

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 August 2024

DOCKET NUMBER: AR20240000254

APPLICANT REQUESTS:

- issuance of a DD Form 214 (Certificate of Release or Discharge from Active Duty)
- honorable physical disability separation

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

- DD Form 149 (Application for Correction of Military Record)
- three self-authored statements
- Veterans Benefits Management System (VBMS) Compensation and Pension (C&P) Award, dated 20 September 2021
- Department of Veterans Affairs (VA) Request for Information, dated 18 October 2021
- Information Report, dated 1 November 2021
- partial VA Rating Decision, dated 17 March 2022
- partial VA Rating Decision, dated 31 August 2022
- VA letter, dated 18 July 2023

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:

a. She is requesting a DD Form 214 be added to her records and that it reflects an honorable medical discharge. On the day of her release, it was explained to her that she would receive an honorable medical discharge. She has provided supporting evidence in the form of VA documents reflecting she is a veteran with an honorable discharge.

b. The Board should find it in the interest of justice to consider her application because although there is an absence of a DD Form 214, the VA offices recognize her discharge as honorable. She is additionally requesting an emergency expedited review of her application because she is involved in an appeal process regarding her veteran disability benefits, and she is facing a financial hardship due to the absence of a DD Form 214, which has made obtaining veterans services nearly impossible.

3. A physical profile is used to classify a Soldier's physical disabilities in terms of six factors, as follows: "P" (Physical capacity or stamina), "U" (Upper extremities), "L" (Lower extremities), "H" (Hearing), "E" (Eyes), and "S" (Psychiatric) and is abbreviated as PULHES. Each factor has a numerical designation: 1 indicates a high level of fitness, 2 indicates some activity limitations are warranted, 3 reflects significant limitations, and 4 reflects one or more medical conditions of such a severity that performance of military duties must be drastically limited. Physical profile ratings can be either permanent (P) or temporary (T).

4. A Standard Form 93 (Report of Medical History), dated 11 March 1987, shows the applicant provided her medical history in conjunction with a medical examination for the purpose of U.S. Army Reserve (USAR) enlistment. She indicated she was in good health and listed having had an operation in August 1987 to remove a pilonidal sinus/cyst.

5. A Standard Form 88 (Report of Medical Examination) shows the applicant underwent medical examination on 11 March 1987, for the purpose of USAR enlistment. The summary of defects and diagnoses shows post pilonidal cystectomy resolved. The applicant was found qualified for service with a PULHES of 111111.

6. A DD Form 4 (Enlistment/Reenlistment Document) shows the applicant enlisted in the USAR on 11 March 1987 for a period of 8 years.

7. Military Entrance Processing Station (MEPS) Orders 049-055, dated 11 March 1987, ordered the applicant to initial active duty for training (IADT), with a reporting date of 24 March 1987, for approximately an 18 week training period for completion of Basic Combat Training (BCT) at Fort McClellan, AL, and follow-on Advanced Individual Training (AIT) at Fort Lee, VA, with a reporting date of 29 May 1987.

8. A DA Form 5181-R (Screening Note of Acute Medical Care) shows the applicant was seen at the Troop Medical Clinic (TMC) on 2 April 1987 with a chief complaint of asthma. She was positively diagnosed with asthma 2 years ago and treated with Alupent (medication that relaxes the airways and treats bronchial asthma), but never followed up for further treatment.

9. Multiple Standard Forms 513 (Consultation Sheet), show:

a. The applicant was referred by the TMC to Noble Army Hospital, Internal Medicine and Respiratory Therapy, Fort McClellan, AL, on 2 April 1987, due to complaints of exercise-induced wheezing for 2-3 days and a history of asthma, previously diagnosed in Syracuse, New York.

b. The follow-up consultation report from the Medical Clinic, Noble Army Hospital, dated 3 April 1987, shows she had been in BCT for a couple of days, but was unable to do physical training due to shortness of breath and chest pain. She was given a diagnosis of bronchial asthma.

10. A DA Form 3349 (Physical Profile Board Proceedings), dated 6 April 1987, shows the applicant was given a temporary physical profile rating of 4 in factor P with a diagnosis of asthma. Her profile limitations included no crawling, stooping, running, jumping, marching, or standing for long periods. No mandatory strenuous physical activity, to remain in effect until completion of Medical Board.

