

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 January 2025

DOCKET NUMBER: AR20240004844

APPLICANT REQUESTS: correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to show she was discharged due to service-incurred physical disability and to show the character of her service as honorable instead of uncharacterized.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- Department of Veterans Affairs (VA) certification of receipt of service-connected disability compensation, dated 27 February 2024

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 she was injured in the line of duty and is currently receiving service-connected disability compensation from the VA with an 80% disability rating.
3. The applicant enlisted in the U.S. Army Reserve (USAR) on 15 October 2019. She entered initial active duty for training on 31 March 2020.
4. A DA Form 4856 (Developmental Counseling Form) shows the applicant was counseled by her company commander on 28 May 2020 and informed that the medical providers had recommended her separation under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), paragraph 5-17 (Other designated physical or mental conditions) due to femoral neck stress fractures sustained as a result of the impact stresses. The commander indicated the applicant was deemed unfit to continue serving in the U.S. Army and that she was provided with a restrictive profiling to prohibit training activities and protect the injury from progressing.

5. A second DA Form 4856 shows the applicant was counseled on 11 June 2020 by the Reserve Component Liaison Noncommissioned officer regarding her possible separation under the provisions of AR 635-200, paragraph 5-17. The counseling form indicates the following:

a. The applicant had left femoral neck stress fracture. She sustained the injuries as a result of the impact stresses from normal physical activities required in training (marching, running, jumping). Her injuries have persisted and are a factor of overuse, loading, and impact. She has low motivation, wants out of the Army.

b. The applicant's commander and the troop medical clinic determined her condition interfered with her performance of duty and medical documents supported recommendation for a discharge.

c. The applicant was explained the difference from a release from active duty (REFRAD) and a discharge under AR 635-200, paragraph 5-17 and she chose to take the discharge. She stated she understood that after being discharged from the military, if she decided to return, she would have to start the process all over again. The applicant stated she understood that if she were to choose a REFRAD, she would still be in the military and would receive a suspense date of when to return to basic combat training. She was also explained that with a REFRAD she could receive ongoing care due to the injury/surgery. She was explained that after being discharged, she would not be able to receive any treatment at the expense of the military. She decided the discharge was better for her at that time.

6. A DA Form 2173 (Statement of Medical examination and Duty Status), dated 17 June 2020, shows the applicant's injury was considered to have been incurred in line of duty.

7. On 23 June 2020, the applicant was informed by her commander that he was initiating action to separated her under the provisions of AR 635-200, paragraph 5-17 for other designated physical or mental conditions with a character of service of uncharacterized. The commander stated the reason for the proposed separation action was the applicant's diagnosis of femoral neck stress fracture which was limiting her ability to complete basic combat training. The applicant was also advised of her rights to consult with consulting counsel and to submit statements in her own behalf.

8. On 23 June 2020, the applicant acknowledged receipt of the notification of separation. She elected not to submit statements in her own behalf and waived consulting counsel.

9. On 24 June 2020, the separation authority approved the separation action and directed the issuance of an uncharacterized characterization of service.

10. The applicant's DD Form 214 shows she was discharged on 30 June 2020 under the provisions of AR635-200, paragraph 5-17. The DD Form 214 further shows in:

- block 12 (Record of Service), she was credited with 3 months of active service
- block 24 (Character of Service), uncharacterized
- block 26 (Separation Code), JFV
- block 27 (Reentry Code), 3
- block 28, "condition, not a disability"

11. The applicant provided a VA certification of receipt of service-connected disability compensation, dated 27 February 2024 showing she was granted service-connected disability compensation for undisclosed conditions with an 80% combined evaluation.

12. 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.

13. 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 a change in discharge from Uncharacterized to medical honorable discharge. She contends that she was injured in the line of duty and that the VA has service-connected her at 80%.

