

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230011975

APPLICANT REQUESTS: correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to reflect an honorable medical discharge

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Self-Authored Note
- DD Form 214
- Letter from Department of Veterans Affairs (VA)
- Medical Documents

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 she is requesting her service to reflect an honorable discharge under medical reasons. She was released from active duty because she failed the Methacholine Challenge breathing test for asthma and has been getting treated for it ever since.
3. The applicant's service record was unavailable for the Board's review; however, the applicant provided sufficient documentation for the Board to make a determination in her case.
4. The applicant provides the following documents:
  - a. DD Form 214 shows the applicant was member of the Army National Guard and entered active duty on 20 February 2002 and was released on 1 April 2002. She had completed 1 month and 12 days of net active-duty service with 1 year, 3 months, and 2 days of total prior inactive service. She did not receive a military occupational specialty.

She was discharged under the provisions of Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel) paragraph 5-11 with the narrative reason for separation failed medical/physical procurement standards. Her characterization of service was uncharacterized, her separation code was JFW and her reentry code was 3. She was not authorized or awarded any awards.

b. Letter from the VA, 5 February 2024, stating they had received her request for information.

c. Medical documents, which show, in pertinent part, her problem list was diabetes mellitus, asthma, and obesity. She has a 30 percent disability for asthma, bronchial. The medical documents are available for the Board's consideration.

#### 5. 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 an upgrade of her 1 April 2002 uncharacterized discharge and, in essence, a referral to the Disability Evaluation System (DES). She states:

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. The applicant's DD 214 for the period of service under consideration shows the former Guard Soldier entered the regular Army for basic combat training (BCT) on 20 February 2002 and was discharged on 1 April 2002 under provisions provided by paragraph 5-11 of AR 635-200, Active Duty Enlisted Administrative Separations (26 June 1996): Separation of personnel who did not meet procurement medical fitness standards.

d. Paragraph 5-11a of AR 635-200:

“Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment or who became medically disqualified under these standards prior to entry on AD or ADT for initial entry training, may be separated. Such conditions must be discovered during the first 6 months of AD. Such findings will result in an entrance physical standards board. This board,

which must be convened within the soldier's first 6 months of AD, takes the place of the notification procedure (para 2-2) required for separation under this chapter."

e. Neither the applicant's separation packet nor documentation addressing her involuntary separation was submitted with the application nor uploaded into iPERMS. The applicant neither identified the condition she which led to her involuntary separation, nor did she submit contemporaneous medical documentation with her application, and there are no encounters in the EMR.

f. JLV and the submitted VA documentations shows she started receiving care as a service-connected veteran in 2022 and has a 30% disability rating for service-connected asthma. She is also treated for non-service-connected diabetes.

g. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. For the reserve components, it also includes discharges prior to completing initial entry training (IET). There are two phases - Basic Combat Training (BCT) and Advanced Individual Training (AIT). Because the applicant did not complete BCT, he was in an entry level status at the time of his discharge and so received an uncharacterized discharge. This type of discharge does not attempt to characterize service as good or bad. Through no fault of her own, he simply had a medical condition which was, unfortunately, not within enlistment standards.

h. It is the opinion of the ARBA medical advisor that neither a discharge upgrade nor a referral 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 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. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. Upon review of the applicant's petition, available military record and medical review, the Board concurred with the advising official finding that neither a discharge upgrade nor a referral to the DES is warranted. The Board noted that Soldiers are authorized and honorable discharge while in entry-level status only if they complete their active-duty schooling and earn their MOS.

2. The Board found the applicant completed 1 month and 12 days of net active-duty service with 1 year, 3 months, and 2 days of total prior inactive service. The applicant

was discharged for failed medical/physical procurement standards. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request for upgrade of her uncharacterized character of service or referral of her case to the DES. Therefore, the Board denied relief.

3. The Board determined DES compensates an individual only for service incurred condition(s) which have been determined to disqualify him or her from further military service. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service; or which did not cause or contribute to the termination of their military career.

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.

[Redacted signature block]

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. AR 635-200 (Personnel Separations Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise meritorious that any other characterization would be clearly inappropriate.

b. 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 characterization under other than honorable conditions is authorized under the reason for separation it is warranted by the circumstances of the case and on a case-by-cases basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving person conduct and performance of duty.

c. Soldiers who were not medically qualified under procurement medical fitness standards when accepted for initial enlistment or who became medically disqualified under these standards prior to entry on active duty or active duty for training for initial entry training may be separated. Such conditions must be discovered during the first six months of active duty. Such finding will result in an entrance physical standards board. This board must also be convened within the Soldier's first six months of active duty.

3. AR 635-5-1 (Personnel Separations - Separation Program Designators), in effect at the time, states that the SPD Code "JFW" applies to separations under the provisions of AR 635-200, paragraph 5-11, (Separation of personnel who did not meet procurement medical fitness).

4. AR 601-210 (Regular Army and Reserve Components Enlistment Program) table 3-1 (U.S. Army reentry eligibility codes) states:

a. RE-1: Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army.

b. RE-3: Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation or disqualification is waiverable.

c. RE-4: Applies to: Person separated from last period of service with a nonwaiverable disqualification.

d. RE-4R: Applies to: A person who retired for length of service with 15 or more years active federal service.

5. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NRs) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

6. Title 10, U.S. Code, section 1556 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 Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//