

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 October 2024

DOCKET NUMBER: AR20230011940

APPLICANT REQUESTS: To be taken out of the Retired Reserve and reinstated into the active Troop Program Unit (TPU) Army Reserve. He also requests a personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Appeal Letter
- My HealtheVet Records (52 pages)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 11 June 2013
- Profile, 11 February 2022
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), 10 May 2022
- DD Form 220 (Active Duty Report), 9 August 2022
- Dr Letters and Notes (19 pages)
- DA Form 5500 (Body Fat Content Worksheet (Male)), 12 March 2023
- DA Form 199-1 (Formal PEB Proceedings), 12 April 2023
- Appeal memo to PEBLO, 1 May 2023
- Discharge Order, 7 July 2023

FACTS:

1. The applicant states he was diagnosed to be diabetic type 2 after finding a blockage in his heart but states in appeal that he was dealing with low blood sugar episodes, that he has never had. According to Primary Care Dr. through a letter A1c is well controlled with little medication and through diet and exercise along with temporary profile that he would have proven this, which he did. After having a stent placed in his heart, and a year of taking medication and cardiobolic rehab, then coming off all medication, his cardiologist claimed he had no physical limitations. He has no physical limitation and his diagnose of type 2 diabetes is well under control through one medication and diet and exercise. He has completed multiple diagnostic Army Combat Fitness Tests and years

of physical duty. If his military occupational specialty (MOS) was the holdup, he was on standby to attend and finish 35F reclass or become an administrative specialist.

2. The applicant enlisted in the Regular Army on 19 June 2000. He held MOS 14S (Avenger Crewmember).
3. He was honorably released from active duty on 31 May 2005. His DD Form 214 shows he completed 4 years, 11 months, and 12 days net active service this period.
4. DD Form 2808 (Report of Medical Examination) conducted on 7 January 2006, shows no abnormal items and he was qualified for service with no physical limitations.
5. He enlisted in the Regular Army again on 2 February 2006 for a period of 3 years and 10 weeks.
6. He was honorably discharged on 11 June 2013 due to completion of required active service. His DD Form 214 shows he completed 7 years, 4 months, and 10 days net active service this period.
7. A Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter) was issued on 28 January 2021, stating the applicant completed the required years of qualifying Reserve service and are eligible for retired pay upon reaching age 60 in accordance with Title 10, U.S. Code, Chapter 1223.
8. The applicant provided:

- a. Physical Profile Record showing he was issued a profile for Diabetes: uncontrolled/episodes of low blood sugar. He was issued a 3 – P on 11 February 2022. His PULHES reflects 311111. It also showed temporary profiles for (51 days) for heart condition issued and blood thinner therapy on 18 April 2022.

A physical profile is used to classify a Soldier's physical disabilities in terms of six factors or body systems, as follows: "P" (Physical capacity or stamina), "U" (Upper extremities), "L" (Lower extremities), "H" (Hearing), "E" (Eyes), and "S" (Psychiatric) and is abbreviated as PULHES. Each factor has a numerical designation: 1 indicates a high level of fitness, 2 indicates some activity limitations are warranted, 3 reflects significant limitations, and 4 reflects one or more medical conditions of such a severity that performance of military duties must be drastically limited. Physical profile ratings can be either permanent or temporary.

- b. DA Form 199 showing he was found physically unfit and that his disposition should be referred for case disposition under Reserve Component regulations.

(1). His medical condition determined to be unfitting was Diabetes mellitus type 2 (non-compensable). The condition was determined to be non-duty related (NDR). The Soldier was diagnosed with this condition in October 2020 at the VA. This condition was discovered when the Soldier's fasting blood glucose was 236mg/dl and A1C level was 8.2. The Soldier is currently taking Alogliptin, Glipizide, Metformin and Empagliflozin. His most recent A1C level on file was 6.4 on 17 March 2022 after being 8.3% in January 2022. The condition is not compensable because at the time the Soldier was diagnosed with this condition the Soldier was not in an Active-Duty status for more than 30 days or entitled to base pay, and there is no Line of Duty investigation for this condition. Additionally, there is no evidence within the Soldier's available case file that indicates that military service has aggravated the condition. In accordance with (IAW) Army Regulation (AR) 635-40 (Disability Evaluation for Retention, Retirement, or Separation), this Soldier is unfit because the DA Form 3349, Physical Profile Record, Section 4, functional activity limitations associated with this condition make this Soldier unable to reasonably perform required duties.

