

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 November 2024

DOCKET NUMBER: AR20240004170

APPLICANT REQUESTS:

- in effect, honorable physical disability discharge in lieu of uncharacterized administrative discharge due to a condition, not a disability
- personal appearance before the Board

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record)

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 administrative correction to her character of service and in effect, physical disability discharge in lieu of administrative discharge. Her discharge was rushed and very little was evaluated. She suffered a major disability due to lack of care, disabilities to which she has made claims.

b. A correction should be made to give her a status that enables her to get the healthcare she needs almost immediately, so she can be able to properly heal. She has a son who depends on her now. She didn't previously apply to the Board because she never had access to contact the Board. She has been homeless without any transportation and had little to no knowledge of these military documents after being forced to leave the Army.

3. A physical profile is used to classify a Soldier's physical disabilities. PULHES is the acronym used in the Military Physical Profile Serial System to classify a Soldier's physical abilities 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 DD Form 2808 (Report of Medical Examination) shows the applicant underwent medical examination for the purpose of Regular Army enlistment and on 29 January 2014, was found qualified for enlistment with a PULHES of 111111.

5. The applicant enlisted in the Regular Army on 23 June 2014.

6. A DA Form 4856 (Developmental Counseling Form) shows the applicant was counseled by her Advanced Individual Training (AIT) platoon sergeant on 14 October 2014, because she was being referred to the Community Health Services (CMHS), based on statements the applicant made regarding her feelings and thoughts on 9 October 2014, to include deficiencies affecting her performance and ability to train.

7. A DA Form 3822 (Report of Mental Status Evaluation) shows:

a. The applicant underwent a mental status evaluation on 24 October 2014, after self-referral. From a behavioral health standpoint, she was found unfit for duty due to a personality disorder or other mental condition that does not amount to a disability.

b. In the medical professional's opinion, the applicant could understand and participate in administrative proceedings, could appreciate the difference between right and wrong, and met medical retention requirements (i.e. does not qualify for a Medical Evaluation Board (MEB).

c. She was diagnosed with adjustment disorder with mixed anxiety and depressed mood.

d. She was screened for post-traumatic stress disorder (PTSD) and mild traumatic brain injury (TBI) and both screenings were negative. The applicant met psychiatric criteria for expeditious administrative separation under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), paragraph 5-17.

e. It was the professional opinion of the medical professional that the applicant would not respond to command efforts at rehabilitation (such as transfer, disciplinary action, or reclassification), or to any behavioral health treatment methods currently available in the military.

f. The applicant was seen at CMHS because of thoughts of self-harm. She attributed her problems to the military environment and reports experiencing the following emotional symptoms to a clinical level/effectively negating her ability to perform her duties at the present time: depressed mood, tearfulness, feelings of hopelessness, extreme anger, thoughts of harming others, nervousness, worry, on the verge of losing control, and panic symptoms including palpitations, chest tightness, shaking, difficulty catching her breath, and cold chills.

g. Because the applicant lacks the intrinsic motivation to improve and exhibits persistent resistance to both unit and/or CMHS interventions to implement the same, she will continue to experience impairing difficulties if she remains on active duty.

8. A DD Form 2697 (Report of Medical Assessment) shows the applicant provided her medical assessment on 24 October 2014, indicating since her last medical assessment she was seen for lower back pain and her overall health was the same compared to her last medical assessment. A medical provider indicated on the form that all medical concerns were evaluated and treated. Her pack pain was improved and no further work up was required.

9. Multiple additional DA Forms 4856 show the applicant was counseled on 24 October 2014, 27 October 2014, 6 November 2014, and 19 November 2014, regarding her diagnosis by a CMHS physician of adjustment disorder with mixed anxiety and depressed mood and the subsequent initiation of her discharge under the provisions of AR 635-200, paragraph 5-17, if she remained unable to overcome her deficiencies.