11. A DA Form 2496 (Disposition Form) with the subject: Pending Entrance Physical Standards Board (EPSBD) Proceedings, dated 8 April 1987, shows:

a. The applicant signed the form indicating she had been counseled pertaining to her legal rights in accordance with Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-11.

b. She had been informed that she did not meet procurement medical fitness standards at the time of her initial enlistment and understood that as an exception to separation, if she had completed BCT or 8 weeks of One Station Unit Training (OSUT), she may request to be retained on active duty to complete the period of service for which she enlisted.

c. Under the provisions of Army Regulation 635-200, paragraph 5-11, she applied for separation.

12. A DA Form 4707 (EPSBD Proceedings), dated 10 April 1987, shows:

a. The applicant's chief complaint was shortness of breath. She was a basic trainee who was referred to the Medical Clinic due to a history of asthma and exercise-induced wheezing. She had been in BCT for a couple of days but could not keep up with the rest of her platoon when they were exercising due to shortness of breath and chest pain.

b. Her past medical history shows she was previously diagnosed as having bronchial asthma at the Upstate Medical Center, Syracuse NY. The rest of her past medical history was essentially unremarkable.

c. She was assessed as having bronchial asthma. She had a history of bronchial asthma prior to coming into the Army and there was evidence of her being unable to perform as a basic trainee, especially when subjected to a lot of stress. For that reason, it was the physician's medical opinion that the applicant did not meet the standards for enlistment and should be boarded. She was given a permanent PULHES of 311111 with assignment limitations of no crawling, stooping, running, jumping, marching, or standing for long periods and no mandatory strenuous physical activity.

d. On 13 April 1987, the applicant signed the form indicating she had been informed of the medical findings and understood she may consult with counsel, request discharge without delay or request retention on active duty. She indicated she concurred with the proceedings and requested to be discharged from the U.S. Army without delay.

e. The discharge authority signed the form on 15 April 1987, directing the applicant entry-level uncharacterized discharge under the provisions of Army Regulation 635-200, paragraph 5-11.

13. U.S. Army Chemical and Military Police Center and Fort McClellan Orders 72-83d dated 16 April 1987, released the applicant from attachment to the Training Brigade at Fort McClellan, AL and further attached her to the Transition Point, Fort McClellan, AL, for the purpose of separation under the provisions of Army Regulation 635-200, effective 20 April 1987.

14. U.S. Army Chemical and Military Police Centers and Fort McClellan Orders 72-84, dated 16 April 1987, discharged the applicant from the USAR under the provisions of Army Regulation 635-200, effective 20 April 1987. Her service is not characterized on the orders.

15. The applicant's DA Form 2-1 (Personnel Qualification Record) shows:

- she enlisted in the USAR on 11 March 1987
- she arrived at the U.S. Army Reception Battalion, Fort McClellan, AL, on 24 March 1987
- she was attached to her BCT unit at Fort McClellan, AL, on 31 March 1987
- she was discharged on 20 April 1987

16. The applicant's service records do not contain a DD Form 214 or a DD Form 220 (Active Duty Report).

17. The applicant provided multiple VA documents which show:

a. A VBMS C&P Award, dated 20 September 2021, shows the applicant entered on duty (EOD) on 11 March 1987 and was released from active duty (RAD) on 20 April 1987, her service was on active duty and it was characterized as honorable.

b. A VA Request for Information dated 18 October 2021, shows the applicant's EOD was 11 March 1987, her RAD was 20 April 1987, and her service was active duty and characterized as honorable.

c. An Information Report, dated 1 November 2021, shows the applicant's component was the USAR, her EOD was 11 March 1987, her RAD was 20 April 1987, and her service was characterized as honorable.

d. A partial VA Rating Decision, dated 17 March 2022, shows her branch was the USAR, her EOD was 11 March 1987, her RAD was 20 April 1987, and her service was characterized as honorable. She was not granted service-connection for any claimed conditions.

e. A partial VA Rating Decision, dated 31 August 2022, shows her branch was the USAR, her EOD was 11 March 1987, her RAD was 20 April 1987, and her service was characterized as under honorable conditions. She was not granted service-connection for any claimed conditions.

f. A VA letter, dated 18 July 2023, shows the applicant's branch of service was the Army, she entered active duty on 24 March 1987, was released from active duty on 17 April 1987, and her character of discharge is not listed.

18. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

19. Title 38, USC, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

20. 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 in essence requesting a referral to the Disability Evaluation System (DES).

c. The Record of Proceedings outlines the applicant's military service and the circumstances of the case.

d. Her pre-entrance Report of Medical History and Report of Medial Examination show she was in good health, without any significant medial history or conditions. It is noted she marked NO to the questions asking if she ever had or now had Asthma, Shortness of Breath, Pain of Pressure in Chest, and Chronic Cough.

e. The applicant presented to a troop medical clinic on 2 April 1987: "Patient was positively diagnosed with asthma 2 years ago. Treated with Alupent. Patient never had follow-up treatment." She was subsequently referred to an entry physical standards board (EPSBD) IAW paragraph 5-11 of AR 635-200 for preexisting asthma.

f. These boards 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 condition which existed prior to service (EPTS) and 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 service aggravated.

g. From her 10 April 1987 Entrance Physical Standard Board (EPSBD) Proceedings (DA Form 4707):

CHIEF COMPLAINT: Shortness of breath.

HISTORY OF PRESENT ILLNESS: This is a 20-year-old female, Basic Trainee, who was referred to the Medical Clinic due to a history of asthma and exercise induced wheezing. The patient has been in training for a couple of days, but she cannot keep up with the rest of her platoon when they are exercising due to shortness of breath and chest pain.

PAST MEDICAL HISTORY: She was diagnosed as having bronchial asthma by Dr. S., Upstate Medical Center, Syracuse, New York, telephone area code [REDACTED] [REDACTED] The rest of the past history is essentially unremarkable

PHYSICAL EXAMINATION: ... Lungs show expiratory wheezes at the end of expiration bilaterally

LABORATORY DATA AND X-RAY: Forced vital capacity of 72.5, FEV1 of 71, FEV1 Forced vital capacity ratio equals 103. Peak flow is 62. FEF 25/75 at 55.1.

ASSESSMENT: Bronchial asthma. The patient has a history of bronchial asthma prior to coming into the U.S. Army, and there is evidence of the patient being unable to perform as a Basic Trainee, especially when she is subject to a lot of stress. For this reason, it is my opinion that this patient does not meet the standards for enlistment and should be boarded.

DIAGNOSIS: 49390-Bronchial asthma. EPTS: Not Service Aggravated.

h. Paragraph 2-24d of AR 40-501 (1 July 1987) states causes for rejection for enlistment are:

“2-24d. Asthma, reactive airway disease, exercise-induced bronchospasm, except for childhood asthma with a trustworthy history of freedom from symptoms since the 12th birthday. Any use of prophylactic medicine since the 12th birthday is also disqualifying regardless of symptoms.”

i. The EPSBD determined her asthma had existed prior to service (EPTS), failed the enlistment standards of AR 40-501, had not been permanently aggravated by her military service, and was not compatible with continued service. The applicant concurred with the findings on 13 April 1987 when she both marked the box: “I concur with these proceedings and request to be discharged from the US Army without delay.”

j. 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 her own, she simply had two medical conditions which were, unfortunately, not within enlistment standards.

k. It is the opinion of the ARBA medical advisor that referral of her case to the Disability Evaluation System is not 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 review based on law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board reviewed and concurred with the medical advisor's review finding the Entrance Physical Standards Board Proceedings determined the applicant's asthma existed prior to service and failed the enlistment standards and had not been aggravated by her military service and the applicant was not compatible for continued service. The applicant concurred with those findings. The Board determined a referral of her case to the Disability Evaluation System (DES) is not warranted.

2. As it relates to the applicant's request for issuance of a DD Form 214, the Board found no evidence to support the request. The evidence of record shows the applicant enlisted in the U.S. Army Reserve on 11 March 1987 and was ordered to initial active duty for training at Fort Lee, VA on that same date with a report date of 24 March 1987; however, there is no record that you ever entered active duty prior to your discharge from the U.S. Army Reserve on 16 April 1987.

