ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE:

DOCKET NUMBER: AR20240004609

APPLICANT REQUESTS: correction of his records to show he was discharged due to a service-incurred medical disability.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) benefits decision letter, dated 19 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 he was injured during active service. The VA has acknowledged service-connection.

3. The applicant enlisted in the Regular Army on 20 February 1992.

4. On 13 August 1992, an Entrance Physical Standards Board (EPSBD) recommended the applicant's separation from the service based on an injury which existed prior to service (EPTS). The evaluating physician stated the following:

> [The applicant] is a 21 year-old male with a history of a waterskiing accident at the age of 15. This has periodically caused him discomfort since. Since joining the Army, he has presented for pelvic pain on 7 July, 10 April, 29 May, 26 June, 31 July, and 10 August. X-rays and CT scan of the pelvis have revealed a benign appearing lesion of the left inferior pubic ramus, felt most likely to represent an old fracture site.
>
> He was evaluated by the orthopaedic surgery service on the 7th of July and again on the 31st of July. A bone scan performed at the direction of the orthopaedist revealed

slightly increased uptake in both inferior pubic rami, with no change in symptoms despite profiling in the intervening period.

The patient is felt to have a healed ischial tuberosity avulsion fracture with evidence of stress changes by bone scan, EPTS, and is felt to have been unfit at the time of induction. In accordance with AR [Army Regulation] 40-501 [Standards of Medical Fitness], Chapter 2-10(d)(1), he is referred for expeditious EPTS separation.

5. On 27 August 1992, the applicant was informed of the medical findings. He acknowledged he understood that legal advice of an attorney employed by the Army was available to him or that he could consult civilian counsel at his own expense. He also acknowledged he understood that he could request to be discharged without delay or to request retention on active duty. If retained, he could be involuntarily reclassified into another military occupational specialty based upon his medical condition. He concurred with the proceedings and requested to be discharged from the U.S. Army without delay.

6. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged on 13 October 1992 under the provisions of AR 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-11, by reason of "did not meet procurement medical fitness standards – no disability." The DD Form 214 also shows he was credited with 7 months and 24 days of active service.

7. The applicant provided a VA benefits decision letter, dated 19 December 2023, showing he was granted service-connected disability compensation for persistent depressive disorder with major depressive episodes, current episode severe with psychotic features, alcohol use disorder, severe, with an evaluation of 70% effective 25 September 2023.

8. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). The applicant requests medical disability discharge instead of the current discharge due to not meeting procurement standards.

2. The ABCMR ROP summarized the applicant's record and circumstances surrounding the case. The applicant entered active service 20Feb1992. He was discharged almost 8 months later on 13Oct1992. He was not able to complete AIT for MOS 91P X-ray Tech due to a medical condition. He was discharged under provisions of AR 635-200, para 5-11 for not meeting procurement medical fitness standards— no disability. His service was characterized as Honorable.

3. The applicant underwent Entrance Physical Standards Board (EPSBD) Proceedings on 13Aug1992. He had intermittent discomfort from a waterskiing accident, age 15. He was seen on multiple occasions for pelvic pain, and he was also evaluated by orthopedics on 07Jul and 31July. *No in-service traumatic injury was discussed*. Pelvic x-ray and CT of the pelvis revealed a benign appearing lesion of the left inferior pubic ramus. In addition, slight, new stress changes in both inferior pubic rami (pelvic bones) were noted in a bone scan. Assessment: Old Healed Ischial Tuberosity Avulsion Fracture. It was opined that the condition existed prior to service (EPTS) and did not meet procurement standards of AR 40-501 chapter 2-10(d)(1) at the time of induction. He was referred for EPTS separation. The applicant could perform PT at his own pace and distance. There was no indication that it had been determined that the condition failed medical retention standards of AR 40-501 chapter 3.

4. JLV search today revealed that shortly after discharge from service, the VA performed the 25Nov1992 pelvic film and 30Dec1992 CT of the pelvis. The results were not provided on the report; however, the reason for the study was to evaluate a mass/bone growth after pelvic fracture. *Presumably, this was the benign appearing lesion of the left inferior pubic ramus noted while in service*. There were no associated follow up clinic visits that were available for review.

