

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 January 2025

DOCKET NUMBER: AR20240004715

APPLICANT REQUESTS: an upgrade of her uncharacterized discharge to general under honorable conditions.

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)
- Texas Educator Certificate
- Certificate of Training
- Lamar University Official Transcript
- Texas Woman's University Permanent Record
- Medical documents

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, in effect:

a. She was originally denied entry into the Army due to shattering her right femur, fracturing her hip, and suffering severe head injuries from a car accident that occurred in May of 1987. Despite this setback, she persisted in her desire to join, and after undergoing several medical tests and waiting five years since her head trauma, she was finally admitted into the Army. She completed all of her basic training and training for Hawk Missiles, which unfortunately was phased out by the end of her training, requiring those still enlisted to select a new military occupation.

b. While stationed in El Paso, she began to experience hip pain when running, particularly on terrain with changing elevations. An X-ray revealed that she had bone spurs that had fractured. She was given the option of receiving steroid injections or choosing a medical discharge without disability payments, as it was classified as a pre-

b. DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings), reflect the following:

(1) On 21 January 1993, a physical examination was conducted by two Physicians of the applicant's right hip. It was noted under Present Condition, the applicant "has worsening of the right hip symptoms, secondary to greater trochanter bursitis. A recommendation for an injection of the greater trochanter burs was declined by the patient." Diagnosis reflects, "malunion, fracture right femur, manifested by painful limitation of motion (0 degrees external rotation), local tenderness." She is fit for retention but unfit for enlistment due to an existing prior to service (EPTS) condition. It was recommended that the Soldier be expeditiously separated from under the provisions of AR 635-200, 5-11.

(2) On 22 January 1993, the Chief, Department of Surgery approved the findings.

(3) On 27 January 1993, the applicant was informed of the medical findings. She indicated that she understood that legal advice of an attorney employed by the Army is available to her or that she may consult civilian counsel at her own expense. She also indicated that she understood that s may request to be discharged from the Army without delay or to request retention on active duty. The applicant concurred with the proceedings and requested to be retained on active duty.

(4) On 27 January 1993, the applicant's commander recommended the service member be discharges/separated.

(5) On 8 February 1993, the separation approving authority directed the service member be discharged/separated from the Army.

c. The applicant was discharged on 18 February 1993, under the provisions of AR 635-200, paragraph 5-11, failure to meet procurement medical fitness standards no disability, separation code JFT, reentry code 3, and a character of service of uncharacterized. She served 5 months and 21 days of net active service this period. Item 11 (Primary Specialty) reflects "None//Nothing Follows."

5. The applicant applied to the ADRB for an upgrade of his discharge on 26 October 1995. The ADRB determined that the applicant was properly and equitably discharged. Accordingly, the applicant's request for a change in the character and/or reason for discharged was denied.

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.

BOARD DISCUSSION:

After review of the application and all evidence, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined there is insufficient evidence to grant relief. The governing regulation provides that a separation will be described as uncharacterized, if the separation action is initiated within the first 180 days of active duty service. As such, his DD Form 214 properly shows his service as uncharacterized.

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 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
:XXX	:XXX	:XXX	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.

//SIGNED//

X

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//