(2). The applicant did not concur and demanded a formal hearing.

9. DD Form 220 shows he reported for duty on 6 July 2022, and was released from active duty on 1 August 2022 due to being dropped from the 35F (Intelligence Analyst) course. He completed 27 days on active duty.

10. The applicant provided:

a. DA Form 5500 showing he was in compliance with Army Standards for height and weight.

b. 19 pages of doctor letters and notes related to his medical condition(s).

11. On 12 April 2023, a Formal PEB convened and found the applicant physically unfit and that his disposition should be referred for case disposition under Reserve Component regulations.

(1). His medical condition determined to be unfitting was Diabetes mellitus type 2 (non-compensable). The condition was determined to be non-duty related (NDR). The Soldier was diagnosed with this condition in October 2020 at the VA. This condition was discovered when the Soldier's fasting blood glucose was 236mg/dl and A1C level was 8.2. The Soldier is currently taking Alogliptin, Glipizide, Metformin and Empagliflozin. His most recent A1C level on file was 6.4 on 17 March 2022 after being 8.3% in January 2022. The condition is not compensable because at the time the Soldier was diagnosed with this condition the Soldier was not in an Active-Duty status for more than 30 days or entitled to base pay, and there is no Line of Duty investigation for this condition. Additionally, there is no evidence within the Soldier's available case file that indicates

that military service has aggravated the condition. In accordance with (IAW) Army Regulation (AR) 635-40 (Disability Evaluation for Retention, Retirement, or Separation), this Soldier is unfit because the DA Form 3349, Physical Profile Record, Section 4, functional activity limitations associated with this condition make this Soldier unable to reasonably perform required duties.

(2). During formal proceedings, the PEB reevaluated all available medical and performance records to include sworn testimony and exhibits provided by the Soldier. Under the provisions of Chapter 61, Title 10 USC, a Soldier with at least 20 qualifying years for Reserve retirement who is not entitled to disability separation may have the option of transfer to the retire Reserve and receive Reserve retired pay at age 60. This case was adjudicated as a non-duty related case. DODI 1332.18, 3d.

(3). The applicant did not concur. He submitted a written appeal.

(4) The proceedings were approved on 1 May 2023.

12. On 1 May 2023, the United States Army Physical Disability Agency (USAPDA) responded to his rebuttal and stated:

a. USAPDA noted the applicant's disagreement with the findings of the Formal PEB (FPEB) and have reviewed the entire case, wherein, the applicant non-concurred with the FPEB findings. He requests to be found fit for Diabetes mellitus type 2 and that his case be returned to the Army Reserve-Medical Management Center (AR-MMC) for a profile review.

b. The applicant's current DA Form 3349 dated 11 February 2022 for the condition of "Diabetes: uncontrolled/episodes of low blood sugar" has an associated block 25(f) permanent restriction (He is unable to live and function, without restrictions in any geographic or climatic area without worsening his condition). According to AR 635-40, Paragraph 5-4(e) (2), "the PEB will find Soldiers unfit who are medically disqualified for worldwide deployment in a field or austere environment."

c. The evidence submitted to include the echocardiogram results dated 29 November 2022 and the 12 April 2023 letter from the Soldier's cardiologist, Dr. [REDACTED] does not remove his risk related to his diabetes and associated microvascular or macrovascular complications (as evidenced by his history of a heart attack in December of 2021). Given the applicant's medical history, the current DA form 3349 profile restrictions are appropriate. Returning his case to the AR-MMC for a profile review is unwarranted. The applicant is unfit for Diabetes mellitus type 2.

d. USAPDA concluded that the applicant's case was properly adjudicated by the FPEB, which correctly applied the rules that govern the Physical Disability Evaluation

System (PDES) in making its determination. The findings and recommendations of the FPEB are supported by a preponderance of evidence and are therefore affirmed. The issues raised in your 21 April 2023 appeal were adequately addressed by the FPEB in its board proceedings.

13. On 6 August 2023, he was released to the Retired Reserve. His total service reflects 23 years with his total active federal service being 12 years, 4 months, and 25 days.

14. By regulation (AR 15-185 (ABCMR)), 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.

15. AR 635-40 prescribes Army policy and responsibilities for the disability evaluation and disposition of Soldiers who may be unfit to perform their military duties due to physical disability.

