

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 June 2024

DOCKET NUMBER: AR20230013191

APPLICANT REQUESTS: a personal appearance before the Board and reconsideration of his previous request to correct his DD Form 214 (Report of Separation from Active Duty) by changing:

- Block 15 (Date Entered Active Duty this Period) to show he entered active duty on 26 September 1973 rather than 26 November 1973
- Block 9c (Authority and Reason) to reflect he was discharged due to a disability

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

- DD Forms 149 (Application for Correction of Military Record) (three)
- DD Form 214, for the period ending 1 October 1975

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 AR20170001046 on 15 June 2020.

2. The applicant states his date of entry on active duty should be corrected to show he entered active duty on 26 September 1973 rather than 26 November 1973. He contends he was in the Army and completing Basic Combat Training (BCT) at Fort Polk, LA in September 1973. He further contends his Separation Program Designator (SPD) code should not be "JFM" which indicates his medical condition existed prior to service (EPTS). He suffered pain and aggravation during BCT from September to November 1973 and was not diagnosed with sickle cell anemia until he was serving overseas in Germany. The applicant indicates on his DD Forms 149 that mental health conditions and sexual assault/harassment issues are related to his request.

3. A DD Form 4 (Enlistment Contract - Armed Forces of the United States) shows the applicant enlisted in the Regular Army for a period of 3 years in the rank/grade of private/E-1 on 26 November 1973. This form also shows in:

- Block 39 (Basic Active Service Date (BASD)/Active-Duty Base Date (ADBD)) that he entered active duty on 26 November 1973
- Block 42 (Basic Pay Entry Date (BPED)/Pay Entry Base Date (BPED)) that his entry date for the purposes of pay was 2 November 1973
- Block 49 (Prior Service) shows he was previously a member of the U.S. Army Reserve, he had no Active Federal Service

4. The applicant's DA Form 2-1 (Personnel Qualification Record) shows that upon completion of initial entry training, he was awarded military occupational specialty 91B (Medical Specialist) and assigned to a unit located in Germany. He was advanced to the rank/grade of specialist four (SP4)/E-4 on 1 April 1975, the highest rank he held.

5. A Standard Form (SF) 513 (Clinical Record - Consultation Sheet), dated 11 November 1974, shows the applicant was referred to the Hematology Clinic at the Landstuhl Regional Medical Center in the summer of 1974 and the examining physician, Chief of Hematology, saw the applicant for the first time on 3 September 1974. The applicant complained of a recent near black-out spell, of some knee and elbow aching and abdominal and chest discomfort for approximately 2 years. He was not aware of any blood disorders in 7 siblings or in his parents. The applicant had been on active duty for 11 months. His Expiration Term of Service was in November 1976, and he was working as a corpsman at the Baumholder Health Clinic. He had BCT at Ft. Polk in December of 1973 and January of 1974 and at that time complained of tiredness while running including pains in his legs, in his sides, and in his chest with exercise. The final impression was a diagnosis of Sickle Cell Disease that was non-service aggravated and existed prior to service (EPTS). The applicant was deemed to be unfit for any further military service and it was recommended that he be separated from service as soon as possible.

6. An SF 88 (Report of Medical Examination) shows the applicant underwent an annual medical examination on 5 December 1974. Block 74 (Summary of Defects and Diagnoses) reiterates the entries on the SF 513 indicating a diagnosis of Sickle Cell Disease that was non-service aggravated and EPTS. The applicant was referred to a Medical Evaluation Board (MEB).

7. An SF 502 (Clinical Record - Narrative Summary), dated 12 December 1974, shows the applicant was considered by an MEB. The examining physician considered all available evidence and opined the applicant was unfit for any further military service and should be separated as soon as possible.

