

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 October 2024

DOCKET NUMBER: AR20240002866

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show he was medically discharged or change his characterization of service from uncharacterized to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 19 September 1995
- Department of Veterans Affairs (VA) Rating Decision, 17 November 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 he injured his shoulder during basic training. He was not offered any assistance to recover or treat his shoulder so that he could continue training. When he was given papers, he was told that he had no other option but to sign the paperwork that was in front of him, so he did as he was told. After six weeks of basic training, he was discharged with an uncharacterized discharge. The injury that he suffered in basic training abruptly stopped his military service. He trusted his drill sergeants and he did not know the repercussions and the limiting of VA benefits that the uncharacterized discharge would hold over him. He recently was awarded compensation from the VA, linking his shoulder injury to his military service. He respectfully requests that his discharge be upgraded so he can utilize the VA healthcare system to assist with his shoulder.
3. The applicant provides his VA rating decision, dated 17 November 2023, which shows he was service connected for right shoulder bursitis and granted an evaluation of 20 percent. Service connection for right shoulder bursitis was established as directly related to military service.

4. A review of the applicant's service record shows:

a. SF 93 (Report of Medical History), dated 9 August 1994, shows he answered no to bursitis. The applicant was in good health and had no significant medical history.

b. SF 88 (Report of Medical Examination), dated 9 August 1994, shows the applicant was qualified for service in the Army.

c. DD Form 4 (Enlistment/Reenlistment Document) shows he enlisted in the Regular Army on 6 July 1995. He was assigned to Fort Benning, GA for completion of basic combat training (BCT).

d. DA Form 4707 (Entrance Physical Standards (EPSD) Proceedings), dated 24 August 1995 shows he was evaluated at Martin Army Community Hospital, Fort Benning, GA, during week four of BCT. The Board found that the applicant was medically unfit for enlistment in accordance with current medical fitness standards and in the opinion of the evaluating physicians the condition existed prior to service (EPTS). It also shows:

(1) History of EPTS condition: involved in motor vehicle accident in March 1995 when his right knee impacted the dashboard. He had undergone two previous arthroscopies (1990 and March 1995).

(2) Subjective Findings: Right anterior knee pain, worse with stairclimbing or after prolonged sitting.

(3) Objective Findings: Left knee negative effusion negative laxity. Right knee negative effusion full active range of motion, negative medial/lateral laxity, negative joint line tenderness, negative Lachman's (3mm with fine endpoint) negative anterior/posterior drawer, positive patellar entrapment. Well healed portal sites.

(4) Diagnosis: Right knee: patellofemoral syndrome.

(5) Disposition: Recommended the applicant be separated from the military service under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-11. He did not meet medical fitness standards for enlistment under the provisions of AR 40-501(Standards of Medical Fitness), chapter 2, paragraph 2-11(b) or medical retention standards in accordance with AR 40-501, chapter 3. He was issued a permanent L3 profile with no running or marching.

- EPTS: Yes
- Service Aggravated: No

e. On 26 August 1995, the medical approving authority approved the findings and recommendations of the EPSBD proceedings.

f. On 29 August 1995, the applicant's EPSBD proceedings were forwarded to the applicant's unit for appropriate action in accordance with AR 635-200, paragraph 5-11.

g. On 2 September 1995, the applicant acknowledged that he was informed of the medical findings. He also acknowledged he understood that legal advice of an attorney employed by the Army was available to him and that he could consult with civilian counsel at his own expense. He further acknowledged he understood he could request a discharge from the Army without delay or request retention on active duty, and if retained he could be involuntarily reclassified into another military occupational specialty (MOS). The applicant concurred with the proceedings and requested a discharge from the Army without delay.

h. On the same date, the applicant's immediate commander recommended approval of the discharge.

i. On 8 September 1995, the separation authority approved the recommended discharge.

j. The applicant was discharged on 19 September 1995. His DD Form 214 shows he was discharged under the provisions of AR 635-200, paragraph 5-11, by reason of failed to meet procurement medical fitness standards. His service was uncharacterized. His DD Form 214 shows in:

- Item 11 (Primary Specialty): None
- Item 12c (Net Active Service This Period): 2 months and 14 days
- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): None
- Item 14 (Military Education): None
- Item 18 (Remarks): Member has not completed first full term of service.

5. The Board should consider the applicant's overall record in accordance with the published equity, injustice, or clemency determination guidance.

#### 6. 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 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 and, in essence, a referral to the Disability Evaluation System (DES). He states:

“I injured my shoulder during basic training. I was not offered any assistance to recover or treat my shoulder to continue training. When I was given papers, I was told that I had no other option, but to sign the paperwork in front of me. I did as I was told. After six out eight weeks of basic training I was discharged with an Uncharacterized discharge. Respectfully request that my discharge be changed to a medical or honorable discharge.”