16. 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 reversal of the United States Army Physical Disability Agency's determination that his non-duty related type II diabetes was unfitting for continued service, revocation of his length of service Retired Reserve orders, and reinstatement in the USAR. He states:

"Diagnosed to be diabetic type 2 after finding a blockage in my heart, but states in appeal that I was dealing with low blood sugar episode that I have never had. According to Primary Care Dr. through a letter, A1c is well controlled with little medication and through diet and exercise.

Along with temporary profile that I would have proven this, which I did. After having a stent placed in my heart, and year or taking medication and cardiac rehab, then coming off all medication my cardiologist claimed I had not physical limitations. I have no physical limitations and my diagnose of type 2 diabetes is well under control

through 1 medication and diet and exercise. I have complete multiple diagnostic ACFT's and years of physical duty.”

c. The Record of Proceedings details the applicant's military service and the circumstances of the case.

d. The applicant was placed on a permanent duty limiting physical profile for diabetes on 11 February 2022. The applicant was notified of this medically disqualifying condition and presented with four options:

(1) Transfer to the Retired Reserve if they have 20 qualifying years of service.

(2) Request a 15-year notice of eligibility for non-regular retired pay and transfer to the Retired Reserve if they have 15 by less than 20 years of qualifying service.

(3) Request an honorable discharge if they have less than 15 years of qualifying service.

(4) Request an NDR PEB

e. The applicant elected for a non-duty related physical evaluation board (NDR PEB).

f. An NDR PEB allows Reserve Component (RC) Service Members who are not currently on a call to active duty of more than 30 days and who are pending separation for non-duty related medical conditions but desire to remain in their component to enter the Disability Evaluation System (DES) for a determination of fitness. The NDR PEB affords these Soldiers the opportunity to have their fitness for duty determined under the standards that apply to Soldiers who have the statutory right to be referred to the DES for a duty related medical condition. After 2014, these boards also look to see if the referred condition(s) were duty related. When there is some evidence one or more conditions was likely duty related, they return them to the sending organization for entrance into the duty related processes of the DES.

g. On 10 May 2022, his informal NDR PEB found his type II diabetes to be his sole unfitting condition for continued service and that it was non-compensable because it was not duty related:

“The Soldier was diagnosed with this condition in October 2020 at the VA. This condition was discovered when the Soldier's fasting blood glucose was 236mg/dl and A1C level was 8.2. The Soldier is currently taking Alogliptin, Glipizide, Metformin and Empagliflozin. His most recent A1C level on file was 6.4 on 17 March 2022 after being 8.3% in January 2022.

The condition is not compensable because at the time the Soldier was diagnosed with this condition the Soldier was not in an Active-Duty status for more than 30 days or entitled to base pay, and there is no Line of Duty investigation for this condition. Additionally, there is no evidence within the Soldier's available case file that indicates that military service has aggravated the condition."

h. The applicant non-concurred with the PEB's finding the condition was unfitting for continued service. He submitted a written appeal requesting to be found fit for duty and demanded a formal hearing with the assistance of regularly appointed counsel.

i. The applicant was present for and represented by regularly appointed counsel at his 12 April 2023 formal PEB (FPEB). Following evaluation of the evidence presented and the testimony of the applicant, the Board reconfirmed the condition was unfitting for continued military service, that his comorbid heart disease was also unfitting for service, and that neither condition not been incurred in the line of duty. Excerpts from the board's findings.

"The voting membership of the PEB included an Officer of the Reserve Component.

Under the provisions of Chapter 61, Title 10 USC, a Soldier with at least 20 qualifying years for Reserve retirement who is not entitled to disability separation may have the option of transfer to the retire Reserve and receive Reserve retired pay at age 60.

The voting membership of the PEB included a physician.

The Soldier testified and provided medical documentation where his T2DM [type II diabetes mellitus] was well-controlled with diet, exercise, and twice daily metformin alone since January 2023 to present, as evidenced by a hemoglobin A1c of 6.6 percent in April 2023 ...

From the Soldier's diagnosis of T2DM in November 2019, and up to March 2022, the Soldier experienced labile blood glucose control with a hemoglobin A1c as high as 9.7 percent in December 2020.

Although the Soldier has had normal retinal, foot and lower extremity neurological examinations, evidence of complications of his diabetes includes him suffering a non-ST wave segment elevation myocardial infarction [MI] 13 December 2021, at age 39 years old. He had stent placement in his left anterior descending artery for an 85% stenosis the same day. His right circumflex and left main arteries were normal and he had a 55% focal small ostial obtuse marginal branch stenosis. Echocardiogram at the time showed a 44ejection fraction % [normal = 50%-70%] and anteroseptal hypokinesis.

