

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 July 2024

DOCKET NUMBER: AR20230014145

APPLICANT REQUESTS: reconsideration of his previous request for an upgrade of his uncharacterized discharge.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
Self-Authored Statement (in lieu of DD Form 149 Application for the Correction of Military Records)

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 AR20230000125 on 22 June 2023.
2. The applicant states he was unaware of a time limit to request a correction to his DD Form 214 (Certificate of Release or Discharge from Active Duty) and did not know it was possible.

a. He entered the Army in July 1993 with full expectations on making a career of the military as a 63B (Light Wheeled Vehicle Mechanic). He made the decision to join because his brother enlisted and joined the Marine Corps. He was told his father was in the military along with his grandfather and great grandfather. He has a cousin in the U.S. Air Force and his son just enlisted into the U.S. Air Force.

b. He would have stayed in if it were not for the doctor treating him for hives that he was breaking out with during physical training. He quoted the doctor as saying, "if you stay in you will be stuck with numerous needles until they find the issues, then given numerous medicines to find the correct treatment, all along I would have to go back to day one of basic training also; or I could leave with an Honorable Medical Discharge." Afterwards he saw a civilian dermatologist that told him he was likely allergic to fire ants, or the fertilizer used on the field he was conducting physical training on. He did know the coding on his DD Form 214 and did not receive his DD Form 214 until he was leaving for the airport. He had no idea he was given a general discharge and lied to until years later. He wants his DD Form 214 reversed so he can proudly say he served in the Army and got an honorable discharge, instead of feeling like a disgrace to family and

friends when he explains how he did not receive an honorable medical discharge like he was informed he would get.

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

a. He enlisted in the Regular Army on 9 July 1993.

b. SF Form 88 (Report of Medical Examination), dated 28 September 1992, shows the applicant underwent an examination for the purpose of enlistment. The applicant is marked in item 77, qualified for enlistment and marked airborne qualified.

c. SF Form 93 (Report of Medical History), completed by the applicant on 29 September 1992, shows in item 8 Allergies (including to insect bites/stings and to common foods): that he presents in good health, currently not taking any medications and allergic to cats.

d. DA Form 2-1 (Personnel Qualification Record – Part II) shows he was assigned to Fort Jackson, SC for basic training and advanced individual training and he did not complete advanced individual training and was not awarded a military occupational specialty.

4. A DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings), dated 22 October 1993, approved the following findings and states:

a. History of Existed Prior to Service (EPTS) Condition: 19-year-old male in basic training, 5 October not small wheals when wakes up, worse with exercise. No flare, with water, cold, sun, physical pressure.

b. Objective Findings: 7 October 1993, 4 mm wheals seen on arm. Red, pigmented plaque on foot over web space great +2nd toe potassium hydroxide.

c. Diagnosis: Cholinergic urticaria therapy does not control symptoms and caused unacceptable sleepiness.

d. Recommendations: It is recommended that this Soldier be separated from the Army for failure to meet medical procurement standards in accordance with Chapter 2, paragraph 2-36, Army Regulation (AR) 40-501 (Standards of Medical Fitness). EPTS: Yes. Permanently service aggravated: No. Soldier does meet medical retention standards in accordance with Chapter 3, AR 40-501.

e. His PULHES code was reflected as 311111 - No strenuous physical activity. (P" = physical capacity or stamina; "U" = upper extremities; "L" = lower extremities; "H" = hearing; "E" = eyes; and "S").

f. The applicant had been informed of the medical findings. Additionally, he understood that legal advice of an attorney employed by the Army is available to him or that he may consult civilian counsel at his own expense. He also understood that he may request to be discharged from the U.S. Army without delay or to request retention on active duty. If retained, he may be involuntarily reclassified into another military occupational specialty based upon his medical condition. On 27 October 1993, the applicant concurred with the proceedings and requested to be discharged from the U.S. Army without delay.

g. His unit commander recommended the applicant be discharged. On 2 November 1993, his intermediate commander recommended that he be separated.

h. On 3 November 1993, the separation authority approved his discharge from the Army.

5. He was discharged on 8 November 1993 under the provisions of AR 635-200 (Enlisted Separations – Enlisted Personnel), paragraph 5-11 with an uncharacterized characterization of service. His DD Form 214 shows he completed 4 months of active-duty service and was not awarded a military occupational specialty. His DD Form 214 also shows he was discharged for failure to meet procurement medical fitness standards.

6. On 22 June 2023, the ABCMR rendered a decision in Docket Number AR20230000125. The Board noted the evidence presented does not demonstrate the existence of a probable error or injustice.

7. By regulation, 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 or active-duty training or initial entry training will be separated.

8. 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 (AHLTA), 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 reconsideration of their prior denial of his request for an upgrade of his 8 November 1993 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 9 July 1993 and received an uncharacterized discharge on 8 November 1993 under authority provided by paragraph 5-11 of AR 635-200, Personnel Separations – Enlisted Personnel (17 September 1990): Separation of personnel who did not meet procurement medical fitness.

d. This request was previously denied by the ABCMR on 22 June 2023 (AR20230000125). Rather than repeat their findings here, the board is referred to the record of proceedings and medical advisory opinion for that case. This review will concentrate on the new evidence submitted by the applicant.

e. Other than the applicant's self-authored request for reconsideration, no new evidence was submitted with this application. In his self-authored letter, the applicant outlines his family history and desire to have serve our country. However, it does not provide new probative evidence supporting his assertion that his involuntary separation from the Army for a pre-service medical condition which failed medical enlistment standards (Cholinergic urticaria) was unjust. The applicant's statements alone do not overcome the government's presumption of regularity.

f. It remains the opinion of the ARBA medical advisor that neither a change in his separation authority nor a referral of his case to the Disability Evaluation System 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, 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. Soldiers are authorized and honorable discharge while in entry-level status only if they complete their active-duty schooling and earn their MOS

2. Upon review of the applicant's petition, available military records and medical review, the Board concurred with the advising official finding that neither a change in his separation authority nor a referral of his case to the Disability Evaluation System is warranted. The applicant did not complete training and was released from active duty due to failure to meet procurement medical fitness standards. Evidence in the applicant's record show he completed 4 months of active-duty service and was not awarded a military occupational specialty. The Board agree at no fault of the applicant, he did not meet the retention standards. As such, the Board denied relief.

3. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for his or her character of service to be rated as honorable or otherwise.

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 AR20230000125 on 22 June 2023.

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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. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.

a. Honorable Discharge states an honorable discharge is a separation with honor. 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.

b. Uncharacterized Discharge states a separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status.

c. Chapter 5-11 of the regulation states 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 active duty (AD) or active-duty training (ADT) for initial entry training may 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, or during ADT for initial entry training. Unless the reason for separation requires a specific characterization, a Soldier being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conditions, or an uncharacterized description of service if in entry-level status.

d. Section II of the Glossary defines entry level status, for Regular Army members, is the first 180 days of active duty.

2. 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 based on 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.

//NOTHING FOLLOWS//