

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 January 2025

DOCKET NUMBER: AR20240004859

APPLICANT REQUESTS: in effect,

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) by changing the narrative reason for separation and corresponding Separation Program Designator (SPD) code to show he was discharged due to a medical disability
- to appear before the Board via video/telephone

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Military Health Record documents
- DA Forms 5500 (Body Fat Content Worksheet (Male)) (2)
- U.S. Army Recruiting Command (USAREC) Form 1245 (USAREC Pre-Basic Combat Training Physical Fitness Assessment Scorecard)
- DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings)
- DD Form 214
- Department of Veterans Affairs (VA) Rating Decision
- VA Benefits Decision

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 when he enlisted in the Army he did not have any preexisting issues with his shin splints. His entrance physical showed he did not have shin splints and was found physically able to enlist. He did not have shin splints until after he started training in the Army. He feels it is unjust for his DD Form 214 to show that he failed medical/physical procurement standards as his condition was not preexisting. This condition, for which he is now rated as service-connected by the VA, started at Fort Leonard Wood, MO, not before his enlistment.

3. The applicant underwent a pre-enlistment medical examination on 24 February 2006 and was found to be medically qualified for enlistment in the U.S. Army Reserve (USAR).

4. On 24 February 2006, the applicant enlisted in the USAR in the rank/pay grade of private (PV1)/E-1 for a period of 8 years. He was ordered to active duty on 22 March 2006 for the purpose of completing Initial Entry Training at Fort Leonard Wood, MO.

5. A DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings) shows an EPSBD was conducted to evaluate the applicant's condition on 11 October 2006. After careful consideration of medical records, laboratory findings, and medical examinations, the board found the applicant was unfit for appointment or enlistment in accordance with current medical fitness standards and in the opinion of the evaluating physicians, the condition existed prior to service (EPTS).

a. He complained of bilateral shin pain, right greater than left for over three months.

b. He was pulled from training in his second week due to bilateral foot, ankle, and leg pain. He stated before he came in he did have occasional ankle pain when he was walking; however, the pain would resolve with rest. He did not do any physical exercise before coming into the military. He denied any physical trauma while being at Fort Leonard Wood.

c. Because of his continued bilateral shin pain, it could not be expected that he would be able to carry the loads or perform his military duties. He had been on many physical limitation profiles, anti-inflammatories, physical therapy, and foot orthosis and none had been successful. There was no surgical procedure that would increase his chances for success.

d. The applicant was diagnosed with bilateral shin splint pain, EPTS, not aggravated by service.

e. The applicant was determined to be medically unfit for military service and it was recommended that he be separated from the Army and not train in accordance with Army Regulation 40-501 (Standards of Medical Fitness) for failure to meet medical procurement standards due to his EPTS condition.

f. The applicant's acknowledgement of the EPSBD findings, his chain of command's recommendations, and the separation authority's decision are not filed in his available record.

6. His DD Form 214 shows he was discharged in the rank/pay grade of PV1/E-1 on 3 November 2006, under the provisions of Army Regulation 635-200 (Active Duty

Enlisted Administrative Separations), paragraph 5-11, for failure to meet procurement medical/physical procurement standards. He was assigned SPD code "JFW," and Reentry Eligibility (RE) code "3." He did not complete initial entry training and was not awarded a military occupational specialty. He completed 7 months and 12 days of active service. His service was characterized as honorable.

7. In addition to the previously discussed evidence, the applicant provides:

a. Military Health Record documents which show he was treated for several conditions during his seven months of active duty service.

b. Two DA Forms 5500 show he was administered tape tests to determine his body fat composition on 21 February 2006 and 23 March 2006. Although he exceeded Army height weight standards on both dates, his body fat composition was found to be within compliance.

c. A USAREC Form 1245 shows the applicant passed a pre-Basic Combat Training Fitness Assessment on 21 March 2006.

d. A VA Rating Decision, dated 16 February 2024, shows the VA granted the applicant service connection for left and right knee painful motion with shin splints with evaluations of 10 percent effective 28 July 2023.

e. A VA Benefits Decision letter, dated 21 February 2024, was provided to the applicant to guide him through the information he should know and the steps he could take now that the VA had made a decision about his benefits.

#### 8. 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, 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 a change in the narrative reason for his separation from the Army. He was not requested disability or a referral to the Disability Evaluation System (DES). He states:

“Please know that when I enlisted in the Army, I did not have any preexisting issues with my shin splints. As you will see in the included evidence, my entrance physical showed that I did not have shin splints and I was found physically able to enlist.

I did not have shin splints until after I started training in the Army. I feel that it is unjust for my DD 214 to state that I failed medical /physical/ procurement standards as my condition was not preexisting. This condition, which I am now service-connected, started at Fort Leonard Wood and did not start before my enlistment.”

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. The applicant's DD 214 for the period of service under consideration shows the former USAR Soldier entered active duty for basic combat training on 22 March 2006 and was discharged on 3 November 2006 under provisions provided by paragraph 5-11 of AR 635-200, Active Duty Enlisted Administrative Separations (6 June 2005): Separation of personnel who did not meet procurement medical fitness standards.

d. Paragraph 5-11a and 5-11b of AR 635-200:

“a. 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 AD [active duty] or ADT [active duty for training] for initial entry training, may be separated. Such conditions must be discovered during the first 6 months of AD. Such findings will result in an entrance physical standards board [EPSBD]. This board, which must be convened within the soldier's first 6 months of AD, takes the place of the notification procedure (para 2-2) required for separation under this chapter.

b. 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 AD for RA or during ADT for initial entry training for ARNGUS and USAR that—

(1) Would have permanently or temporarily disqualified the soldier for entry into the military service or entry on AD or ADT for initial entry training had it been detected at that time.

