

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 19 April 2024

DOCKET NUMBER: AR20230010636

APPLICANT REQUESTS: in effect, reconsideration of his previous request for correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his service was characterized as "Honorable" rather than "Entry Level Status."

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- Two DD Forms 149 (Application for Correction of Military Record), dated 19 June 2023 and 30 July 2023
- DD Form 214, for the period ending
- Department of Veterans Affairs (VA), Nashville, TN, letter, dated 4 October 2019
- VA, Columbia, SC letter, dated 28 June 2021
- U.S. Army Human Resources Command (USAHRC), Fort Knox, KY letter, dated 7 July 2023

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20200004760 on 24 June 2021.
2. The applicant states Item 23 (Type of Separation) of his DD Form 214 erroneously contains the entry "Discharge" instead of "Honorable" or "Medical." According to the VA, he has an honorable discharge due to disability. His DD Form 214 should accurately reflect the same status that the VA has determined. The way his DD Form 214 currently appears causes some people to question his discharge status when he is seeking services as a 100 percent (%) service-connected disabled Veteran.
3. On 1 March 1985, the applicant enlisted in the Regular Army for a period of 4 years. He completed Basic Combat Training at Fort McClellan, AL, and was reassigned to Fort Jackson, SC, for completion of Advanced Individual Training (AIT).
4. A Standard Form 502 (Narrative Summary (Clinical Resume)), rendered at Moncrief Army Community Hospital (MACH) on 2 August 1985, shows the applicant was involved in a bus accident on or about 8 June 1985, while participating in an Army sponsored

recreation trip from Fort Jackson to Myrtle Beach, SC. He sustained an acceleration/deceleration injury to his neck. He was also seen by a private orthopedist in Myrtle Beach, who also confirmed the diagnosis of an acceleration deceleration injury. Since then, he was seen in orthopedics for his problem and has been followed since 11 June 1985. Over the next two months, the pain in his neck did not improve. He stated that with running and attempting to do mechanics work, his pain was exacerbated. He also stated that his speech impediment, for which he received treatment in the form of speech therapy before entering the Army, worsened and his stuttering was worse since the accident occurred. He was found unfit for retention in accordance with Army Regulation 40-501 (Standards of Medical Fitness), paragraph 3-28o and paragraph 3-36c (3). He was referred to a medical evaluation board (MEB) for evaluation and disposition.

5. A DA Form 3947 (MEB Proceedings) shows an MEB convened on 8 August 1985 to consider the applicant's medical condition. He was diagnosed with chronic neck muscular strain, incurred while entitled to base pay and a speech impediment that existed prior to service but was permanently aggravated by service. The MEB recommended that the applicant be referred to a physical evaluation board (PEB) for consideration. The applicant agreed with the MEB's findings and recommendations on 12 August 1985.

6. A DA Form 199 (PEB Proceedings) shows a PEB convened on 14 August 1985 to evaluate the applicant's condition. His condition was determined to be chronic neck muscular strain, rated moderate. He was found to be physically unfit because of acceleration/deceleration injury sustained in June 1985, while a passenger in an Army sponsored recreational bus, with no improvement since that time and with no improvement expected. A permanent disposition was recommended. The PEB found him physically unfit and recommended a combined disability rating of 10%. The PEB further recommended that he be separated from service with severance pay if otherwise qualified. The applicant was notified of the PEB results and advised of his options on 16 August 1985.

7. A DA Form 2173 (Statement of Medical Examination and Duty Status), dated 20 November 1985, shows the applicant's injury was considered to have been incurred in the line of duty.

8. Orders and the applicant's DD Form 214 show he was separated on 14 January 1986, under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), paragraph 4-24e (3). He was credited with completion of 10 months and 14 days of net active service this period. The applicant did not complete AIT and was not awarded a military occupational specialty. His DD Form 214 shows in:

- Item 23 (Type of Separation) - Discharge
- Item 24 (Character of Service) - Entry Level Status [uncharacterized]
- Item 25 (Narrative Reason for Separation) - physical disability with severance pay
- Item 26 (Separation Code) - JFL

9. The applicant petitioned the ABCMR for relief. On 8 November 2021, the applicant was informed the ABCMR considered his application under procedures established by the Secretary of the Army and denied his request.

10. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active duty service. The evidence of record shows the applicant was still in an entry-level status at the time that his separation processing was initiated. As a result, his service is appropriately characterized in accordance with governing regulations.

11. The applicant provides a VA summary of benefits letter, which shows his service is characterized as honorable for VA purposes. He currently has a 100% service-connected disability rating.

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

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests. The applicant served on active duty from 1 March 1985 to 14 January 1986, a period of 10 months and 14 days and upon discharge, received an entry-level status characterization of service. The applicant did not earn a military occupational specialty (MOS) and did not complete his full term of service. However, the Board majority noted the applicant was injured while he was a passenger in an Army sponsored recreational bus (chronic neck muscular strain). A physical evaluation board convened subsequent to his accident on 14 August 1985 and was found to be physically unfit because of the injury sustained. The Board majority determined an upgrade to honorable was warranted due to the nature of the applicant's sustained injury and the manner in which he was injured. The Board minority noted the applicant's lack of MOS training and less than 1 year on active duty and voted to deny relief. The Board determined that the underlying reason for separation did not change and thus the narrative reason for separation and corresponding codes should not change.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 21 February 1972, to show in:

- item 24 (Character of Service): Honorable
- item 25 (Separation Authority): No Change
- item 26 (Separation Code): No Change
- item 27 (Reentry Code): No Change
- item 28 (Narrative Reason for Separation): No Change

█

█ █

█

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 three 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 three-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, Retirement or Separation for Physical Disability, provides for the medical retirement and for the discharge for physical unfitness, with severance pay, of soldiers who incur a physical disability in the line of duty while serving on active or inactive duty. However, the disability must have been the proximate result of performing military duty.

3. Army Regulation 635-40 provides that the medical treatment facility commander with the primary care responsibility will evaluate those referred to him and will, if it appears as though the member is not medically qualified to perform duty or fails to meet retention criteria, refer the member to a medical evaluation board. Those members who do not meet medical retention standards will be referred to a PEB for a determination of whether they are able to perform the duties of their grade and military specialty with the medically disqualifying condition.

4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. It states that an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law.

a. 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. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. A separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status, except when the Soldier has less than 181 days of continuous active military service, has completed Initial Entry Training, has been awarded a military occupational specialty, and has reported for duty at a follow-on unit of assignment.

//NOTHING FOLLOWS//