2. The ABCMR ROP summarized the applicant's record and circumstances surrounding the case. The applicant was in active service for 3 months from 31Mar2020 until 30Jun2020. She was discharged under provisions of AR 635-200, para 5-17 for a condition, not a disability. Her service was designated as Uncharacterized.

3. The applicant stated that she was service connected by the VA at 80%. JLV search revealed that the applicant is total combined service-connected at 80% by the VA for the following: Flat Foot Condition 50%; Lumbosacral or Cervical Strain 20%; Lumbosacral or Cervical Strain 10%; Limited Flexion of the Knee 10%; Limited Extension of the Knee 10%; Iron Deficiency Anemia 10%; Tinnitus 10%; Limited Flexion of the Thigh 10%; Limited Extension of the Thigh 0%; Thigh Condition 0%; Migraine Headaches 0%; Paralysis of Sciatic Nerve 0%; and Paralysis of Sciatic Nerve 0%; and

Impaired Hearing 0%. The conditions for which she was seen while in service and/or received higher ratings by the VA are reviewed below.

4. On 22May2020, the applicant was seen for a 3-day history of hip pain. In her 7th week of training, a 26May2020 bone scan revealed mild focal uptake at the left femoral neck consistent with stress injury. Also noted was uptake in both ankles without focal lesions. The 27May2020 note by physical therapy indicated that she was currently not motivated to continue training and recommended her to be separated under chapter 5-17. The prognosis for return to original level of functioning was good; however, the prognosis for return to duty/completion of training was poor. The plan for continued rehab was outlined. She was notified in June 2020 that proceedings were being initiated to separate her from service for a left femoral neck stress fracture which was limiting her ability to complete BCT.

a. 01Jun2021 Hip and Thigh Conditions DBQ. The evaluation was for Left Hip Stress Fracture Residual Pain. The applicant endorsed mild hip pain 4-5 days/month lasting 1-2 days. During flare-ups of pain, she had difficulty bending, walking, running squatting or standing for prolonged periods. The exam showed full bilateral hip ROM without pain. During flare-ups, pain contributed to a mild reduction in flexion and extension of the left hip. Both hip joints were stable and had normal strength and did not require the use of assistive devices for ambulation.

b. 09Feb2022 Hip and Thigh Conditions DBQ. The evaluation was for Femoral Neck Stress Fracture sustained in 2020. The applicant reported current symptoms of pain with prolonged standing or sitting in certain positions. She did not report flare-ups of pain or any functional loss or functional impairment of the hip joint. The exam showed full bilateral hip ROM without pain. There was mild localized tenderness to palpation of the left lateral hip.

5. The applicant was also seen for left knee, left ankle and left foot pain in May/June 2020. Films showed trace left knee joint effusion and no bone abnormalities in either ankle. The VA compensation and pension examinations (completed after discharge) were reviewed, and the review included but was not limited to the following:

a. 01Jun2021 Knee and Lower Leg DBQ. She reported intermittent mild left knee pain treated with ibuprofen. The exam showed full ROM with pain during flexion and extension. There was no objective evidence of knee joint weakness or instability.

b. 01Jun2021 Ankle Conditions DBQ. There was no current diagnosis. She treated her intermittent left ankle pain with ibuprofen. The bilateral ankle exam showed full ROM without objective evidence of pain weakness or instability.

c. 01Jun2021 Foot Conditions, Including Flatfoot DBQ. She reported intermittent pain in the soles of both feet which she treated with ibuprofen. She was not using inserts/orthotics. Foot diagnoses included Bilateral Plantar Fasciitis and Flat Foot (Pes Planus). The bilateral foot exam showed no objective evidence of pain on passive or active motion, weight-bearing or nonweight-bearing or rest/non-movement.

d. 01Jun2021 Back Conditions DBQ. Diagnosis: Lumbosacral Strain. She treated her mild intermittent back pain with ibuprofen. Back ROM was full, with pain experienced during flexion. The motor, sensory and neurologic exams were normal.

e. 09Feb2022 Neck Conditions DBQ. Diagnosis: Cervical Strain. The applicant stated she injured her neck during basic training while carrying a heavy ruck. She did not receive treatment while in service. The exam revealed full ROM without objective evidence of pain, guarding or muscle spasm. The motor, sensory and neurologic exams were normal.

