

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 August 2024

DOCKET NUMBER: AR20230014225

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his characterization of service as under honorable conditions (General) vice uncharacterized.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) letter regarding the applicant's characterization of service
- VA summary of benefits letter

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 he currently has a service-connected disability rating of 30 percent from the VA. He believes his DD Form 214 should be corrected to reflect the same characterization of service the VA granted him, which is under honorable conditions (General).
3. The applicant underwent a pre-enlistment medical examination on 23 December 1992 and was found to be medically qualified for enlistment in the Army.
4. On 29 January 1993, the applicant enlisted in the Regular Army.
5. A DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings) shows an EPSBD was conducted to evaluate the applicant's condition on 17 March 1993. After careful consideration of medical records, laboratory findings, and medical examinations, the board found the applicant was unfit for appointment or enlistment in accordance with current medical fitness standards and in the opinion of the evaluating physicians, the condition existed prior to service (EPTS).

- a. He complained of severe excessive sweating of his hands.
 - b. He had a history of excessive sweating of his palms for several years which had been exasperated by his active duty training. His sister also had a similar problem with excessively sweaty palms.
 - c. He was diagnosed with severe hyperhidrosis of the palms. Otherwise, he was in good health.
 - d. It was recommended that and EPTS medical board be convened as the applicant was not compatible with military service in accordance with Army Regulation 40-501 (Standards of Medical Fitness), paragraph 2-36k.
 - e. The applicant was determined to be medically unfit for military service and it was recommended that he be separated from the Army in accordance with Army Regulation 40-501 for failure to meet medical procurement standards due to his EPTS condition.
 - f. On 24 March 1993, the applicant acknowledged the EPSBD findings and further acknowledged he had been advised that legal counsel from an Army attorney was available to him or he could consult civilian counsel at his own expense. He could request discharge from the Army without delay or request retention on active duty. He concurred with the proceedings and requested discharge from the Army without delay.
 - g. The applicant's immediate commander recommended the applicant be discharged. He had not completed BCT or One Station Unit Training.
 - h. The separation authority approved the EPSBD's recommendation on 30 March 1993 and directed the applicant's separation from service.
6. His DD Form 214 shows he was discharged on 5 April 1993 under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-11, for failure to meet procurement medical fitness standards, not a disability. He was assigned Separation Code "JFT," and Reentry Eligibility (RE) code "3." He did not complete initial entry training and was not awarded a military occupational specialty. He completed 2 months and 7 days of active service. His service was uncharacterized.
7. The applicant provides the following documents which are available in their entirety for the Board's consideration:
- letter which shows the VA considers the applicant's service from 29 January 1993 to 5 April 1993 to have been under honorable conditions for the purpose of determining VA benefit entitlements as of 5 October 2023
 - letter from the VA which shows a summary of benefits provided to the applicant

8. The evidence of record shows the applicant was in an entry-level status at the time of his separation processing. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier did not serve on active duty long enough for his or her character of service to be rated.

9. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

10. 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 his 5 April uncharacterized discharge. He states: "I was recently approved for service-connected disability with a 30% rating and paperwork says "Under Honorable Conditions." I am requesting that my DD214 reflect this discharge status."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His DD 214 shows he entered the Regular Army on 29 January 1993 and was discharged on 5 April 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 standards.

d. The applicant's pre-entrance Report of Medical History and Report of Medical Examination show the applicant to have been in good health, without any significant medical history or conditions.

e. 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.

f. The applicant's period of service predates the EMR.

g. The applicant's pre-entrance Report of Medical History and Report of Medical Examination show the applicant was in good health, without significant medical history or conditions.

h. The applicant was referred to an Entrance Physical Standards Board (EPSBD) for "Severe excessive sweating of his hands" 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, 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.

i. The applicant's Entrance Physical Standards Board (EPSBD) Proceedings (DA form 4707) shows the condition has been present for several years:

"CHIEF COMPLAINT: The patient complains of severe excessive sweating of his hands.

