

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 June 2025

DOCKET NUMBER: AR20240002412

APPLICANT REQUESTS: medical disability retirement.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Report of Separation from Active Duty)
- Court Order for Name Change
- My HealtheVet Personal Information Report
- Transcript of Hearing Before the Board of Veteran's Appeals, 26 February 2020
- 12 pages of medical records

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. Granting her a medical disability retirement is the right thing to do. For a person in their 20s to lose their life to a condition no one understands or accepts culpability for is the most heinous injustice that an organization can inflict on a person. Recognizing that this condition was not going to go away, she filed claim after claim with the Department of Veterans Affairs (VA) only to be repeatedly denied. Once she discovered they used every conceivable method to sidestep the issue, including at the hearing, she sought out this Board's help.

b. Because she had been a good Soldier and at the time no one understood hyperacusis (hearing disorder where sounds others perceive as normal seem uncomfortably and often unbearably loud), and you did not go to the doctor complaining about the noise in a hanger, her one visit to a mental health professional was disregarded, so all conditions that accompanied the hyperacusis, such as migraines and vertigo, were never identified, and as such, she was given what was called a hardship

discharge. The conditions persisted after her discharge and she applied to the VA for compensation in December 1979 and many times thereafter, but she was repeatedly denied.

c. Her original discharge should have rated her with a disability rating of 100%, as there is no effective treatment for hyperacusis, so not only she could not serve in the military, nor could she work for prolonged periods anywhere else. So, she lost her family and spent over four years living in the quietness of canyons as this is the only "cure" for the condition. She is requesting a medical retirement. This will provide partial compensation for the life she lost.

3. The applicant enlisted in the Regular Army on 9 August 1977. She was awarded military occupational specialty 67N (Utility Helicopter Repairman) upon completion of initial entry training.

4. The applicant's Enlisted Evaluation Report covering the period December 1978-January 1979 shows her rater indicated she was doing an excellent job, and she was rated as "superior to most."

5. On 21 February 1979, the applicant submitted an application for hardship or dependency separation. She stated the reason for her request was that it was impossible for her to perform as a mother and as a Soldier. While participating in military requirements, her effectiveness was lost due to worry and concern for her dependents during duty hours. She made attempts for a permanent babysitter but in this area sitters are unreliable.

6. On 26 February 1979, the separation authority approved the applicant's request for separation under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 6 (separation because of dependence or hardship).

7. The applicant's DD Form 214 shows she was discharged on 1 March 1979 under the provisions of Army Regulation 635-200, paragraph 6-3b(2) (hardship/sole parents).

8. The applicant provided:

a. Her My HealtheVet Personal Information Report showing she was diagnosed with various conditions that include migraines and hyperacusis.

b. Transcript of a Hearing Before the Board of Veteran's Appeals which was provided to the Board for their review and consideration.

9. 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 MHS Genesis (DoD electronic Medical), Joint Longitudinal Viewer (JLV) (a Repository of DoD and VA electronic medical record), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and the Interactive Personnel Electronic Records Management System (iPERMS).

b. The ARBA Medical Advisor made the following findings and recommendations:

c. The applicant is applying to the ABCMR requesting a "change in type of discharge to a chapter 61 medical disability retirement discharge retroactive to my original discharge date".

d. Due to the period of the Applicant's service, there was no electronic medical record available for review, except for VA Clinic encounter from 24 August 2001 to 7 MAY 2025.

e. VA clinical encounter dated 18, 19, 20 & 24 September 2017 indicated that the Applicant had an "Essentially normal study, showing no evidence of central or peripheral vestibular pathology" with "recommend audio re-check in 2-3 years or sooner if change in hearing or tinnitus is perceived. Procedures and testing included speech audiometry, pure-tone audiometry, acoustic reflexes, tympanometry, otoacoustic emissions, and audio rehab". The Applicant was scheduled for VNG testing, because of her complaint of dizziness/imbalance problems.

f. VA clinical encounter dated 18, 19, 20 & 24 September 2007 indicated that the Applicant had an "Essentially normal study, showing no evidence of central or peripheral vestibular pathology" with "recommend audio re-check in 2-3 years or sooner if change in hearing or tinnitus is perceived. Procedures and testing included speech audiometry, pure-tone audiometry, acoustic reflexes, tympanometry, otoacoustic emissions, and audio rehab". The Applicant was scheduled for VNG testing, because of her complaint of dizziness/imbalance problems.

g. VA clinical encounter dated 18 February 2020 had the following documentation:

"Test results from 2/18/20 indicate that you have normal hearing sensitivity. Test results indicated that words become uncomfortably loud at 35 dB HL in both your ears. This is equivalent to sounds being too loud when presented above the intensity of a whisper. Hyperacusis is a disorder in which a person has abnormally reduced tolerance to sound. Hyperacusis can be associated with head trauma, certain disorders, and noise exposure. Some people with hyperacusis will report pain and distress caused by sound. Others may state that sounds can be more intense and vivid.

Consequences of hyperacusis can include withdrawal from the sound environment of everyday life, which can lead to social isolation. Some individuals can find that sound exposure is overwhelming and can lead to a greater reaction when sound is encountered in their listening environments.

This being said, I have not diagnosed you with hyperacusis. From test results on 2/18/20, it does show that you do have sensitivity to sounds. I would recommend this sound sensitivity be taken into consideration. I would also like to clarify that I am not a certified compensation audiologist."

h. VA clinical encounter dated 28 December 2020 indicated that "Patient seen by audiologist for community care with similar results seen from 2/18/20 testing. Results available through VistA imaging."

i. Review of available documents provided insufficient evidence to support the Applicant's claim that these issues were the cause of her discharge from the service. Therefore, from the medical standpoint, the Applicant did not have any career terminating medical condition while in service that would require this case be sent to the Disability Evaluation System.

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 and standard review based on law, policy and regulation. The evidence of record shows on 21 February 1979, the applicant submitted a request for hardship or dependency separation, stating she was unable to fulfill her duties as both a mother and a Soldier while meeting military requirements. The applicant was discharged in accordance with the governing regulation for hardship or dependency separations.

2. The applicant's record contains no evidence of an illness or injury warranting referral to the Disability Evaluation System (DES). The Board reviewed and concurred with the medical advisory opinion, which found insufficient evidence to support the applicant's claim that medical issues were the cause of her discharge. From a medical standpoint, the applicant did not have a career-terminating medical condition during her service that would have required referral to the DES. Therefore, the Board determined a medical disability retirement was not warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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.

X //SIGNED//

CHAIRPERSON

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 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. Paragraph 6-3b(2) (Sole parents) of the regulation in effect at the time states service members who are sole parents, and whose child or children under 18 years of age reside within the household,

may apply for discharge under hardship. Paragraph 6-4 states separation from the service of enlisted personnel because of dependency or hardship will be granted when all the following circumstances exist:

- a. Conditions have arisen or have been aggravated to an excessive degree since entry on active duty.
- b. Conditions are not of a temporary nature.
- c. Every reasonable effort has been made by the enlisted person to alleviate the dependency or hardship conditions without success.
- d. Discharge or release from active military service of the enlisted person is the only readily available means of eliminating or materially alleviating the dependency or hardship conditions.

3. Army Regulation 40-501 (Standards of Medical Fitness) provides that for an individual to be found unfit by reason of physical disability, he or she must be unable to perform the duties of his or her office, grade, rank, or rating. Performance of duty despite impairment would be considered presumptive evidence of physical fitness.

4. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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//