

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2024

DOCKET NUMBER: AR20230013137

APPLICANT REQUESTS: an upgrade of his uncharacterized service, his separation code, and his narrative reason for separation.

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)
- Orders Number 056-31, 25 February 1987
- DD Form 214 (Certificate of Release of Discharge from Active Duty), 26 February 1987
- Email, JUNO Message Center, 8 December 2022
- Letter, Department of Veterans Affairs (VA), 8 May 2023
- VA Form 27-0820 (Report of General Information), 18 July 2023

FACTS:

1. The applicant states, in effect, he was injured during basic training at Fort Dix, NJ. After he was discharged, VA rated him at 10 percent for his permanent tinnitus. His tinnitus was caused by improper size ear plugs and numerous trips to the rifle range.

2. The applicant provides the following:

a. A message from the JUNO message center, dated 8 December 2022, which shows the Director, Case Management Division, Army Review Boards Agency (ARBA), emailed the applicant and informed him that his application had been assigned a case number and due to the high volume of applications, it could take up to 18 months to receive a decision on his application.

b. A letter from the VA, dated 8 May 2023, which provides a summary of the applicant's VA benefits. The summary of benefits show he has a service-connected disability, with a combined evaluation of 10 percent, effective 1 December 2022.

c. VA Form 27-0820 dated 18 July 2023, which shows the applicant requested assistance and decision with his Certificate of Eligibility and it was denied on 23 October 2022, as service requirements for the era in which he served were not met.

3. A review of the applicant's service record shows:

a. He enlisted in the Regular Army on 29 October 1986 for a period of two years in the rank and pay grade of private first class (PFC)/E-3.

b. On 15 December 1986, he was assigned to Company C, 5th Battalion, 5th Training Brigade, Fort Dix, NJ for Basic Combat Training.

c. He received General Counseling (DA Form 4856-R) on:

- 10 December 1986, initial counseling - week one of training
- 16 December 1986, for failure to achieve the minimum required standards on the Army Physical Fitness Test (APFT)
- 17 January 1987, for lack of self-discipline and missing training due to sick calls.
- 27 January 1987, for lack of self-discipline, not pushing himself in physical training, not requesting help in Basic Rifle Marksmanship (BRM) and continuing to "ride" sick call.
- 1 February 1987, for lack of self-discipline, lack of improvement on the APFT, and not putting forth the effort needed.
- 7 February 1987, during his sixth week of training, for failure to qualify with the M-16 rifle after five attempts to qualify, and for APFT failure.
- 8 February 1987, during his sixth week of training for not qualifying in BRM after going to the range three times.
- 12 February 1987, during his eighth week of training for not qualifying in BRM after six attempts.
- 17 February 1987, for APFT failure
- 21 February 1987, recommended for Entry Level Separation. He was counseled by the first sergeant and the company commander.

d. DA Form 2496 (Disposition Form), dated 23 February 1987, shows the applicant waived a medical examination. A medical examination was not required for separation, but the applicant was given the option to undergo a medical examination for release from active duty. He understood that his medical records would be reviewed by a physician at the appropriate medical facility. The form was signed by the applicant and a medical officer at the Medical Treatment Facility, Fort Dix, NJ.

e. On 23 February 1987, his immediate commander notified him of his intent to initiate separation action under the provisions of Army Regulation (AR) 635-200

(Personnel Separations – Enlisted Personnel), chapter 11, under the Trainee Discharge Program (TDP). His commander noted the specific reasons for his proposed action: he lacked motivation and self-discipline, he failed to qualify on BRM seven times, he failed the APFT two times, he had no desire to remain in the military and the Army would be wasting money and time to train him. The commander notified him of his rights. He understood that he had a right to consult with consulting counsel or obtain civilian counsel at his own expense; he had the right to obtain copies of documents that would be sent to the separation authority supporting the proposed separation; he had a right to request a separation physical; and he had a right to submit statements in his own behalf.

f. On 23 February 1987, the applicant acknowledged receipt of his commander's intent to recommend separation, and he elected his rights. He waived his right to consultation with counsel, he waived his right to make statements in his own behalf, and he waived his right to request a separation physical and to obtain copies of the documents being sent to the separation authority. He understood that if approved, he would receive an entry level separation with uncharacterized service.