HISTORY OF PRESENT ILLNESS: This 21-year-old white male has had a history of excessive sweating of his palms for several years which has been exacerbated by his active-duty training. He was placed on topical Drysol preparation which has helped improve his sweating somewhat, however, he continues to perspire to the point that water actively runs from his hands and does not seem related to any particular time, activity, or emotional stress, but comes and goes without warning.

When he has a flare of perspiration, it may last minutes to hours. He does have a sister that has a similar problem with excessively sweaty palms. Other than that, he is in good health.

PHYSICAL EXAMINATION: The patient sat with perspiration dripping off both hands during his visit to dermatology clinic. There were no particular overt changes of his skin. He required wiping his hands with 4 x 4 gauze several times as the water would continue to flow from them.

DIAGNOSIS: Severe hyperhidrosis of the palms.

RECOMMENDATIONS: It is recommended that an EPTS medical board be convened as this patient is not compatible with military service IAW AR 40-501 [Standards of Medical Fitness], 2-36k."

j. Paragraph 2-36k of AR 40-501 (15 May 1989) states "Hyperhidrosis of hands or feet, chronic or severe" is a cause for rejection of appointment, enlistment, and induction.

k. On 23 March 1993, the Board determined the condition had existed prior to service, had not been permanently aggravated by his military service, did not meet one or more medical enlistment/induction standards, and was not compatible with continued military service. On 24 March 1993, the applicant concurred with the Board by both marking and initialing the election "I concur with these proceedings and request to be discharged from the US Army without delay."

l. JLV shows the applicant been awarded a 30% VA service-connected disability rating for "Hyperhidrosis." However, the DES only compensates an individual for service incurred medical condition(s) which have been determined to disqualify him or her from further military service and consequently prematurely ends their career. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

m. 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.

n. It is the opinion of the ARBA Medical Advisor that neither an upgrade of his discharge nor a referral of his case to the Disability Evaluation System is warranted.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy and regulation. 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. The applicant did not complete training and was released from active duty due to failure to meet procurement medical fitness standards – no disability. The Board noted the applicant's contention he recently received a service-connected disability rating through the Department of Veterans Affairs (VA); however, reviewed and concurred with the medical advisor's review finding his condition existed prior to service and unfortunately was not within enlistment standards. The roles and authorities of the VA are granted by Congress and executed under a different set of laws. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. 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.

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. Title 10, U.S. Code, 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. 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.

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. Soldiers separated in an entry-level status receive an uncharacterized character of service. A separation is an entry level status separation if its processing is initiated

during the Soldier's first 180 days of continuous active duty. The Secretary of the Army could, on a case-by-case basis, issue an honorable character of service to entry-level Soldiers when clearly warranted by unusual circumstances involving personal conduct or duty performance.

e. Paragraph 5-11 specifically provided that Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment were to be separated. EPSBD proceedings were required to be convened within the Soldier's first 6 months of active duty service, and had to establish the following: that medical authority identified the disqualifying medical condition(s) within 6 months of the Soldier's initial entrance on active duty; that the condition(s) would have permanently disqualified the Soldier from entry into military service, had it been detected earlier; and that the medical condition did not disqualify him/her for retention in military service. 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.

5. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. This regulation prescribed that the separation code "JFT" was an appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200, paragraph 5-11, by reason of failure to meet procurement medical fitness standards. Additionally, the SPD/RE Code Cross Reference Table established that RE code "3" was the proper reenry code to assign to Soldiers separated under this authority and for this reason.

6. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, governed the evaluation for physical fitness of Soldiers who might be unfit to perform their military duties due to a disability. It states the mere presence of an impairment did not, of itself, justify a finding of unfitness due to physical disability. In each case, it was necessary to compare the nature and degree of the physical disability with the duty requirements of the soldier, based on his or her office, grade, rank, or rating; and a Soldier was presumed to be in sound physical and mental condition upon entering active duty.

7. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder (PTSD); traumatic brain injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

8. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and 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 on the basis of equity, injustice, or clemency grounds, Boards 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//