8. A memorandum rendered by the Physical Examination Board Liaison Officer at Headquarters, Bad Kreuznach Medical Department Activity on 10 January 1975 shows the applicant's MEB was completed, and the board recommended retaining him in the service. However, that was the commander's final decision since the applicant's condition EPTS and qualified as erroneous entry into service. It was noted, the packet included a statement from the applicant requesting retention on active duty.

9. A U.S. Army Enlistment Eligibility Activity, St. Louis, MO, memorandum, Subject: Continuation on Active Duty Under Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), dated 26 June 1975, shows the applicant's request to remain on active duty was not favorably considered and he was being further processed in accordance with Army Regulation 635-40.

10. A DA Form 199 (Physical Evaluation Board (PEB) Proceedings) shows a PEB convened on 19 August 1975 at Walter Reed Army Medical Center, Washington, DC, to consider the applicant's case.

a. It was determined that his diagnosis of Sickle Cell Disease was an EPTS condition, which was not aggravated by his current tour of military service, precluded him from reasonable fulfillment of his employment in the Army. Item 20a(1) of MEB proceedings was considered in error in that the applicant's condition EPTS and was not service aggravated.

b. The PEB found the applicant to be unfit and recommended that he be separated from military service without entitlement to disability benefits therefrom.

c. His separation was not based on disability resulting from injury or disease received in line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in line of duty during a period of war as defined by law.

11. Orders and the applicant's DD Form 214 show he was honorably discharged in the rank of SP4 on 1 October 1975, under the provisions of Army Regulation 635-40, paragraph 4-19e(4), with SPD code JFM (physical disability, EPTS, PEB). He was credited with completion of 1 year, 11 months, and 6 days of net active service.

12. On 15 June 2020, the ABCMR reviewed the applicant's request for correction of his DD Form 214. After careful consideration, the Board determined that relief was not warranted and denied his request.

13. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition. By regulation, an applicant is not entitled to a hearing before the Board.

14. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting reconsideration of his previous request to correct his DD Form 214 to reflect discharged due to a disability. His application indicates mental health and sexual assault/harassment (MST) as well.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following:

- The applicant enlisted into the Regular Army 26 November 1973 (correction to this date is also being requested).
- The applicant was diagnosed with Sickle Cell Anemia and went through the an MEB and the PEB determined that his diagnosis of Sickle Cell Disease was an EPTS condition, which was not aggravated by his tour of military service, and precluded him from reasonable fulfillment of his employment in the Army.
- The applicant was honorably discharged on 1 October 1975, under the provisions of Army Regulation 635-40, paragraph 4-19e(4). He was credited with completion of 1 year, 11 months, and 6 days of net active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents contained in the applicant's file. The applicant indicated MST and other mental health condition as part of his application, but there is no narrative explanation for these conditions. A Report of Medical Examination dated 5 October 1974 showed no indication of mental health problems. No other medical or mental health records were included. There was insufficient evidence that the applicant was diagnosed with a psychiatric condition or experienced an MST while on active service.

d. The VA's Joint Legacy Viewer (JLV) was also reviewed and showed the applicant initially engaged the VA for mental health treatment in February 2012. He reported stress associated with his family situation and symptoms of depression, but he denied any history of trauma exposure. He was diagnosed with Depression and started on an antidepressant, and he attended one follow up visit. In July 2014, he was seen again by a psychologist through primary care mental health and reported psychosocial stressors (being the caregiver of his mother and brother), challenges with his medical conditions, anxiety, panic attacks, and depression related symptoms. He was started on an antidepressant medication, and he had four follow up visits. In December 2014, he contacted his provider to develop a plan for tapering off of the medication. He was also seen in 2017 as related to his medical condition, treatment burden, and depression. Documentation discussed his beliefs related to the unfairness of his discharge from the