10. On 19 November 2014, the applicant was notified by her immediate commander of her initiation of the applicant's uncharacterized discharge under the provisions of AR 635-200, paragraph 5-17 for other designated physical or mental conditions based on her diagnosis with adjustment disorder with mixed anxiety and depressed mood. She was advised of her right to consult with counsel and submit statements in her own behalf.

11. On 19 November 2014, the applicant acknowledged receipt of notice of her commander's initiation of her separation under the provisions of AR 635-200, paragraph 5-17, for other designated physical or mental conditions and the rights available to her.

12. On 19 November 2014, the applicant acknowledged having been advised by her consulting counsel of the basis for the contemplated action to separate her under the provisions of AR 635-200, paragraph 5-17, for other designated physical or mental conditions, and the rights available to her. She did not submit statements in her own behalf and waived consulting counsel representation.

13. On 21 November 2014, the applicant's battalion commander recommended approval of the applicant's uncharacterized separation under the provisions of AR 635-200, paragraph 5-17, for other designated physical or mental conditions.

14. On 1 December 2014, a legal review of the applicant's separation under the provisions of AR 635-200, paragraph 5-17, for other designated physical or mental conditions was found legally sufficient.

15. On 2 December 2014, the approval authority directed the applicant's uncharacterized separation under the provisions of AR 635-200, paragraph 5-17, for other designated physical or mental conditions.

16. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was given an uncharacterized separation on 4 December 2014, under the provisions of AR 635-200, paragraph 5-17, for a condition, not a disability, with corresponding separation code JFV. She completed 5 months and 12 days of active service. She did not complete initial entry training and was not awarded a military occupational specialty.

17. The applicant's Enlisted Record Brief (ERB), 5 December 2014, shows her PULHES was 1-1-1-1-1-1.

18. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an honorable physical disability discharge in lieu of uncharacterized administrative discharge due to a condition, not a disability. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) The applicant enlisted in the Regular Army on 23 June 2014; 2) The applicant underwent a mental status evaluation on 24 October 2014. The applicant was found unfit for duty due to a mental condition that does not amount to a disability. She was diagnosed with an adjustment disorder with mixed anxiety and depressed mood; 3) The applicant was given an uncharacterized separation on 4 December 2014, Chapter 5-17, for a condition, not a disability. She completed 5 months and 12 days of active service. She did not complete initial entry training and was not awarded a military occupational specialty.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) was also examined. No additional medical documentation was provided for review.

c. The applicant asserts her reason for separation should be reevaluated as a physical disability in lieu of uncharacterized administrative discharge due to a condition, not a disability. The applicant first engaged at behavioral health services on 15 October 2014. She was reporting no interest in being in the military and being depressed since arriving. In addition, she was concerned about family members at home and suicidal ideation without plan or intention. The applicant was diagnosed with an adjustment disorder with anxiety and depressed mood and recommended for continued treatment at the clinic. She continued in regular group therapy to assist her with the development of coping skills and stress management till she underwent a mental status evaluation on 23 October 2014. The applicant was noted to be experiencing mental health symptoms as a result of being in a military environment. Specifically, the applicant was reporting thoughts of self-harm, depressed mood, thoughts of harming others, and anxiety symptoms. In addition, the applicant was identified to lack the motivation to improve and would likely continue to experience difficulties in continued military service. The applicant was again diagnosed with an adjustment disorder with anxiety and depressed mood and was recommended for an administrative separation IAW Chapter 5-17 of AR 635-200. The applicant continued in treatment till her discharge. There is insufficient evidence the applicant was diagnosed with a mental health condition beyond an adjustment disorder, attended more than six months of treatment without improvement, required inpatient psychiatric hospital treatment, or was ever placed on a psychiatric permanent profile.