6. Summary/Opinion

a. The entrance exam (Report of Medical Examination, DD Form 2808) showed (of interest) that the applicant was underweight, had mild asymptomatic scoliosis, and did not exercise. She sustained atraumatic injury to the hip while doing routine BCT training. The 11Jun2020 counseling indicated that she was offered REFRAD disposition with continued association with the military and associated benefits; however, the applicant chose separation from the military.

b. Stress injuries are overuse injuries and therefore 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. In addition to the left hip stress fracture, the applicant was also seen for other orthopedic conditions as noted above. At the time of discharge, the applicant did not have a P3 for any of her conditions. Based on review of available records, evidence was insufficient to support that the applicant had condition(s) which failed medical retention standards of AR 40-501 chapter 3 and warranted medical discharge processing. Referral for entry into IDES is not recommended.

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. Regulatory guidance under AR 635-200, paragraph 5-17, stipulates that individuals separated under this provision during initial entry training are to receive an uncharacterized character of service unless they have completed more than 180 days of continuous active duty. Upon review of the applicant's request, available military records and medical review, the Board concurred with the advising opinion of the Army Review Boards Agency (ARBA) Medical Advisor finding insufficient evidence to support that the applicant had condition(s) which failed medical retention standards of AR 40-501 chapter 3 and warranted medical discharge processing. Referral for entry into IDES is not recommended.

2. The Board found that the applicant enlisted in the U.S. Army Reserve on 15 October 2019 and began initial active duty for training on 31 March 2020. During training, the applicant sustained femoral neck stress fractures that significantly impaired her ability to complete basic combat training. Although her injury was determined to be in line of duty, her separation was not processed through the disability evaluation system, nor was she deemed permanently unfit for continued military service under the standards outlined in AR 635-40. Documentation in the record indicates the applicant was thoroughly counseled on the differences between discharge and release from active duty, and she voluntarily elected separation under the provisions of AR 635-200, paragraph 5-17. The Board noted, at the time of separation, the applicant was in an entry-level status, had not been awarded a military occupational specialty, and her total active service did not exceed 180 days. As such, her character of service of uncharacterized is appropriate, and relief is denied.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

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 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. The regulation in effect at the time states in:

a. Paragraph 3-9, a separation would be described as entry level with uncharacterized service if processing were initiated while a Soldier was in an entry-level status, except when:

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

(2) Headquarters, Department of the Army, on a case by case basis, determined a 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, for convenience of the government, and under Secretarial plenary authority.

b. Paragraph 5-17, commanders may approve separation under this paragraph on the basis of other physical or mental conditions not amounting to disability per Army Regulation 635-40 (Disability Evaluation for Retention, Retirement or Separation) and excluding conditions appropriate for separation processing under paragraph 5-11 (Separation of personnel who did not meet procurement medical fitness standards) or 5-13 (Separation because of personality disorder) that potentially interfere with assignment to or performance of duty. Such conditions may include, but are not limited to, chronic air or 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.

(1) When a commander determines that 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 mental status evaluation in accordance with Army Regulation 40-501 (Standards of Medical Fitness). A recommendation for separation must be supported by documentation confirming the existence of the physical or mental condition.

(2) 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.

c. Glossary-Section II (Terms), for USAR Soldiers, entry-level status begins upon enlistment in the USAR. It terminates:

(1) For Soldiers ordered to IADT for one continuous period, 180 days after beginning training.

(2) For Soldiers ordered to IADT for the split option, 90 days after beginning advance individual training.

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 VA Schedule for Rating Disabilities. 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 their 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 ABCMR applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//