military. There was no report of MST history. He engaged in two follow up psychotherapy sessions and was diagnosed with Adjustment Disorder. In July 2018, the applicant underwent an extensive neuropsychological assessment due to complaints of memory problems, difficulty with attention, and depression following his heart attack in 2016. He was diagnosed with mild neurocognitive disorder attributed to his health history as well as depressed mood, sleep problems, and low energy level. He attended five psychotherapy visits with behavioral medicine as part of his cardiology care, and the content of the documentation largely reflects difficulty with adjustment to illness and family problems. He was seen for another neuropsychological evaluation in June 2021, and the results indicated stability in cognitive functioning since the previous evaluation. The applicant made a call to the Veterans Crisis Line in March 2023 and expressed stress related to his pursuit of VA benefits. He denied suicidal ideation and declined follow up. There was a consult placed to mental health in May 2024, but the applicant did not respond to scheduling efforts.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a mental health condition or MST experience while on active service.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition and experienced MST while on active service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition and experienced MST while on active service. There is no evidence in his military records or through the VA of a MST, but there was documentation of mental health diagnoses in his VA records.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. There is insufficient evidence, beyond self-report, that the applicant was experiencing a mental health condition while on active service. There are no medical or mental health records from his time in service that indicated mental health symptoms or diagnoses. Additionally, there is no report of MST experience, either by the applicant or evidenced in his VA records. However, the applicant does have diagnoses of Depression and Adjustment Disorder through the VA.

g. Nonetheless, the applicant contends he was experiencing mental health condition or an experience that qualifies as a disability, and per Liberal Consideration his assertion is sufficient for the board's consideration. 1. (Only for use by Medical Advisors. Delete this section and section header if not applicable.)

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. Upon review of the applicant's petition, available military records and medical review, the Board concurred with the advising official finding insufficient evidence to support that the applicant had a mental health condition or MST experience while on active service. The opine noted beyond self-report, that the applicant was experiencing a mental health condition while on active service. There are no medical or mental health records from his time in service that indicated mental health symptoms or diagnoses.

2. The Board determined the applicant's record is absent sufficient evidence to support amending his (Date Entered Active Duty this Period) to show he entered active duty on 26 September 1973 rather than 26 November 1973. Evidence in the record show the applicant entered active-duty 26 November 1973. This board is not an investigative body. The Board determined despite the absence of the applicant's records, they agreed the burden of proof rest on the applicant, however, he did not provide any supporting documentation and his service record has insufficient evidence to support the applicant contentions for amending his entry date. Therefore, the Board determined reversal of the previous Board decision is without merit and 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:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20170001046 on 15 June 2020.

[REDACTED]

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 (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.
2. 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. 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 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.
3. Army Regulation 635-40, in effect at the time, prescribed policy and implements the requirements of chapter 61 (Retirement or Separation for Physical Disability) of Title 10, USC. The regulation stated the mere presence of a medical impairment did not in and of itself justify a finding of unfitness. In each case, it was necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or

rating. A Soldier was physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

4. Army Regulation 40-501 (Standards of Medical Fitness), in effect at the time, governed medical fitness standards for enlistment, induction, appointment, retention, and separation (including retirement). Once a determination of physical unfitness is made, the Physical Evaluation Board would rate all disabilities using the Department of Veterans Affairs Schedule for Rating Disabilities. Ratings can range from 0% to 100%, rising in increments of 10%.

5. Army Regulation 635-5 (Separation Documents), in effect at the time, established the standardized policy for preparing and distributing the DD Form 214 for Soldiers upon retirement, discharge, or release from active duty service or control of the Active Army. The purpose of the separation document was to provide the individual with documentary evidence of their military service. The regulation stated block 15 would list the date entered on active duty or date enlistment or reenlistment was accomplished.

6. Army Regulation 635-5-1 (SPD Codes), in effect at the time, stated that SPD codes were three-character alphabetic combinations which identified reasons for and types of separation from active duty. The regulation stated the SPD code of "JFM" was the correct code for Soldiers separating under AR 635-40, paragraph 4-19E (4) and "Disability, EPTS, PEB" was the corresponding narrative reason for separation.

//NOTHING FOLLOWS//