g. On 23 February 1987, his immediate commander initiated and recommended discharge under the provisions of AR 635-200, chapter 11, TDP. He noted that he was recommending separation due to the applicant's failure to adapt motivationally.

h. On 24 February 1987, the separation authority approved the recommended discharge under the provisions of AR 635-200, chapter 11, TDP. He waived the recycle requirement and stated that the applicant would not be transferred to the Individual Ready Reserve.

i. The applicant was discharged on 26 February 1987. His DD Form 214 shows he was discharged under the provisions of AR 635-200, paragraph 11-3a, by reason of entry level status performance and conduct, in the rank/grade of PFC/E-3. He was not awarded a military occupational specialty. This form also shows in:

- Item 12c (Net Active Service This Period): 3 months and 28 days
- Item 24 (Character of Service): Uncharacterized
- Item 26 (Separation Code): JGA
- Item 27 (Reenlistment Code): RE-3

4. On 25 August 2022, the applicant submitted an application to the Army Board of Correction of Military Records (ABMR) to request a disability separation retirement. On 28 July 2023 and in ABCMR Docket Number AR20220011751, the ABCMR determined that relief was not warranted, and the evidence presented did not demonstrate the existence of a probable error or injustice. The Board found documentation available for review void of evidence that the applicant had any medical condition that would warrant

a medical discharge by reason of medical disability, and he provided none on his own behalf.

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

**BOARD DISCUSSION:**

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.
2. The Board found the evidence clearly supports the chain of command's decision to discharge the applicant based on entry-level performance and conduct. It is clear he was unable achieve acceptable levels of performance in BRM and the APFT, both of which are essential to master before moving forward to advanced training. The Board found he was afforded due process and, as found in a previous case, there is no evidence of a physical limitation that hindered his ability to train. The applicant was in an entry-level status when he was discharged, and therefore his service was uncharacterized as required by regulation. Based on a preponderance of the evidence, the Board determined the applicant's uncharacterized service, the reason for his discharge, and the associated codes are not in error or unjust.

**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.

12/19/2024

X

CHAIRPERSON

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 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

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 so meritorious that any other characterization would be clearly inappropriate.

b. Chapter 11 provides guidance for the separation of personnel because of unsatisfactory performance, or conduct (or both) while in an entry level status. Chapter 11-3a applies to Soldiers who were voluntarily enlisted in the Regular Army, Army National Guard, or U.S. Army Reserve are in an entry level status and, before the date of the initiation of separation actions, have completed no more than 180 days of creditable continuous active duty or initial active-duty training; and have demonstrated they cannot or will not adapt socially or emotionally to military life.

c. Paragraph 11-6. Type of Separation. Entry level status-uncharacterized is used for separation per this chapter.

d. For ARNG and USAR Soldiers, entry-level status begins upon enlistment in the

ARNG or USAR. For Soldiers ordered to IADT for one continuous period, it terminates 180 days after beginning training. For Soldiers ordered to IADT for the split or alternate training option, it terminates 90 days after beginning Phase II advanced individual training.

e. Entry-level status is defined as:

(1) For Regular Army soldiers, entry-level status- is the first 180 days of continuous AD or the first 180 days of continuous AD following a break of more than 92 days of active military service.

2) For ARNGUS and USAR soldiers, entry-level status begins upon enlistment in the ARNG or USAR. For soldiers ordered to IADT for one continuous period, it terminates 180 days after beginning training. For soldiers ordered to IADT for the split or alternate training option it terminates 90 days after beginning Phase II advanced individual training (AIT). (Soldiers completing Phase I, Basic Training or BCT remain in entry-level status until 90 days after beginning Phase II.

2. Army Regulation 635-5-1 (Personnel Separations – Separation Program Designators), in effect at the time, listed the specific authorities, regulatory, statutory, or other directive, and reasons for separation from active duty, active duty for training, or full time training duty. The separation program designator JGA corresponded to the narrative reason entry level performance and conduct and the authority Army Regulation 635-200, chapter 11, and corresponded to an entry level type separation.

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 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 that 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.

//NOTHING FOLLOWS//