

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 December 2024

DOCKET NUMBER: AR20240004049

APPLICANT REQUESTS: an upgrade of his uncharacterized discharge to honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Veterans Affairs (VA) Rating Decision letter (pages 2-3 of 3)

FACTS:

1. The applicant did not file within the three year time frame provided in Title 10, United States Code (USC), section 1552 (b); however, the Army Board for Correction of Military Records 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, in effect, he is unable to receive medical treatment and still struggling with medical conditions that occurred on active duty.

3. The applicant provides:

a. DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects he was discharged on 2 October 2001 under the provisions of Army Regulation (AR) (Personnel Separations – Enlisted Personnel) 635-200, paragraph 5-11, failed medical/physical procurement standards, separation code JFW, reentry code 3, and character of service of uncharacterized. He completed 2 months and 2 days of active service.

b. Veterans Affairs (VA) Rating Decision letter (pages 2-3 of 3), undated, contains written notes by the applicant; however, it is unclear if the applicant was awarded service-connection disabilities. Page 2 of 3 states, "The evidence does not show a current diagnosed disability." Page 3 of 3 states, "Service connection for kidney condition/blood in urine is denied since this condition neither occurred in nor was caused by service (38 CFR 3.303, 38 CFR3.304).

4. Review of the applicant's service record shows:

a. He enlisted in the Regular Army on 31 July 2001 for a period of three (3) years.

b. The complete facts and circumstances surrounding his separation are not available for review.

c. The applicant's DD Form 214 shows he was discharged on 2 October 2001 under the provisions of AR 635-200, paragraph 5-11, failed medical/physical procurement standards, separation code JFW, reentry code 3, and character of service of uncharacterized. He completed 2 months and 2 days of active service.

5. There is no evidence that the applicant applied to the Army Discharge Review Board for review of his discharge within the board's 15-year statute of limitations.

6. AR 635-200 states, when a commander determines 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 entrance on active duty, active duty training, or initial entry training will be separated.

7. 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.

8. AR 635-40 states, the disability evaluation system is typically conducted in coordination with a medical condition that fails medical retention standards as confirmed by a medical evaluation board and a determination of unfitness which is done by a physical evaluation board.

9. An award of a rating by another agency does not establish error by the Army. Operating under different laws and their own policies the VA does not have the authority or the responsibility for determining medical unfitness for military service. The VA may award ratings because a medical condition related to service (service-connected) affects the individual's civilian employability.

10. 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 2 October 2001 uncharacterized discharge. He states: "Unable to receive medical treatment and still struggling with medical conditions that occurred on active duty."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His DD 214 shows he entered the regular Army on 31 July 2001 and was discharged on 2 October 2001 under provisions provided in paragraph 5-11 of AR 635-200, Active Duty Enlisted Administrative Separations (26 June 1996): Separation of personnel who did not meet procurement medical fitness standards.

d. Paragraph 5-11a of AR 635-200:

"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 or ADT for initial entry training, may be separated. Such conditions must be discovered during the first 6 months of AD. Such findings will result in an entrance physical standards board. This board, which must be convened within the soldier's first 6 months of AD, takes the place of the notification procedure (para 2-2) required for separation under this chapter."

e. A VA Decision appearing to be from 2023 or 2024 states the applicant had exercise induced hematuria while in the Army:

"A review of your service treatment records (STRs) showed grossly bloody urine for four weeks with intermittent left flank pain. You were diagnosed with exercise-induced hematuria. Both laboratory and x-ray results performed August 6, 2001 and 7, 2001 were normal, with negative findings for any kidney condition ... There is no evidence of complaints, treatment, or diagnosis of a kidney related urinary condition from service to present

Service connection for kidney condition/blood in urine is denied since this condition neither occurred in nor was caused by service

Favorable Findings identified in this decision:

The evidence shows that a qualifying event, injury, or disease had its onset during your service. Service treatment records (STRs) noted grossly bloody urine from August 3, 2001 to August 23, 2001.”

f. No additional medical documentation was submitted with the application, and there are no encounters in the EMR. Neither his separation packet nor documents addressing his separation were submitted with the application or uploaded into iPERMS.

g. The applicant appears to have been referred to an entry physical standards board (EPSBD) for exercise induced hematuria under provisions in paragraph 5-11a 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 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 service aggravated.

h. Given his discharge under paragraph 5-11 of AR 635-200 as the separation authority, it must be concluded the board found his condition failed enlistment standards, had existed prior to service, was not permanently aggravated by his service, and was not compatible with continued service.

i. JLV shows the applicant does not have a VA service-connected disability or diagnoses on his medical problem list.

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 his own, he simply had a medical condition which was, unfortunately, not within enlistment standards.

k. It is the opinion of the ARBA Medical Advisor that neither a discharge upgrade nor a 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/physical standards. The Board concurred with the medical advisor's review finding neither a discharge upgrade nor a referral to the Disability Evaluation System is warranted. The Board determined his DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

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.

3/26/2025

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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, USC, section 1552(b), provides that applications for correction of military records must be filed within three years after discovery of the alleged error or injustice. This provision of law also allows the Army Board for Correction of Military Records (ABCMR) to excuse an applicant's failure to timely file within the three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel), sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a provides that an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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.

b. Paragraph 3-7a(1) provides that only the honorable characterization may be awarded a Soldier upon completion of his/her period of enlistment or period for which called or ordered to active duty (AD) or active duty training (ADT) or where required under specific reasons for separation, unless an entry-level status separation (uncharacterized) is warranted.

c. Paragraph 5-11 states 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 entrance on active duty, active duty training, or initial entry training will be separated. A medical proceeding, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within six months of the Soldier's initial entrance on active duty, that the condition would have permanently or temporarily disqualified the Soldier for entry into the military service had it been detected at that time, and that the medical condition does not disqualify the Soldier from retention in the service under the provisions of Army Regulation 40-501, chapter 3. The characterization of service for Soldiers separated under this provision will normally be honorable but will be uncharacterized if the Soldier is in an entry-level status.

d. Entry-level status is defined as, for Regular Army Soldiers, 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.

2. AR 635-40 establishes the Army disability 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 or her office, grade, rank, or rating. It states 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.

3. 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 (BCM/NRs) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief based on equity, injustice, or clemency grounds, BCM/NRs 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. 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//