5. Apparently, the following year, the lesion, an osteochondroma, located along the left ischial tuberosity was resected at the University of Minnesota. This history was provided by VA orthopedics (15Apr2019 Orthopedic Consult). *The osteochondroma was likely the result of previous osseous trauma*. The orthopedist indicated that a portion of the osteochondroma was resected in 1993. After the resection, there was no follow up until 2008, approximately 16 years after discharge from service. The applicant underwent a Compensation and Pension: Muscle Exam on 01Oct2008 by the VA. He was evaluated for increased left groin pain. During the evaluation, he reported an injury while repelling during basic training. He indicated that he completed BCT but was not able to complete the AIT training. He reported that after being boarded out of service, he followed up with the University of Minnesota in 1993 and had surgery to explore an abnormality in that region and stated that he was told that he had muscle tears along with calcium deposits in the left groin muscle. Assessment: Adductor Longus Tendon Tear with possible deformity of pubic symphysis. The 2008 pelvic x-ray was read as negative (normal). The applicant submitted VA benefit information that included the history that he was service

connected at 10% total effective 11Jan2008. *The University of Minnesota records were not available for direct review*.

6. The in-service record did not show treatment for mental health issues. He was first seen at the VA for mental health on 13Feb2019. He was requesting to transfer care to the VA. He had been followed in the private sector for the past 3 years. He was initially seen in the context of alcohol treatment and described himself as a "functioning alcoholic". He was prescribed psychotropic medications. He was working fulltime. During the follow up 15Apr2019 visit, he reported having experienced adverse childhood circumstances. He reported significant family history of alcohol dependance (father and 2 of 4 brothers) and being depressed his entire life. He started drinking alcohol heavily as a teen, and he had completed chemical dependency treatment twice as a teen and once as an adult. He had a period of one year of sobriety in 2014-15. During a 09Apr2020 psychiatry visit, he stated that he worked as a truck driver for Matheson Gas since 1994. JLV search today showed the applicant was rated by the VA at 70% for Major Depressive Disorder.

7. Summary/Opinion

a. The applicant was diagnosed with an Old Healed Ischial Tuberosity Avulsion Facture that was determined to have existed prior to service. This was supported by the applicant's report of prior waterskiing injury impacting the pelvic area with ongoing intermittent symptoms, in conjunction with findings in imaging (the healed fracture and osteochondroma) noted in service that likely did not have time to develop while in service. Evidence was insufficient to support that the condition was permanently aggravated by his service: Prior to service, the applicant endorsed intermittent pain. No in-service traumatic injury was documented. The osteochondroma was excised in 1993 without any further follow up until 2008.

b. New bilateral stress changes were noted in the bone scan completed while he was still in service. Stress injuries are overuse injuries and frequently preclude completion of military physical train-up activities. Stress injuries/stress fractures would be expected to heal without sequelae, with time and appropriate care and compliance to treatment. In general, stress injuries/stress fractures meet retention standards and are not considered to rise to the level of permanently disabling conditions to provide cause for medical disability discharge processing. There was no documentation of further treatment involving the bilateral stress injury in the inferior pubic rami after service.

c. There was no evidence presented that the applicant had treatment or failed treatment for a mental health condition while in service. Based on information available for review, evidence was insufficient to support that the applicant had conditions which

failed medical retention standards at the time of discharge. In the ARBA Medical Reviewer's opinion, referral for medical discharge processing is not 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 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 Board concurred with the medical review finding insufficient evidence to support referral for medical discharge processing. The applicant was released from active duty based on an injury which existed prior to service. As a result, the Board denied relief.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
[redacted]	[redacted]	[redacted]	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.

X//Signed//

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. AR 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. 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 entry on active duty or active duty training for initial entry training, may be separated. Such conditions must be discovered during the first 6 months of active duty. Such findings will result in an Entrance Physical Standards Board. This board must be convened within the Soldier's first 6 months of active duty. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by an appropriate military medical authority within 6 months of the Soldier's initial entrance on active duty for Regular Army Soldiers or during initial active duty training for Army National Guard and U.S. Army Reserve that:

a. Would have permanently or temporarily disqualified the Soldier for entry into the military service or entry on active duty or active duty training for initial entry training had it been detected at that time.

b. Does not disqualify the Soldier for retention in the military service per AR 40-501 (Standards of Medical Fitness), chapter 3.

3. Title 38, U.S. Code, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

4. Title 38, Code of Federal Regulations, Part IV is the VASRD. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

5. Section 1556 of Title 10, U.S. Code, 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.

//NOTHING FOLLOWS//