In addition to the diabetes medications, he was placed on beta-blockers, high intensity statins, and dual antiplatelet therapy, which were all discontinued at the one-year post-MI visit in December 2022, and his only medications now are metformin, 1000 milligrams twice a day, and aspirin, 81 milligrams once daily. He had an echocardiogram performed 29 November 2022 that showed mild anterior hypokinesis and a calculated ejection fraction of 54%.

The Soldier testified he works out daily with high intensity exercise including weights, for 25 to 45 minutes and jogs 3 times a week for 1.5 to 2 miles, without cardiac symptoms ...

Based on the preponderance of evidence the Physical Evaluation Board (PEB) affirms the Soldier is unfit for T2DM (non-compensable) IAW AR 635-40, e(4), because this condition does not meet the medical retention standards of AR 40-501 and is listed in DoDI 6490.07, Enc. 3, para. c.(2).

Additionally, IAW DoDI 1332.18, Enc. 3, App. 2, para. 2.b.(1) the PEB determined continuing in the military is a decided medical risk for the Soldier as evidenced by his past medical history and natural progression of comorbid medical conditions.”

j. The applicant non-concurred and appealed to the United States Army Physical Disability Agency. The 12 April 2023 memorandum from Dr. [REDACTED] addressed below was submitted with his appeal. In their 1 May 2023 response to the applicant’s counsel, the USAPDA maintained noted this evidence but maintained his diabetes was unfitting:

“The evidence submitted to include the echocardiogram results dated 29 November 2022 and the 12 April 2023 letter from the Soldier’s cardiologist, Dr. [REDACTED] does not remove his risk related to his diabetes and associated microvascular or macrovascular complications (as evidenced by his history of a heart attack in December of 2021).

Given SGT [Applicant]’s medical history, the current DA form 3349 profile restrictions are appropriate. Returning his case to the AR-MMC [Army Reserve Medical Management Center for a profile review is unwarranted. SGT [Applicant] is unfit for Diabetes mellitus type 2.

We conclude that SGT [Applicant]’s case was properly adjudicated by the FPEB, which correctly applied the rules that govern the Physical Disability Evaluation System (PDES) in making its determination. The findings and recommendations of the FPEB are supported by a preponderance of evidence and are therefore affirmed.”

k. In the referenced 12 April 2023 “To Whom It May Concern” memorandum, his physician (Dr. [REDACTED] had stated the applicant was now asymptomatic and “I would off no

recommended restriction on activity and have no reason he should not remain on active duty.

l. While it is good to see the applicant doing well, his diabetes continues to fail the medical retention standards in both paragraphs 3-29d(2) and 3-29d(3) of AR 40-50,1 Standards of Medical Fitness(27 June 2019). These paragraphs state causes for diabetes to be referred to the DES are:

“(2) All cases of type 2 disease requiring medications for glycemic lowering.

(3) All cases of diabetes mellitus with microvascular or macrovascular complications.”

m. It is the opinion of the Agency Medical Advisor a reversal of the USAPDA’s determinations the applicant’s type II diabetes is unfitting for continued military service is not warranted.

BOARD DISCUSSION:

1. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.
2. The Board concurred with the conclusion of the ARBA Medical Advisor that the evidence shows the applicant’s type 2 diabetes continues to fail retention standards and the decision of the USAPDA was correct. Based on a preponderance of the evidence, the Board determined the applicant’s transfer to the Retired Reserve due to his non-duty related unfitting medical condition was not in error or unjust.

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.

3/29/2025


XCHAIRPERSON


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. 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.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 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.

2. AR 635-40 (Disability Evaluation for Retention, Retirement, or Separation) prescribes Army policy and responsibilities for the disability evaluation and disposition of Soldiers who may be unfit to perform their military duties due to physical disability.

a. Paragraph 6-3 (Eligibility criteria for requests to be considered (adjudicated): The Soldier must meet the criteria listed below to have their request for COAD or COAR, as applicable, considered. The USAPDA will screen all requests and return requests ineligible for consideration to the Soldier through the Soldier's PEBLO.

(1). Subparagraph d states the Soldier must meet at least one of the criteria listed below-

- For COAD, have at least 15 but less than 20 years of active Service. For COAR, have at least 15 but less than 20 years of qualifying service for non-regular retirement
- Be qualified in a critical skill or shortage MOS
- The disability resulted from combat or terrorism.

//NOTHING FOLLOWS//