

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 August 2024

DOCKET NUMBER: AR20230015109

APPLICANT REQUESTS, in effect -

- correction of his DD Form 214, Certificate of Release or Discharge, to show he was discharged due to disability
- a personal appearance before the Board via video/telephone

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

- DD Form 149, Application for Correction of Military Record
- VA Form 21-526EZ, Department of Veterans Affairs (VA)-Notice to Veteran/Service Member of Evidence Necessary to Substantiate a Claim for Veterans Disability Compensation and Related Compensation Benefits (listed on DD Form 149 but not attached)

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 indicates his request is related to post-traumatic stress disorder (PTSD). He states, in effect, that the injury he sustained during his initial training was not properly handled by the cadre or medical professionals. He contends that he had a traumatic experience and was given misinformation about his eligibility to reenlist. He further contends he developed mental health and substance abuse issues because of this traumatic experience and for the last 30 years he has been battling major depressive disorder, alcohol use disorder, and opioid use disorder. He is currently in treatment and working towards correcting his military records.
3. The applicant's complete personnel records are not available for review. His partial digital record shows that on 12 September 1988, the applicant underwent a physical examination for the purpose of enlisting in the U.S. Army which found him qualified for enlistment in the Regular Army (RA) and Airborne training.

4. On 18 October 1988, he enlisted in the Regular Army.
5. On 30 January 1989, after considering the applicant's medical records, laboratory findings, and medical examination, an Entrance Physical Standards Board (EPSBD) found the applicant was medically unfit for enlistment in accordance with medical fitness standards in effect at the time. This evaluation shows that the applicant reported two prior dislocations of his right shoulder during his 13th week of Basic Combat Training. He stated that he was doing physical training and fell over another person dislocating his shoulder. The injury was reduced without difficulty and the applicant was placed in a shoulder immobilizer. Due to prior dislocations his injury was determined to have existed prior to service (EPTS). The Board recommended the applicant be separated for failing to meet medical fitness standard for enlistment.
6. The applicant concurred with the EPSBD findings on 27 February 1989 and requested to be discharged without delay. The separation authority approved the applicant's request on 3 March 1989.
7. On 9 March 1989, the applicant was released from active duty. His DD Form 214 shows he was separated in accordance with Army Regulation (AR) 635-200, Personnel Separations-Enlisted Personnel, chapter 5-11, by reason of failing to meet procurement medical fitness standards- no disability. His DD Form 214 shows he completed 4 months and 22 days of net active service for the period and lists his service as uncharacterized.
8. He was honorably discharged from the U.S. Army Reserve on 22 October 1996.
9. The applicant did not provide medical records showing a diagnosis of PTSD or any other mental health condition.
10. Regulatory guidance provides, Service members who were not medically qualified under procurement medical fitness standards when accepted for initial enlistment will be separated.
11. The Board should consider the applicant's overall record and provided statement in accordance with the published equity, injustice, or clemency determination guidance.
12. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

13. 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 in essence requesting a referral to the Disability Evaluation System (DES). On his DD Form 149, the applicant has indicated that PTSD is an issue related to his requests. He states:

“Due to the traumatic experience of the injury, the poor treatment from cadre and medical staff, and misinformation about my ability to re-enlist, I developed issues related to mental health and substance use. For the last 30 years I have been battling major depressive disorder, alcohol use disorder, and opioid use disorder. I am currently completing treatment and would like to work on correcting different facets of my life, including my military service records.”

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 18 October 1988 and received an uncharacterized discharge on 9 March 1989 under authority provided by paragraph 5-11 of AR 635-200, Personnel Separations – Enlisted Personnel (22 January 1988): Separation of personnel who did not meet procurement medical fitness.

d. Paragraph 5-11 a of AR 635-200 (22 January 1988):

“a. Soldiers who were not medically qualified under procurement medical fitness standards when accepted for initial 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],

e. His period of service predates the EMR.

f. The applicant was referred to an Entrance Physical Standards Board (EPSBD) for pre-service right shoulder instability 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.

g. Form his 30 January 1989 Entry Physical Standards Board (EPSBD) Proceedings (DA form 4707):

“HISTORY OF PRESENT ILLNESS: This 17-year-old white male was seen and evaluated and the patient is in the 13<sup>th</sup> week of training of initial enlistment.

Service member complaining of two prior dislocations of right shoulder in the 13<sup>th</sup> week of training. Was doing PT (physical training) with A.M. and fell over another person dislocating his right shoulder. Injury was reduced without difficulty and soldier placed in a shoulder immobilizer. Due to prior dislocations – to be EPTS [existed prior to service].

