

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 December 2024

DOCKET NUMBER: AR20240004590

APPLICANT REQUESTS: in effect, a discharge due to disability instead of entry level performance and conduct.

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
- NGB Form 22, National Guard Report of Separation and Record of Service
- Academic Transcripts
- National Personnel Records Center Letter
- Civilian Employment Resume
- Letter of Recommendation
- Medical Records
- Mental Health Records
- Department of Veterans Affairs (VA) Performance Appraisal

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 indicates his request in related to post-traumatic stress disorder (PTSD) and other mental health conditions. He states, in effect:

a. While participating in Basic Combat Training at Fort Jackson, South Carolina, he suffered a severe earache that lasted for several days causing massive swelling in his inner ear canal and at the obstacle course he injured his leg/knee. These injuries prevented him from participating in physical exercise and he had to hop around on one leg for two weeks.

b. He contends a military physician offered him a medical discharge because he could not authorize him the opportunity to go home and recover. He turned the medical

discharge down in hopes that he could go to the Fitness Training Unit (FTU) in order to pass the Army Physical Fitness Test (APFT). He tried so hard to pass the APFT in 2014. Just before Christmas he was forced to take an uncharacterized discharge instead of the medical discharge he was initially offered.

c. He feels this was an injustice and the military failed him. He has suffered with severe PTSD and paranoid schizophrenia since being discharged. The experience has ruined a lot of his earlier life, and it was difficult for him to find suitable employment. He has been prescribed sleeping medication in order to cope with everyday life. He should not be punished for volunteering to serve his country.

d. His post service accomplishments include working as a public service worker for the Federal government. He was recently informed that the APFT standards have changed. His last APFT penalized him for not completing enough push-ups but his overall score was sufficient to pass. This double standard was unfair to him.

3. On 26 November 2013, the applicant enlisted in [REDACTED] Army National Guard.

4. He was ordered to active duty on 5 August 2014 for the purpose of completing his initial training.

5. The applicant received numerous negative performance counseling during his training period:

- failing the APFT, 9 August 2014
- failing the APFT, 30 August 2014
- failing the APFT, 15 September 2014
- failing the APFT, 2 October 2014
- FTU recommendation
- Referral to Reserve Command Liaison for entry level separation counseling

6. The record contains an Individual Training Record, 21 October 2014, which shows that the applicant failed his APFT, and failed to satisfactorily complete the Basic Combat Training requirements.

7. On an unknown date, the applicant's commander notified the applicant that he was initiating action to separate him from active duty due his lack of motivation, adaptability, or ability to progress forward and pass the APFT with an uncharacterized discharge.

8. The applicant acknowledged receipt of the notification on 4 December 2014. He waived his right to an administrative separation board, to make a statement in his own behalf, to consult with counsel, and representation by counsel.

9. Subsequent to the applicant making his elections, his commander formally recommended the applicant for separation under the provisions of AR 635-200, chapter 11, Entry Level Performance and Conduct.

10. On 5 December 2014, the separation authority approved the applicant's discharge under the provisions of AR 635-200, chapter 11. He directed the applicant be discharged with an entry level status separation and that the applicant's service be uncharacterized.

11. On 11 December 2014

a. The applicant was released from active duty due to entry level performance and conduct in accordance with chapter 11 of AR 635-200 (Separation Code JGA and Reentry Code 3). He completed 4 months, and 17 days of active duty for the period and his service was uncharacterized.

b. The applicant was discharged from [REDACTED] Army National Guard due to entry level performance and conduct. His service was uncharacterized. He completed 1 year, and 16 days of ARNG service for the period.

12. The applicant provides:

a. His official academic transcripts which show he received his undergraduate degree in Social & Behavioral Science Program from a community college and in 2019 he earned a Master of Science Degree (Major: Justice Policy and Leadership/Major Concentration: Corrections Policy and Leadership).

b. His civilian employment resume which shows the applicant has experience in supply operations, security management, and education. This document also lists his military and civilian academic awards. He lists of achievements includes the completion of Basic Combat Training.

c. A letter of recommendation from a friend and fellow Soldier, who states, in effect, that the applicant worked hard to pass his APFT. Unfortunately, all his hard work and progress did not result in being able to pass the test. He watched a man who had put more effort in to being a Soldier than himself fail due to standard imposed at the time. By today's standard, he is confident the applicant could pass the Army Combat Fitness Test. Despite the failure that cut his career short, the applicant did keep his word by serving to the best of his abilities and that is the definition of honorable service.

d. Medical Records, U.S. Army Medical Command, from 26 November 2013 to 11 December 2014. His problem list shows he was treated for:

