

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 August 2024

DOCKET NUMBER: AR20230014276

APPLICANT REQUESTS: an upgrade of his uncharacterized discharge.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 had surgery in basic training and was medically discharged from the Army. He wanted to complete training and stay in the Army but was not able to meet the time period for healing from his appendix surgery, when it ruptured during training.
3. The applicant enlisted in the Regular Army on 22 February 1990, for 3 years and 16 weeks. He did not complete training and was not awarded a military occupational specialty (MOS).
4. A DA Form 4707 (Entrance Physical Standards Board [EPSBD] Proceedings), dated 15 June 1990, shows:
 - a. The applicant was diagnosed with chronic abdominal pain and reflux esophagitis functional scoliosis not service aggravated, and had been placed on a permanent profile.
 - b. The EPSBD recommended the applicant be separated from service, under the provisions of Army Regulation 635-200 (Personnel-Separations –Enlisted Personnel), paragraph 5-11c, for a condition that existed prior to service.
 - c. The applicant acknowledged the EPSBD findings on 20 June 1990. He further acknowledged:

(1) 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.

(2) He could request discharge from the Army without delay or request retention on active duty.

(3) He concurred with the proceedings and requested discharge from the Army without delay.

d. The applicant's immediate and intermediate commanders recommended the applicant's separation from service on 22 June 1990 and 25 June 1990.

e. The separation authority approved the recommendation on 28 June 1990 and directed the applicant's entry level separation with uncharacterized service.

5. The applicant was released from active duty on 2 July 1990 under the provisions of Army Regulation 635-200, paragraph 5-11, by reason of did not meet procurement medical fitness standards – no disability. His service was uncharacterized, with separation code “JFT” and reentry code “RE-3” and “RE-3C.” He completed 4 months and 11 days of active service.

6. Regulatory guidance in effect at the time provided that 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.

7. The Board should consider the applicant's argument and evidence, along with the overall record, in accordance with the published equity, injustice, or clemency determination guidance.

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 an upgrade of his uncharacterized discharge. He states: “Wanted to complete training and stay in the Army but not able to make the time frame to heal from surgery (Appendix Ruptured).”

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 22 February 1990 and was discharged on 2 July 1990 under authority provided by paragraph 5-11c of AR 635-200, Personnel Separations – Enlisted Personnel (26 May 1989): 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. The applicant was referred to an Entrance Physical Standards Board (EPSBD) for chronic postoperative abdominal pain and esophagitis 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.

f. From the applicant's 15 June 1990 Entrance Physical Standards Board (EPSBD) Proceedings (DA form 4707:

CHIEF COMPLAINT: Chronic abdominal pain post-operatively and reflux esophagitis

HISTORY OF PRESENT CONDITION: PV1 [Applicant] entered active duty with a ruptured appendix and pelvic abscess. His pain began on 16 FEB 90 and he was sent from the Welcome Center to (Cont. on page 2)

[Page 2 is not in the supporting documents]

PHYSICAL EXAMINATION: Abdomen scaphoid, soft, healed midline and multiple transverse incisions. No incisional hernias or inguinal hernial.

LABORATORY & X-RAY RESULTS: Upper gastrointestinal series – Severe gastroesophageal reflux; anastomosis intact.

DIAGNOSIS: Chronic abdominal pain, Reflux esophagitis

g. The provider noted the applicant's conditions had existed prior to service and the applicant's esophagitis failed the enlistment standard in paragraph 2-3(a) of AR 40-501 (1 July 1987) which states the condition fails when:

“Esophagus. Organic disease of esophagus or authenticated history of, such as ulceration, varices, achalasia, or other dysmotility disorders; chronic or recurrent esophagitis if confirmed by appropriate x-ray or endoscopic examinations.”

h. On 20 June 1990, the Board determined the condition had existed prior to service (EPTS), 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 22 June 1990, the applicant concurred with the Board, initialing the election “I concur with these proceedings and request to be discharged from the US Army without delay.”

i. 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.

j. 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. The Board noted the applicant's contention of undergoing surgery while in basic training; however, reviewed and concurred with the medical advisor's review finding his condition existed prior to service and had not been permanently aggravated by military service and did not meet enlistment standards. He concurred with findings of the board and elected to be discharged without delay. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized and a referral to the Disability Evaluation System is not warranted.

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 635-200, in effect at the time, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

a. Paragraph 3-4(2) Entry-Level status. Service will be uncharacterized, and so indicated in block 24 of DD Form 214, except as provided in paragraph 3-9a.

b. Paragraph 3-7 states an honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the soldier'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 3-9a Entry-level status separation. A separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status, except when—

(1) Characterization under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case.

(2) Headquarters Department of the Army, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, convenience of the Government, and Secretarial plenary authority.

(3) The Soldier has less than 181 days of continuous active military service, has completed Initial Entry Training, has been awarded an MOS, and has reported for duty at a follow-on unit of assignment.

d. Paragraph 5-11 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 may be separated. Such conditions must be discovered during the first 6 months of active duty. Such findings will result in an Entrance Physical Standards Board (EPSBD). This board, which must be convened within the Soldier's first 6 months of active duty, takes the place of the notification procedure required for separation under this chapter.

(1) Medical proceedings, regardless of the date completed, must establish that a medical condition, which was identified by an appropriate military medical authority within 6 months of the Soldier's initial entry on active duty would have permanently or temporarily disqualified the Soldier for entry into military service had it been detected at that time or the medical condition does not disqualify the Soldier for retention in military service per Army Regulation 40-501 (Medical Services - Standards of Medical Fitness), chapter 3.

(2) A Soldier who is found not to have been qualified under procurement medical fitness standards at the time of enlistment after entry on active duty may request to be retained on active duty if, after considering the proceedings of an EPSBD, the separation authority determines the Soldier's disqualifying condition will not prevent the Soldier from performing satisfactorily throughout his/her period of enlistment in the MOS for which he/she is being trained or in another MOS based on the Soldier's medical condition and the Soldier, after being counseled and given the opportunity to obtain legal advice, signs a statement requesting to complete the period of service for which enlisted. Soldiers not retained will be processed for separation.

e. Section II (Terms): Character of service for administrative separation - A determination reflecting a Soldier's military behavior and performance of duty during a specific period of service. The three characterizations are honorable, general (under honorable conditions), and under other than honorable conditions. The service of Soldiers in entry-level status is normally described as uncharacterized.

//NOTHING FOLLOWS//