

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230012965

APPLICANT REQUESTS: an upgrade of her uncharacterized characterization to under honorable conditions (general) or honorable and a personal appearance before the Board via video/telephone.

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

- DD Form 149 (Application for Correction of Military Record), 27 July 2023
- DA Form 4707-C (Entrance Physical Standards Board (EPSBD) Proceedings), 27 September 2000
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 10 October 2000

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, in effect, she enlisted to serve her country in perfect health, and she was diagnosed with kidney problems while serving. She believes the correction should be made to allow her to apply for service-connected disabilities.
3. The applicant enlisted in the Regular Army on 15 August 2000, for a period of 4 years in the rank/pay grade of private (PV2)/E-2 and that was the highest rank she attained.
4. The applicant's service record is void of the complete facts and circumstances surrounding her discharge. So, the case is being considered based upon available documents and those provided by the applicant.
5. The applicant provides a DA Form 4707-C, dated 27 September 2000, which shows she underwent an EPSBD based upon a diagnosis of urolithiasis (the formation of stony

concretions in the bladder or urinary tract also called kidney stones). After careful consideration of medical records, laboratory findings, and medical examination, the EPSBD determined the condition existed prior to service and rendered her medically unfit for appointment or enlistment in accordance with medical fitness standards at the time. As a result, she was recommended for discharge. On 3 October 2000, she concurred with the proceedings and requested to be discharged from the U.S. Army without delay.

6. The applicant's DD Form 214 shows she was discharged on 10 October 2000, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-11, by reason of failure to meet procurement medical fitness. Her service was uncharacterized with separation code of JFW and reentry code of 3. She was credited with 1 month and 26 days of net active service. She was not awarded a military occupational specialty.

7. 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 in an entry-level status at the time of her separation. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

8. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

9. 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 10 October 2000 uncharacterized discharge. She states: "I enlisted to serve my country in perfect health. I was not diagnosed with kidney problems until I was in the military."

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 she entered the regular Army for basic combat training on 15 August 2000 and was discharged on 10 October 2000 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. The applicant did not submit medical documentation with her application. The only entries in the EMR are radiologists’ reports for several studies.

f. A KUB (single plain radiograph of the kidneys, ureter, and bladder) obtained on 5 September 2000 revealed:

“Findings consistent with obstruction of the mid to lower pole collecting system on the left [kidney]. The site of obstruction appears to be near the junction of this collecting system with the remainder of the left ureter. It is unsure whether the filling defects at that region represent calculi [kidney stone].”

g. The 5 September 2000 intravenous pyelogram (IVP) - an x-ray exam that uses an injection of contrast material to evaluate the kidneys, ureters, and bladder - revealed “Markedly dilated collecting system of the mid to lower pole on the left. Obstruction cannot be fully excluded. Alternatively, this could represent chronic changes.”

h. The report for her post-treatment KUB obtained on 10 September 2000:

“IMPRESSION:

1. Left ureteral stint in place. There appears to be a 4 mm calculus along the proximal course of the left ureteral stint.
2. At least two small calcifications over the expected position of the right kidney over the lower pole.”

i. The applicant and was referred to an Entry Physical Standards Board (EPSBD) for pre-existing nephrolithiasis under provisions provided in paragraph 5-11 of AR 635-200.

EPSBDs are convened IAW paragraph 7-12 of AR 40-400, Patient Administration. This process is for enlisted Soldiers who within their first 6 months of active service are found to have a preexisting condition which does not meet the enlistment standard in chapter 2 of AR 40-501, Standards of Medical Fitness, but does meet the chapter 3 retention standard of the same regulation. The fourth criterion for this process is that the preexisting condition was not permanently service aggravated.

j. From her 27 September 2000 Entry Physical Standards Board (EPSBD) Proceedings (DA Form 4707):

“HISTORY OF PRESENT ILLNESS: The patient was seen on 04 Sep with complaints of left sided flank pain and some dysuria [pain with urination]. She was originally thought to have a urinary tract infection but was admitted, and on further observation, was thought to possibly have a kidney stone.

She underwent an IVP which showed a 4 mm left ureteral calculus that had a moderate degree of obstruction . The patient continued to have pain requiring parenteral narcotics. Because the table was down [inoperable] here and because it was thought she may need lithotripsy, the patient was sent to that University of Missouri, Columbia where she underwent cystoscopy with left JJ stent placement.

She was placed on 2 weeks of convalescent leave to allow the ureter to dilate up and the stent was removed. The patient returned and stated there is no way that she can continue to do her duties in basic training with this problem. Therefore, the patient is being discharged for this existed prior to service (EPTS) condition. KUB today also shows 2 possible right-sided stones, one is 2 mm and n is 3 mm.

DIAGNOSIS: Urolithiasis, existed prior to service

RECOMMENDATION: Recommend the soldier be discharged from the service under provisions of AR 40-501, 2-15I for this existed prior to service condition. Given a temporary profile to suspend training pending discharge.

k. Paragraph 2-23d of AR 40-501 (30 August 1995) states that renal calculus is a cause for rejection to enlistment when:

I. Renal calculus.

(1) Substantiated history of bilateral renal calculus at any time.

(2) Verified history of renal calculus at any time with evidence of stone formation within the preceding 12 months, current symptoms, or positive x ray for calculus or nephrocalcinosis.

l. The board recommended she be discharged for this pre-existing condition which failed the induction medical standards in AR 40-501, had not been permanently aggravated by her brief period of service, and was not compatible with continued service. The applicant concurred with the board's findings on 3 October 2000, electing the option "I concur with these proceedings and request to be discharged from the US Army without delay."

m. There are no entries in JLV.

n. 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. Through no fault of her own, she simply had a medical condition which was, unfortunately, not within enlistment standards.

o. It is the opinion of the ARBA Medical Advisor that an upgrade of her discharge is unwarranted.

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, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of her characterization of service. 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 an upgrade of her discharge is unwarranted.

2. The Board noted the applicant was not awarded an military occupational specialty and completed 1 month and 26 days of net active service and was discharged from active duty for failure to meet medical 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. Therefore, the Board denied relief.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.



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. Title 10, USC, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice has occurred by a preponderance of the evidence. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. 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.

4. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

a. A separation would be described as entry level with uncharacterized service if the Soldier had less than 180 days of continuous active duty service at the time separation action was initiated.

b. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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.

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

d. Paragraph 3-9, in effect at the time of the applicant's separation, provided that a separation would be described as entry level with uncharacterized service if processing was initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions was authorized, due to the reason for separation and was warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, determined a characterization of service as honorable was clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This

characterization was authorized when the Soldier was separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

e. Paragraph 5-11 specifically provided that 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 entrance on active duty, active duty for training, or initial entry training would be separated. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within 6 months of the Soldier's initial entrance on active duty, that the condition would have permanently or temporarily disqualified the Soldier for entry into military service had it been detected at that time, and the medical condition did not disqualify the Soldier from retention in the service under the provisions of Army Regulation 40-501. A Soldier disqualified under this provision could request retention on active duty; the separation authority made the final determination.

f. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

//NOTHING FOLLOWS//