- superficial injury abrasion of right knee on 20 August 2014 (contusion at obstacle course-applicant reported that the log hit his knee below the patella on the medial side, worse with weight bearing and bending)
- otitis media right ear on 28 August 2014 (related to a cold)
- a contusion with intact skin surface related to his right anterior knee on 19 September 2014

e. Behavioral Health Records, 2018 -2023, which show the applicant was diagnosed with, and receiving treatment for, unspecified mood (affective) disorder, paranoid schizophrenia, and PTSD.

f. His VA Performance Appraisal for the period 2 July 2023 to 30 September 2023. This evaluation shows the applicant received the following ratings:

- Exceptional -Lifecycle Management, Inventory Management and Control, Customer Service, and Work Relationships
- Fully Successful -Safety and Training

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

14. By regulation –

a. An Entry Level Performance and Conduct, states the separation of a Soldier in entry level status may be warranted on grounds of unsatisfactory performance or unsatisfactory conduct (or both) as evidenced by inability, lack of reasonable effort, failure to adapt to the military environment, or minor disciplinary infractions.

b. The mere presence of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the member reasonably may be expected to perform because of his office, grade, rank, or rating. All relevant evidence must be considered when evaluating the fitness of a member.

15. 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, the Army Aeromedical Resource Office (AERO),

and/or 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) for PTSD. He has indicated on his DD 149 that PTSD and Other Mental Health conditions are issues related to his requests. He states:

“During basic training I had severe earache that lasted for days causing massive swelling in my inner ear canal and at the obstacle course had a leg/knee injury that further I prevent me from practicing physical exercise for two weeks, so I had to hop around on one leg.

I was offered a medical discharge by the medical doctor at sick bay due to he was not able to give me comp-time to go home for healing and I turned the medical discharge down in hopes that I could go to Fitness Training Unit (FTU) at Fort Jackson in order to pass the PT test. I tried so hard to pass the pt [Army Physical Fitness Test or APFT]test standard at that present time of 2014.

Just before Christmas I was forced to take an uncharacterized discharge over the medical that I was offered originally. I feel this was failure of the system/injustice to me at that present time and ever since that day it has caused me severe PTSD/Paranoid Schizophrenia. It has ruined a lot of my earlier life in trying to finding suitable employment. I now have to be prescribed sleeping medication in order to cope with everyday life.”

c. The Record of Proceedings details the applicant’s military service and the circumstances of the case. A DD 214 shows the former Army National Guard Soldier entered active duty for Initial Entry Training on 5 August 2014 and was separated with an uncharacterized discharge on 11 December 2014 under provisions provided in chapter 11 of AR 635-200, Personnel Separations – Enlisted Personnel (17 December 2009), for falling below entry level performance and conduct standards.

d. The applicant’s Report of Separation and Record of Service (NGB Form 22) for the period of Service under consideration shows he enlisted in [REDACTED] Army National Guard (■ARNG) on 26 November 2013 and was discharged from the ■ARNG on 11 December 2014 under the provisions in paragraph 6-35e of NGR 600-200, Enlisted Personnel Management (31 July 2009): Entry Level Performance and Conduct.

e. The applicant has submitted his eight (8) page resume which is notable for him having earned both a Bachelor of Science with a 3.65 GPA and a Master of Science with a 4.0 GPA. He is a member of two National Honor Societies: Alpha Phi Sigma and Omega Nu Lambda. It shows continuous employment from 1 February 2015 (substitute teacher thru present (Inventory Management Specialist with the Veterans Health Administration).

f. The applicant received four counseling for fail failures of the APFT and agreed without comment on all four counseling. On 13 October 2014, the senior drill sergeant and his company commander separately counseled the applicant on their recommendations he be placed in an FTU (fitness training unit):

“You are being recommended for transfer to the Fitness Training Company to attend the APFT Improvement Program. The program is modified for Soldiers who are unable to pass their end of cycle APFT. In order to graduate from BCT [basic combat training], you need to score at least a 50% in each event.

This transfer is to assist you in successfully passing the APFT so you can ship to your AIT [advanced individual training]. If you are unable to make significant progress or if you have not passed the APFT within an allotted time, you can be chaptered from the military. The intent is to train you to become a heller Soldier while focusing on improving your physical fitness.”

g. The applicant agreed with both counselings without comment.

h. O/A 4 December 2014, his company commander notified him of her initiation of action to separate him under provisions in chapter 11 of AR 635-200:

“The reasons for my proposed action are: You lack the necessary motivation, adaptability, or ability to progress forward and pass the APFT. You have failed the APFT on numerous occasions. You were transferred to FTC, 120th AG Bn (Rec) due to APFT failure while in BCT.”

i. On 5 December 2024, the battalion commander directed he be so separated with an uncharacterized discharge.