d. A review of JLV provided evidence the applicant began to engage with the VA in 2023 for assistance for mental health conditions to include depression and PTSD and for homelessness. The applicant currently does not receive any service-connected disability for a mental health condition.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that the applicant during her initial active service was identified as experiencing difficulty adjusting to the military, and she was appropriately diagnosed and assessed for her suitability for continued service. There is insufficient evidence the applicant was found to be experiencing a mental health condition at the time of her active service beyond an adjustment disorder, attended more than six months of treatment without improvement, required inpatient psychiatric care, or was ever placed on a permanent psychiatric profile. Therefore, there is insufficient evidence the applicant's case warrants a referral to IDES from a behavioral health perspective, at this time.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No, the applicant during her initial active service was identified as experiencing difficulty adjusting to the military, and she was appropriately diagnosed and assessed for her suitability for continued service. There is insufficient evidence the

applicant was found to be experiencing a mental health condition at the time of her active service beyond an adjustment disorder, attended more than six months of treatment without improvement, required inpatient psychiatric care, or was ever placed on a permeant psychiatric profile. Therefore, there is insufficient evidence the applicant's case warrants a referral to IDES from a behavioral health perspective, at this time.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A.

#### 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. Upon review of the applicant's petition, available military records and the medical review, the Board concurred with the advising official finding insufficient evidence the applicant's case warrants a referral to IDES from a behavioral health perspective, at this time. The opine found the record was absent any evidence the applicant was experiencing a mental health condition at the time of her active service beyond an adjustment disorder, attended more than six months of treatment without improvement, required inpatient psychiatric care, or was ever placed on a permeant psychiatric profile.

2. The Board determined there is insufficient evidence to support the applicant's contentions for a honorable physical disability discharge in lieu of uncharacterized administrative discharge due to a condition, not a disability. The Board noted the applicant completed 5 months and 12 days of active service. She did not complete initial entry training and was not awarded a military occupational specialty. An uncharacterized discharge is not derogatory; it is recorded when a Soldier has not completed more than 180 days of creditable continuous active duty prior to initiation of separation. It merely means the Soldier has not served on active duty long enough for his or her character of service to be rated as honorable or otherwise. The Board agreed, based on the preponderance of evidence, the applicant's DD Form 214 properly shows the character of service as uncharacterized. Therefore, the Board denied relief.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

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. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) when considering requests by veterans for modification of their discharges

due in whole or in part to: mental health conditions, including post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), sexual assault, or sexual harassment. Boards are to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based, in whole or in part, on those conditions or experiences.

3. 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.

4. 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.

5. 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.

6. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel.

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 5-17 states a service member may be separated for other designated physical or mental conditions that potentially interfere with assignment to or performance of duty. not amounting to disability under Army Regulation 635-40 and excluding conditions appropriate for separation processing under paragraphs 5-11 (Separation of personnel who did not meet procurement medical fitness standards) or 5-13 (Separation because of personality disorder) Such conditions may include, but are not limited to, the following:

- chronic airsickness
- chronic seasickness
- enuresis
- sleepwalking
- dyslexia
- severe nightmares
- claustrophobia
- other disorders manifesting disturbances of perception, thinking, emotional control or behavior sufficiently severe that the Soldier's ability to effectively perform military duties is significantly impaired

c. When a commander determines a Soldier has a physical or mental condition that potentially interferes with assignment to or performance of duty, the commander will refer the Soldier for a medical examination and/or a mental status evaluation in accordance with Army Regulation 40-501. A recommendation for separation must be supported by documentation confirming the existence of the physical or mental condition. Members may be separated for physical or mental conditions not amounting to disability sufficiently severe that the Soldier's ability to effectively perform military duties is significantly impaired.

d. Separation processing may not be initiated under this paragraph until the Soldier has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. A Soldier being separated under this section will be awarded a

character of service of honorable, under honorable conditions, or uncharacterized if in an entry-level separation. An under honorable conditions characterization of service which is terminated under this paragraph is normally inappropriate.

e. 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 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.

7. 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.

8. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Paragraph 2-11 states applicants do not have a right to a formal hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//