OBJECTIVE FINDINGS: Positive tenderness in the right shoulder, positive axillary and miscellaneous [nerve] function, positive distal pulse and sensation/motor [function].

LABORATORY AND X-RAY RESULTS: Positive reduction with old Hillsack’s lesion [a compression fracture on the posterior humeral head associated with anterior shoulder dislocations]

DIAGNOSIS: Recurring right shoulder dislocation

DISPOSITION: It is recommended that the patient be separated. The soldier does not meet medical fitness standards for enlistment under paragraph 2-11d, chapter 2, AR 40-501 [Standards of Medical Fitness]

EPTS: Yes

Service aggravated: No

It is recommended that he be separated from the Military Service under paragraph 5-11, AR 635-200.”

h. Paragraph 2-11d of AR 40-501 (1 July 1987) states the criteria for failing procurement standards due to preexisting major joint conditions which prevent training:

“Dislocation, old, unreduced; substantiated history of recurrent dislocations of major joints; instability of a major joint, symptomatic and more than mild; or if, subsequent to surgery, there is no evidence of more than mild instability in comparison with the normal joint, weakness or atrophy in comparison with the normal side, or if the individual requires medical treatment of sufficient frequency to interfere with the performance of military duty.”

i. On 6 February 1989, 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 27 February 1989, the applicant concurred with the Board, both marking and initialing the election “I concur with these proceedings and request to be discharged from the US Army without delay.”

j. JLV shows he has been awarded multiple VA service-connected disability ratings on 9 August 2023, including ratings for PTSD, upper arm condition, and tinnitus. 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.

k. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. For the reserve components, it also includes discharges prior to completing initial entry training (IET). There are two phases - Basic Combat Training (BCT) and Advanced Individual Training (AIT). Because the applicant did not complete BCT, he was in an entry level status at the time of his discharge and so received an uncharacterized discharge. 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. The applicant’s recent receipt of multiple VA service-connected disability ratings, including one for PTSD, have no bearing on his involuntary administrative separation for a pre-existing medical condition which failed enlistment medical standards.

m. 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. 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 evidence shows the applicant was found to have a preexisting condition which does not meet the enlistment standard in chapter 2 of AR 40-501, Standards of Medical Fitness, that was neither incurred on active duty nor permanently aggravated by service. As a result, his chain of command separated him. He completed 4 months of net active service. He did not complete initial entry training and was not awarded an MOS. His service was uncharacterized. 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. The Board found no error or injustice in his separation processing. Also, the Board considered the medical records, any VA documents provided by the applicant and the review and conclusions of the medical reviewing official and agreed that the applicant's recent receipt of multiple VA service-connected disability ratings, including one for PTSD, have no bearing on his involuntary administrative separation for a pre-existing medical condition which failed enlistment medical standards. Therefore, the Board determined relief is not warranted.

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. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets 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) HQDA, 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. Chapter 5-11, states members who were not medically qualified under procurement medical fitness standards when accepted for initial enlistment will be separated. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by appropriate military medical authority within four months of the member's initial entrance on active duty or active duty for training which-

(1) would have permanently disqualified them from entry into the military service had it been detected at that time; and

(2) does not disqualify them for retention in the military service under the provisions of AR 40-501, Medical Services-Standards of Medical Fitness, chapter 3.

e. Section II (Terms):

(1) 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.

(2) Entry-level status - For Regular Army Soldiers, entry-level status is the first 180 days of continuous AD or the first 180 days of continuous AD following a break of more than 92 days of active military service.

3. Army Regulation 635-40, Physical Evaluation for Retention, Retirement, or Separation, sets forth policies, responsibilities, and procedures in determining whether a Soldier was unfit because of physical disability to reasonably perform the duties of their office, grade, rank, or rating. Paragraph 3-1 (Standards of unfitness because of physical disability) of this regulation, provided that the mere presence of impairment does not, of itself, justify a finding of unfitness because of physical disability.

4. Title 38, USC, section 1110, General - Basic Entitlement: For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

5. Title 38, USC, section 1131, Peacetime Disability Compensation - Basic Entitlement: For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

6. Section 1556 of Title 10, United States Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (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.

7. AR 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 will decide cases on the evidence of record. It is not an investigative body. 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. Additionally, applicants may be represented by counsel at their own expense.

//NOTHING FOLLOWS//