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 6 July 1995 and received an uncharacterized discharged on 19 September 1995 under the separation authority provided by paragraph 5-11 of AR 635-200, Personnel Separations – Enlisted Personnel (17 September 1990): 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's period of service predates the EMR.
- f. The applicant's pre-entrance Report of Medical Examination and Report of Medical History show the applicant to have been in good health, without significant medial history or conditions.
- g. The applicant was referred to an Entrance Physical Standards Board (EPSBD) IAW paragraph 5-11 of AR 635-200 for right knee pain that had existed prior to service (EPTS) and failed to respond to conservative treatment.
- h. 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 or develop a 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.
- i. From the Entrance Physical Standards Board (EPSBD) Proceedings (DA Form 4707) dated 24 August 1995:

HISTORY OF EPTS CONDITION: This is a 18-year-old white male was seen and evaluated and the patient is in the 4<sup>th</sup> week of training of initial enlistment (BCT) [basic combat training] and has the following condition: Involved in motor vehicle accident in MAR 1995 when right knee impacted dashboard. He has undergone 2 previous arthroscopies (1990 and MAR 1995)

SUBJECTIVE FINDINGS: Right anterior knee pain, worse with stair climbing or after prolonged sitting.

OBJECTIVE FINDINGS: ... Right knee negative effusion, full active range of motion, negative medial/lateral laxity, negative joint line tenderness, negative Lachman, negative anterior/posterior drawer, positive patellar entrapment. Well healed [arthroscopic] portal sights.

LABORATORY AND X-RAY RESULTS: X-ray: right knee plain films: Normal.

PROGNOSIS: Fair

DIAGNOSIS: Right knee: Patellofemoral [pain] syndrome

DISPOSITION: it is recommended that the patient be separated. The soldier does not meet medical fitness standards for enlistment under paragraph 2-11b, Chapter 2, AR 40-501.

EPTS: Yes

Service Aggravated: No

Soldier does meet retention standards under paragraph chapter 3, AR 40-501. It is recommended that he be separated from the Military Service under paragraph 5-11, AR 635-200."

j. Paragraph 2-11b of AR 40-501 (30 August 1995) states chronic retropatellar knee pain syndrome fails medical procurement standards "with or without confirmatory arthroscopic evaluation."

k. The EPSBD determined this EPTS condition failed the enlistment standards in chapter 2 AR 40-501, had not been permanently aggravated by his military service, and was not compatible with continued service. The applicant agreed with these findings on 2 September 1995, marking and initialing the option "I concur with these proceedings and request to be discharged from the U.S. Army without delay."

l. JLV shows the applicant has one VA service-connected distality rating of 20 % for limited motion of right arm.

m. 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 medical conditions which were, unfortunately, not within enlistment standards.

n. It is the opinion of the Agency Medical Advisor that neither an upgrade of his discharge nor referral of his case to the DES 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 determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized. The Board reviewed and concurred with the medical advisor's review finding referral of his case to the Disability Evaluation System is unwarranted.

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.

■

■ ■  
 \_\_\_\_\_  
 ■  
 \_\_\_\_\_

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), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Paragraph 5-11 specifically provided that 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 for training for initial entry training, may be separated. Such conditions must have been discovered during the first 6 months on active duty. Such findings would result in an entrance physical standards board (EPSBD). A medical proceeding conducted by an EPSBD, regardless of the date completed, must have established that a medical condition was identified by appropriate medical authority within 6 months of the Soldier's initial entrance on active duty, the condition would have permanently or temporarily disqualified the Soldier for entry into the military service had it been detected at the time of enlistment, and the medical condition did not disqualify the Soldier from retention in the service under the provisions of Army Regulation 40-501 (Standards of Medical Fitness), chapter 3. The characterization of service for Soldiers separated under this provision will normally be honorable but will be uncharacterized if the Soldier has not completed more than 180 days of creditable continuous active-duty service prior to the initiation of separation action.

b. An uncharacterized separation is an entry-level separation. A separation will be described as an entry-level separation if processing is initiated while a member is in entry-level status, except:

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

(2) When the Secretary 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.

c. Paragraph 3-7a states that an honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the member'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. Only the honorable characterization may be awarded a Soldier upon completion of his or her period of enlistment or period for which called or ordered to active duty or active duty for training, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

3. Army Regulation 40-501 (Standards of Medical Fitness) governs medical fitness standards for enlistment, induction, appointment, retention, and separation. Chapter 2 provides the physical standards for enlistment/induction and refers to conditions which may result in failure of procurement standards. It states chronic retropatellar knee pain syndrome with or without confirmatory arthroscopic evaluation is a cause for rejection.

4. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice. This guidance does not mandate relief but provides standards and principles to guide Boards in application of their equitable relief authority.

a. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//