

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 September 2024

DOCKET NUMBER: AR20230014229

APPLICANT REQUESTS:

- in effect, change his Reentry (RE) Code from RE-4 to a more favorable code that allows him to reenter the military
- personal appearance at a travelling panel.

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

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 would like to reenlist. He was medically retired due to an eye injury. He was told with time and surgery he would be fine. He was medically boarded anyway. Now, some three years later, and after some surgeries, his eye functions are better than ever. He even got the OK from his optometrist at the Department of Veterans Affairs. Eyeglasses even got him back to 20/20 vision.
3. The applicant enlisted in the Regular Army on 16 January 2018 and held military occupational specialty (MOS) 31B, Military Police. He served in Korea from June to December 2018 and attained the rank of specialist/E-4.
 - a. On 12 March 2018, while on the range during initial entry training, the applicant was injured by a simulated round that hit his right cheek and bounced underneath his protective eyewear to rest under the globe of the left eye. He was treated following the injury and subsequently developed reduced vision.
 - b. His last physical examination and physical profile (23 September 2019) reflect a diagnosis of right eye hypotony with blindness and contraction of the visual field. As a

result, on 24 September 2019, the applicant entered the Integrated Disability Evaluation System due to right eye hypotony. His Narrative Summary states:

(1) Servicemember (SM) has met MRDP (Medical Retention Determination Point) for right eye hypotony with blindness and contraction of the visual field. The condition has existed for over a year, and it appears to not meet retention standards in accordance with Army Regulation (AR) AR 40-501, Standards of Medical Fitness, paragraph 3-6g.

(2) SM has had treatment but continues to have functional limitations as a result of his right eye injury. The condition interferes with the performance of MOS duties and the duties of a Soldier; further treatment is not likely to return SM to full duty.

c. On 25 September 2019, at Fort Bragg, NC, the applicant's battalion commander submitted a Disability Evaluation System – Commander's Performance and Functional Statement, pertaining to the applicant. The commander stated:

(1) SM is currently conducting alternate duties due to his eye injury. SM received and eye injury prior to arriving at the unit and has been unable to conduct PT (physical training), fire an assigned weapon, or perform the duties expected of Military Police Soldier. Due to the injury, he does not have sight in one of his eyes and this prevents him from working in a law enforcement capacity because he cannot qualify on his weapon and lacks peripheral vision.

(2) The SM has not been able to work a law enforcement shift of any kind since his arrival to the unit over 9 months ago.

d. On 23 October 2019, a medical evaluation board (MEB) convened and found the applicant's medical condition of "right eye hypotony with blindness and contraction of the visual field" medically unacceptable/did not meet medical retention standards in accordance with paragraph 3-6g of AR 40-501, paragraph 3-6g).

(1) The MEB found other medical conditions medically acceptable and met medical retention standards and include Photophobia; Visual aura associated with migraines; and Migraine Headaches.

(2) The MEB referred him to a physical evaluation board (PEB). He was counseled and concurred.

e. On 25 November 2019, an informal PEB (IPEB) convened and found the applicant's medical condition of right eye hypotony with blindness and contraction of the visual field unfitting.

(1) Onset occurred in 2018 while the Soldier was stationed in continental United States. Condition is due to the Soldier being shot in the eye with a training round. Soldier is unfit because DA Form 3349-SG, physical profile limitations associated with this condition make this Soldier unable to reasonably perform as an 31B, Military Police. The Soldier's condition prevents him from performing DA Form 3349-SG, physical profile, section 4 functional activity, (a) physically and/or mentally able to carry and fire individual assigned weapon.

(2) The IPEB recommended a disability rating of 30% with his disposition as permanent disability retirement. He was counseled, concurred, waived his right to a formal hearing of his case, and did not request reconsideration of his VA (Department of Veterans Affairs) rating.

f. On 17 December 2019, U.S. Army Installation Management Command, Fort Bragg, published orders reassigning the applicant for separation processing on 26 January 2019 and placing him on the permanent disability retirement list on 27 January 2019.

g. The applicant retired on 26 December 2019, and he was placed on the disability retired list the next day. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was retired in accordance with chapter 4 of AR 635-40, Disability Evaluation for Retention, Retirement, or Separation. He completed 2 years and 11 days of active service. His DD Form 214 shows in:

- Block 26 (Separation Code) SEJ
- Block 27 (Reentry Code) 4
- Block 28 (Narrative Reason for Separation) Disability, permanent

5. By regulation (AR 635-5-1), Separation Code SEJ is assigned to enlisted Soldiers who are retired from active duty due to disability; this Separation Code has a corresponding RE Code of 4. Also, by regulation (AR 601-210), an RE-4 is assigned to Soldiers who are ineligible to reenlist/have a nonwaivable disqualification.

BOARD DISCUSSION:

1. The Board determined 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.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant suffered an eye injury that warranted his entry into the disability system. An

informal PEB found his condition unfitting and recommended his permanent retirement due to disability. He was retired due to permanent disability. The narrative reason for separation of an enlisted Soldier is governed by specific directives. The applicant was retired due to permanent disability under the provisions of Chapter 4 of AR 635-40. The Separation Code specified by Army Regulations for a retirement due to permanent disability, non-combat related, for an enlisted Soldier is SEJ. This Separation Code has a Reentry Code of 4. AR 635-8, Separation Documents, governs preparation of the DD Form 214 and dictates that entry of the narrative reason for separation, entered in block 28, separation code, entered in block 26, and RE Code, entered in block 27 of the form, will be entered exactly as listed in tables 2-2 or 2-3 of AR 635-5-1, Separation Program Designator Codes. The Board determined the RE Code entered on his DD Form 214 is not in error or unjust and the applicant did not provide evidence of an error or injustice. The fact that his condition has since improved has no bearing on the RE Code assigned at the time of his retirement. In view of the foregoing, the Board determined that a change to his RE Code is not warranted.

BOARD VOTE:

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:	:	:	GRANT FULL RELIEF
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■	■	■	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

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. 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 SPD codes to be entered on the DD Form 214. It identifies the SPD code of "SEJ" as the appropriate code to assign enlisted Soldiers who are retired from active duty due to permanent disability, under the provisions of AR 635-40, Chapter 4. The SPD Code/RE Code Cross Reference Table shows that a Soldier assigned an SPD Code of "SEJ" will be assigned an RE Code of 4.

3. Army Regulation 601-210 covers eligibility criteria, policies, and procedures for enlistment and processing in the Regular Army, U.S. Army Reserve, and Army National Guard. It determines Regular Army and Reserve reentry eligibility and provides regulatory guidance for the RE codes. Table 3-1 contains a list of RE codes.

a. RE-1 applies to Soldiers completing their terms of active service who are considered qualified to reenter the U.S. Army. They are qualified for enlistment if all other criteria are met.

b. RE-2 is not used by the Army.

c. RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. They are ineligible unless a waiver is granted.

d. RE-4 applies to Soldiers who are separated from their last period of service with a nonwaivable disqualification. They are ineligible for enlistment.

4. 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. 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. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states 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//