and a Soldier enrolled in the Army Weight Control Program fails to make satisfactory progress in accordance with Army Regulation 600-9, separation proceedings will be considered.
 - c. Initiation of separation proceedings is required for Soldiers who fail to meet body fat standards during the 12-month period following removal from the program, provided no medical condition exists.
3. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities and reasons for separating Soldiers from active duty and the SPD codes to be entered on the DD Form 214. The regulation shows the SPD code of "JCR" as shown on the applicant's DD Form 214, is the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, chapter 18, for weight control failure.
4. Army Regulation 15-185 (ABCMR) provides Department of the Army policy, criteria, and administrative instructions regarding an applicant's request for the correction of a military record. Paragraph 2-11 states 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.
5. Section 1556 of Title 10, United States 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//