j. The applicant’s medical problem list and encounters in the EMR show he was treated for a superficial abrasion of the right knee on 25 August 2014, right otitis media (middle ear infection) on 28 August 2014, and pharyngitis with sinus pain on 20 October 2014. There are no mental health encounters.

k. Civilian health records for 2023 show the applicant was being treated for depressed mood and anxiety, some of which was related to “work trauma” from a prior job.

l. There is insufficient probative evidence the applicant had any duty incurred medical condition which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to his discharge. Thus, there was no cause for referral to the Disability Evaluation System. Furthermore, there is no evidence that any medical condition prevented the applicant from being able to reasonably perform the duties of his office, grade, rank, or rating prior to his discharge.

m. JLV shows he does not have a VA service-connected disability rating and does not receive care thru the VA.

n. The DES compensates an individual only for service incurred medical condition(s) which have been determined to disqualify him or her from further military service. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service; or which did not cause or contribute to the termination of their military career. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

o. 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.

p. 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:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant could not pass his APFT during initial entry training. As a result, his chain of command separated him for entry level performance and conduct. He completed 4 months and 17 days of net active service. He did not complete initial entry training and was not awarded an MOS. His 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 found no error or injustice in his separation processing. The Board also considered the medical records, any VA documents provided by the applicant and the review and conclusions of the medical reviewing official. The Board agreed with the medical reviewer's finding that based on available information/evidence, there is insufficient evidence to support the applicant had a behavioral health condition during military service that could potentially mitigate his discharge. Additionally, the preponderance of evidence available does not indicate the applicant had a condition at the time of discharge that would have required disposition through medical channels or referral to the disability system for further processing. Therefore, the Board determined the applicant's uncharacterized separation under the provisions of Chapter 11 of AR 635-200 appears proper and equitable, and neither a discharge upgrade nor a referral of his case to the disability evaluation system is warranted.

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.

12/20/2024



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 (AR) 635-40, Personnel Separations-Physical Evaluation for Retention, Retirement, or Separation, in effect at the time, established the Army Physical Disability Evaluation System and set forth policies, responsibilities, and procedures that apply in determining whether a member is unfit because of physical disability. The mere presence of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the member reasonably may be expected to perform because of his office, grade, rank, or rating.

3. AR 635-200, Personnel Separations-Enlisted Personnel, sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

a. Paragraph 3-4(2) Entry-Level status. Service will be uncharacterized, and so indicated in block 24 of DD Form 214, except as provided in paragraph 3-9a.

b. Paragraph 3-7a states an honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the soldier'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.

c. Paragraph 3-7b states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

d. Paragraph 3-9a Entry-level status separation. A separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status, except when—

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

(2) HQDA 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. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, convenience of the Government, and Secretarial plenary authority.

(3) The Soldier has less than 181 days of continuous active military service, has completed Initial Entry Training, has been awarded an MOS, and has reported for duty at a follow-on unit of assignment.

e. Chapter 11 sets policy and provides guidance for the separation of Soldiers because of unsatisfactory performance and/or conduct while in entry-level status. Separation of a Soldier in entry level status may be warranted on the grounds of unsatisfactory performance and/or unsatisfactory conduct as evidenced by: Inability; Lack of reasonable effort; Failure to adapt to the military environment; and/or Minor disciplinary infractions. This policy applies, in pertinent part, to Soldiers who enlisted in the Regular Army, ARNG, or USAR, are in entry-level status, undergoing IET, and, before the date of the initiation of separation action, have completed no more than 180 days of creditable continuous AD or IADT or no more than 90 days of Phase II under a split or alternate training option. (See the glossary for precise definition of entry-level status.) The Soldiers to whom this applies, in pertinent part have failed to respond to counseling and have demonstrated that they are not qualified for retention. The following conditions are illustrations of conduct and/or performance that disqualify Soldiers for retention: (a) Cannot or will not adapt socially or emotionally to military life; (b) Cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline; and/or (c) Have demonstrated character and behavior characteristics not compatible with satisfactory continued service.

f. Section II (Terms):

(1) Character of service for administrative separation - A determination reflecting a Soldier's military behavior and performance of duty during a specific period of service. The three characterizations are honorable, general (under honorable conditions), and under other than honorable conditions. The service of Soldiers in entry-level status is normally described as uncharacterized.

(2) Entry-level status -

(a) For Regular Army Soldiers, entry-level status is 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.

(b) For ARNGUS 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 advanced individual training (AIT). (Soldiers completing Phase I BT or basic combat training (BCT) remain in entry-level status until 90 days after beginning Phase II.)

4. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, 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 grounds.

a. 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 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.

5. 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.

6. AR 15-185, Boards, Commissions, and Committees-ABCMR, prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR will decide cases on the evidence of record. It is not an investigative body.

//NOTHING FOLLOWS//