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, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system (DES) and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 (Discharge Review Board (DRB) Procedures and Standards) and Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a Medical Evaluation Board (MEB); when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an Military Occupational Specialty (MOS) Medical Retention Board (MMRB); and/or they are command-referred for a fitness-for-duty medical examination.

b. The disability evaluation assessment process involves two distinct stages: the MEB and Physical Evaluation Board (PEB). The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise his/her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether or not a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. Service members who are determined to be unfit for duty due to disability either are separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a one-time severance payment, while veterans who retire based upon disability receive monthly military retired pay and have access to all other benefits afforded to military retirees.

c. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a

finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

3. Army Regulation 635-40 establishes the Army Disability Evaluation System and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

a. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in military service.

b. Soldiers who sustain or aggravate physically-unfitting disabilities must meet the following line-of-duty criteria to be eligible to receive retirement and severance pay benefits:

(1) The disability must have been incurred or aggravated while the Soldier was entitled to basic pay or as the proximate cause of performing active duty or inactive duty training.

(2) The disability must not have resulted from the Soldier's intentional misconduct or willful neglect and must not have been incurred during a period of unauthorized absence.

c. The percentage assigned to a medical defect or condition is the disability rating. A rating is not assigned until the PEB determines the Soldier is physically unfit for duty. Ratings are assigned from the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). The fact that a Soldier has a condition listed in the VASRD does not equate to a finding of physical unfitness. An unfitting, or ratable condition, is one which renders the Soldier unable to perform the duties of their office, grade, rank, or rating in such a way as to reasonably fulfill the purpose of their employment on active duty. There is no legal requirement in arriving at the rated degree of incapacity to rate a physical condition which is not in itself considered disqualifying for military service when a Soldier is found unfit because of another condition that is disqualifying. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

4. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10, U.S. Code, section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating of less than 30 percent.

5. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, 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.

a. Chapter 3 states a separation will be described as entry level with uncharacterized service if the Soldier is in an entry-level status at the time separation action is initiated.

b. Paragraph 5-11 (Separation of personnel who did not meet procurement medical fitness standards) shows 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 or active duty training for initial entry training, 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. 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.

c. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by an appropriate military medical authority within 6 months of the Soldier's initial entrance of active duty for Regular Army or active duty training for Army National Guard of the United States and U.S. Army Reserve that:

(1) would have permanently or temporarily disqualified the Soldier for entry into the military service or entry on active duty or active duty training for initial entry training had it been detected at the time

(2) does not disqualify the Soldier for retention in the military service per Army Regulation 40-501, chapter 3.

d. Section II (Terms) of the Glossary defines entry-level status for Regular Army Soldiers as the first 180 days of continuous active duty or the first 180 days of continuous active duty following a break of more than 92 days of active military service. For ARNG and USAR Soldiers, entry-level status begins upon enlistment in the ARNG or USAR. For Soldiers ordered to initial active duty training (IADT) for one continuous period, it terminates 180 days after beginning training. For Soldiers ordered to IADT for

the split or alternate training option, it terminates 90 days after beginning Phase II of Advanced Individual Training.

6. Army Regulation 635-5 (Separation Documents) in effect at the time, in effect at the time, prescribes the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army, to include the DD Form 214 (Certificate of Release or Discharge from Active Duty).

a. A DD Form 214 will be prepared for Reserve component Soldiers completing 90 days or more of continuous active duty for training (ADT), Full-Time National Guard duty (FTNGD), active duty for special work (ADSW), temporary tours of active duty (TTAD) or Active Guard Reserve (AGR) service.

b. A DD Form 220 (Active Duty Report) will be prepared for a Soldier enlisted under the USAR Split Training Program and the ARNGUS Alternate Training Program when he/she completes the Basic Combat Training (BCT) portion.

7. Title 38, U.S. Code, section 1110 (General – Basic Entitlement) states 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.

8. Title 38, U.S. Code, section 1131 (Peacetime Disability Compensation – Basic Entitlement) states 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.

9. Title 10, U.S. Code, section 1556 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.

//NOTHING FOLLOWS//