

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 July 2024

DOCKET NUMBER: AR20230013322

APPLICANT REQUESTS: his uncharacterized service be changed to under honorable conditions (general) or honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- self-authored letter
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- in-service 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 his discharge was not attributed to any fault of his own. He passed all of his physical requirements to be able to enlist, meaning that he was perfectly healthy before he went in. He sustained injuries to his feet, shins, and shoulder during his time in service. He cannot receive proper care for his injuries due to his uncharacterized discharge. He joined the military immediately after finishing high school with the intent of finishing his tour of duty and then going on to college. He suffered an injury to his shoulder, and he felt that wouldn't allow him to complete his training. His records show that he was under the care of doctors for his injuries and placed on light duty. There was talk of recycling him, but the injury wouldn't heal enough for him to continue training. He was young when he was discharged, and he didn't receive any guidance on what to do following his separation.
3. The applicant's complete military records are not available for review; therefore, this case is being considered based on the provided documents.
4. The applicant enlisted in the Regular Army on 1 August 1996. He did not complete training and was not awarded a military occupational specialty.

5. Individual sick slips show the applicant received treatment on the following dates/for:

- 25 September 1996; pain in his shoulder and ankles
- 29 September 1996; sharp pain in his foot
- 7 October 1996; pick up feet x-rays
- 14 October 1996; pick up bone scan report
- 16 October 1996; feet pain
- 21 October 1996; podiatry appointment

6. A DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings), dated 24 October 1996, notes the applicant was an 18-year-old male who presented a chief complaint of painful bilateral feet and shins, approximately 11 weeks. He was treated at the clinic with soft shoes and an activity profile with only temporary relief. He was also treated with inserts with resultant increased pain in bilateral arches of the feet. The applicant had increased pain with running and marching. He had tenderness to palpation along medial band of the plantar fasci of bilateral feet. There was no noted edema, erythema, or ecchymosis in bilateral feet. There was a mild flexible pes planus deformity of the bilateral feet. X-ray indicated a mildly decreased calcaneal inclination angle of bilateral feet.

7. The EPSBD diagnosed the applicant with mild pes planus deformity of bilateral feet which is flexible in nature, with associated plantar fasciitis of bilateral feet and recommended a medical board, in accordance with Army Regulation 40-501 (Standards of Medical Fitness), Chapter 2-10 (5 and 14), for pes planus and plantar fasciitis. A waiver was not recommended.

8. The provided EPSBD Proceedings are void of the applicant's acknowledgement of the EPSBD findings and that he was advised that legal counsel from an Army attorney was available to him or that he could consult civilian counsel at his own expense.

9. The applicant was discharged on 22 November 1996. He was credited with 3 months and 22 days of net active service this period. His DD Form 214 contains the following entries in:

- item 24 (Character of Service) – Uncharacterized
- item 25 (Separation Authority) – AR [Army Regulation] 635-200, paragraph 5-11
- item 26 (Separation Code) – JFW
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Failure to Meet Procurement Medical Fitness Standards

10. 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 his 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.

11. The Board should consider the applicant's statement in accordance with the published guidance.

12. 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 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 his uncharacterized discharge.

c. The Record of Proceedings outlines the applicant's military service and the circumstances of the case. His DD 214 shows he entered the regular Army on 1 August 1996 and received an uncharacterized discharged on 22 November 1996 under the separation authority provided by paragraph 5-11 of AR 635-200, Personnel Separations – Enlisted Personnel (30 August 1995): Separation of personnel who did not meet procurement medical fitness standards.

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

a. 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 [active duty] or ADT [active duty for training] for initial entry training, will be separated. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by appropriate military medical authority within 6 months of the soldier's initial entrance on AD for RA [regular Army], or during ADT for initial entry training for ARNGUS [Army National Guard of the United States] and USAR [United States Army Reserve], which—

(1) Would have permanently or temporarily disqualified him or her for entry into the military service or entry on AD or ADT for initial entry training had it been detected at that time.

(2) Does not disqualify him or her for retention in the military service under the provisions of AR 40–501, chapter 3.

e. There are no encounters in the EMR.

f. Individual Sick Slips (DD form 689) show the applicant was being conservatively treated for foot pain and had been evaluated by podiatry.

g. He was referred to an Entrance Physical Standards Board (EPSBD) for symptomatic pes planus (flat feet) IAW 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 (1 December 1983), 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 aggravated by their military service.

h. From the applicant's Entrance Physical Standards Board (EPSBD) Proceedings (DA Form 4707) with the narrative performed by a podiatrist:

CHIEF COMPLAINT: Painful bilateral feet and shins.

HISTORY OF PRESNET ILLNESS: This is an 18-year-old male trainee in his seventh week of Basic Training, who presents with chief complaint of painful bilateral feet and shins times approximately 11 weeks. He states he was treated at the TMC [Troop Medical Clinic] with soft shoes and an activity profile with only temporary relief. He was also treated with inserts with resultant increased pain in bilateral arches of the feet. He states he has increased pain with running and marching.

DISABILITY LIMITATIONS: Patient is unable to do running, marching, or prolonged standing without significant increase in pain.

OBJECTIVE FINDINGS: Tenderness to palpation along the medial band of the plantar fascia of bilateral feet. There is no noted edema, erythema, or ecchymosis in bilateral feet. There is a mild flexible pes planus deformity of the bilateral feet.

X-ray indicates a mildly decreased calcaneal inclination angle of bilateral feet.

DIAGNOSIS: Mild pes planus deformity of bilateral feet which is flexible in nature, with associated plantar fasciitis of bilateral feet.

PROGNOSIS: Poor for this patient to be able to continue active-duty training, which would require prolonged standing, running, jumping, and marching ...

RECOMENDATIONS: Recommend a Medical 200 Board in accordance with AR 40-501, Chapter 2-10b (5 and 14).

i. The applicant's symptomatic pes planus failed and plantar fasciitis failed the medical induction standards in paragraphs 2-10b(5) and 2-10b(14) respectively of AR 40-501, Standards of Medical Fitness (30 August 1995). Each condition is a cause for rejection:

"(5) Pes plans, pronounced cases with decided eversion of the foot and marked bulging of the inner border, due to rotation of the .talus, regardless of the presence or absence of symptoms."

"(14) Planter fasciitis that is refractory to medical treatment or will impair function of the foot."

j. On 24 October 1996, the EPSBD determined his pes planus had existed prior to service (EPTS), failed the enlistment standard of AR 40-501, had not been permanently aggravated by his military service, and was not compatible with continued service.

k. 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 his own, he simply had a medical condition which was, unfortunately, not within enlistment standards.

l. It is the opinion of the Agency Medical Advisor that a discharge upgrade is not 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, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his 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 and available military records and medical review, the Board concurred with the advising official finding that a discharge upgrade is not warranted. The opine noted the EPSBD determined the applicant's condition existed prior to his service and evidence showed it had not been permanently aggravated by his time in the military.

2. The Board agreed there is insufficient evidence to support the applicant's contentions to amend his uncharacterized service to under honorable conditions (general) or honorable. 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 revision of her narrative reason for separation and separation code. Therefore, the Board denied relief.

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.

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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. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.

3. Army Regulation 635-200 sets policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 3 provides that a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.

b. Paragraph 3-7a provides that 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. Paragraph 3-9 provides 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.

d. Paragraph 5-11 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 proceeding, 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.

e. 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//