

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 October 2024

DOCKET NUMBER: AR20240002597

APPLICANT REQUESTS:

- upgrade of her uncharacterized discharge to honorable
- a telephonic hearing with the Board

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

DD Form 149 (Application for Correction of Military Record), 26 December 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. There is a misprint on her DD Form 214 (Certificate of Release or Discharge from Active Duty) which reads uncharacterized; however, her military records read it as honorable.

b. The reason for her discharge was due to a condition that has since been alleviated. When she joined the military, she was given a clean bill of health at the Military Entrance Processing Station. Service aggravated her knee condition, and she was unable to complete the requirements to continue training. She was told by the doctors there was nothing she could do, and she needed to find a new job.

3. A review of the applicant's service records show:

a. On 18 December 1993, she enlisted in the U.S. Army Reserve (USAR) for a period of 8 years under the alternative (split) training program.

b. On 20 December 1993, she was ordered to initial active duty for training (IADT) for Basic Combat Training (BCT) at the 43d Adjutant General Battalion, Fort Leonard Wood, with a reporting date of 1 June 1994.

c. On 4 August 1994, she was released from BCT.

d. On 7 April 1995, she was ordered to Advanced Individual Training (AIT) at Fort Lee, with a reporting date of 7 June 1995. She was subsequently assigned to Company A, 244th Quartermaster Battalion, 23d Quartermaster Brigade.

e. On 28 July 1995, she requested separation and waiver of a Physical Evaluation Board (PEB) based upon the findings and recommendation of a Medical Evaluation Board (MEBD), which considered her unqualified for retention in the military service due to physical disability that was found to have existed prior to her entry into active service (EPTS). The MEBD further found the disability was neither incident to nor aggravated by her military service. She further understood:

(1) She had been fully informed and understood that she was entitled to the same consideration and processing as any other member of the Army separated for physical disability. She understood this included consideration of her case by a PEB. However, she elected not to exercise this right. She also understood the Veterans Affairs would determine any entitlement to benefits.

(2) If this application were approved, she understood that she would be separated by reason of an EPTS physical disability. She also understood that she would receive a discharge in keeping with the character of her service, as decided by the officer designated to affect her separation from military service.

f. An EPTS Narrative Summary, dated 7 August 1995, reflects:

(1) She had a history of left knee pain dating to March 1990. While participating in sports she developed pain which required clinic visits. At that time, she was diagnosed as suspected chondromalacia of patella and it was recommended that she decrease activity. The patient responded to decreased activity and did not require an orthopedic evaluation at that time. Since entering active duty, the patient was experiencing anterior knee pain again.

(2) The diagnosis was bilateral retropartellar pain syndrome, EPTS.

g. On 14 August 1995, following consideration of the clinical records, laboratory findings, and physical examination, a MEBD found bilateral retropartellar pain syndrome, EPTS, and recommended her discharge under provisions of Army

Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), Chapter 5, by reason of EPTS medical condition.

h. On the same date, the Chief Examining Physician, Kenner Army Community Hospital, Fort Lee, approved the findings of the MEBD.

i. On 15 August 1995, the applicant agreed with the findings of the MEBD and she did not request an appeal to its findings.

j. On 17 August 1995, the Commanding Officer, 23d Quartermaster Brigade, Fort Lee, approved her discharge with an honorable discharge and a separation program designator (SPD) of KFN.

k. On 23 August 1995, she was discharged. Her DD Form 214 shows in:

- block 11 (Primary Specialty) – none, no military occupational specialty awarded;
- block 12c (Net Active Service This Period) – 2 months and 17 days;
- block 12d (Total Prior Active Service) – 2 months and 4 days;
- block 24 (Character of Service) – uncharacterized;
- block 25 (Separation Authority) – Army Regulation 635-40, Chapter 5;
- block 26 (Separation Code) – KFN;
- block 27 (Reentry Code) – 3; and
- block 28 (Narrative Reason for Separation) – Disability, Existed Prior to Service-Medical Board.

4. There is no evidence indicating she applied to the Army Discharge Review Board for an upgrade of her discharge within that board's 15-year statute of limitations.

#### 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 Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests. The available 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 identified by medical authorities shortly after her

entry on active duty. As a result, she was separated for a disability that existed prior to service (EPTS). She completed 2 months and 17 days of active service. She did not complete initial entry training and was not awarded an MOS. Her 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 considered the applicant's argument but did not find it supported by the evidence. Since her condition existed prior service and was not aggravated by service, and since she was separated within the first 180 days of active service due to this EPTS condition, based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

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.

■

■ ■

■  
■

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 (USC), 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 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.

a. 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.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, paragraph 2-11 reads that 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.

3. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, established the Army Physical Disability Evaluation System according to the provisions of chapter 61, Title 10, USC, and Department of Defense Directive 1332.18. It set forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of this or her office, grade, rank, or rating. If a Soldier is found unfit because of physical disability, this regulation provides for disposition of the Soldier according to applicable laws and regulations.

a. Chapter 5 provided for separation of an enlisted Soldier for non-service aggravated EPTS conditions when Soldier requested waiver of PEB evaluation. If the time period exceeds 6 months or if the condition is disqualifying under Army Regulation 40-501, chapter 3, a Soldier is intitled to evaluation by a PEB or may waive evaluation under this chapter.

b. Paragraph 5-5b. If the Soldier is in entry level status at the time of processing, DD Form 214 may describe service as uncharacterized (See Army Regulation 635-200), Chapter 3.

4. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of soldiers for a variety of reasons.

a. Paragraph 3-9 Uncharacterized Separations. A separation will be described as an entry level separation with service uncharacterized if processing is initiated while a soldier is in entry level status.

b. Section II Terms. Entry Level Status. For Army National Guard (ARNG) and USAR Soldiers, entry level status begins upon enlistment in the ARNG or USAR. It terminates for Soldiers ordered to IADT for Soldiers ordered to IADT for the split or alternate training option—90 days after beginning Phase II (AIT). Soldier completing Phase I (BCT) remain in entry level status until 90 days after beginning Phase II.

5. Army Regulation 40-501 (Standards of Medical Fitness) governs medical fitness standards for enlistment, induction, appointment (including officer procurement programs), retention, and separation (including retirement). The Department of Veterans Affairs Schedule for Rating Disabilities (VASRD) is used by the Army and the VA as part of the process of adjudicating disability claims. It is a guide for evaluating the severity of disabilities resulting from all types of diseases and injuries encountered as a result of or incident to military service. This degree of severity is expressed as a percentage rating which determines the amount of monthly compensation. Chapter 3 provides the various medical conditions and physical defects which may render a Soldier unfit for further military service. Soldiers with conditions listed in this chapter who do not meet the required medical standards will be evaluated by a medical evaluation board (MEB) and will be referred to a physical evaluation board (PEB).

6. An uncharacterized discharge is neither positive nor negative and it is not meant to be a negative reflection of a Soldier's military service. It merely means that the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise.

//NOTHING FOLLOWS//