(2) Does not disqualify the soldier for retention in the military service per AR 40-501 [Standards of Medical Fitness], chapter 3. As an exception, soldiers with

existed prior to service (EPTS) conditions of pregnancy or HIV infection (AR 600–110) will be separated.”

e. The applicant’s pre-entrance Report of Medical History and Report of Medical Examination show the applicant was in good health, without significant medical history or conditions.

f. The EMR shows the applicant’s first encounter for a lower extremity issue was on 8 April 2006 after which he was diagnosed with an ankle sprain. A bone scan obtained on 24 April 2006 revealed mild stress changes in his right foot for which he was treated conservatively. Radiographs on 2 August 2006 revealed a right tibial stress fracture. At some time during this period, he was also diagnosed with a left tibial stress fracture.

g. He was treated conservatively. Though repeat bone scans on 27 September 2006 and 10 October 2006 were both negative, the applicant continued to have bilateral shin pain and was referred to an Entry Physical Standards Board (EPSBD) for this condition under provisions provided in paragraph 5-11 of AR 635-200.

h. EPSBDs are convened IAW paragraph 7-12 of AR 40-400, Patient Administration. This process is for enlisted Soldiers who within their first 6 months of active service are found to have a preexisting condition which does not meet the enlistment standard in chapter 2 of AR 40-501, Standards of Medical Fitness, but does meet the chapter 3 retention standard of the same regulation. The fourth criterion for this process is that the preexisting condition was not permanently service aggravated.

i. From the applicant’s 11 October 2006 Entry Physical Standards Board (EPSBD) Proceedings (DA Form 4707) prepared by orthopedics:

“CHIEF COMPLAINT: Bilateral shin pain, right greater than left for over 3 months.

HISTORY OF PRESENT ILLNESS: This is a 20-year-old male who was pulled from training in his 2nd week due to bilateral foot, ankle and leg pain. He stated before he came in, he did have occasional ankle pain when he was walking; however, the pain resolved with rest. He did not do any physical exercise before coming into the military.

Currently, his pain is a 6 out of 10. He has been treated with profiles and physical therapy which he stated made his pain worse. Arch support hurt his feet

more. He has been taking Motrin, Tylenol, and calcium. He is unable to run, jump or march.

He did have heel pain in April, however, the pain resolved and he is asymptomatic. He denies any physical trauma while being at Fort Leonard Wood.

PHYSICAL EXAMINATION: Lower extremity neurovascular status is intact with tenderness to palpation of the right greater than left medial shin ... Tenderness along the medial tibial shaft does not reveal any palpable bony calluses or defects.

X-RAY DATA shows no evidence of stress fractures. Recent bone scan shows only physiologic uptake.

PRESENT CONDITION: Because of the Soldier's continued bilateral shin pain, it cannot be expected that he will be able to carry the loads or perform his military duties. He has been tried on profiles, anti-inflammatories, physical therapy and foot orthosis and none have been successful. There is no surgical procedure that would increase his chances at success.

DIAGNOSIS: Bilateral shin splint pain, Existed Prior to Service (EPTS), not aggravated by service.

RECOMMENDATIONS: The Servicemember should be separated from the military in accordance with Army Regulation 40-501, Chapter 2-37, for bilateral shin splint pain that is not being alleviated by conservative treatment. He will be given a profile to suspend training during the remainder of his time at Fort Leonard Wood."

j. Paragraph 2-37 of AR 40-501, Standards of Medical Fitness (29 August 2003), states:

"Any condition that in the opinion of the examining medical officer will significantly interfere with the successful performance of military duty or training (796) may be a cause for rejection for appointment, enlistment, and induction."

k. The board determined this condition had existed prior to service, had not been permanently service aggravated, failed the medical procurement standards in chapter 2 of AR 40-501, and so recommended he be discharge due to this preexisting condition.

JLV shows he has a 10% service-connected disabilities for limited flexion of each knee, both effective 28 July 2023.

I. It is the opinion of the Agency Medical Advisor a neither a change in his separation authority 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 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. Upon review of the applicant's petition, available military records, and the medical review, the Board concurred with the advising official finding that the Entrance Physical Standards Board (EPSBD) Proceedings showed the condition existed prior to service (EPTS) and a referral to the Disability Evaluation System is not warranted. The Board denied relief.

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.

4/8/2025

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, 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. Title 10, U.S. Code, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by the ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.
3. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
4. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:
  - a. A separation would be described as entry level with uncharacterized service if the Soldier had less than 180 days of continuous active duty service at the time separation action was initiated.
  - b. 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.
  - c. A general discharge is a separation from the Army under honorable conditions. When authorized, it was issued to a Soldier whose military record was satisfactory but not sufficiently meritorious to warrant an honorable discharge.

d. Soldiers separated in an entry-level status receive an uncharacterized character of service. A separation is an entry level status separation if its processing is initiated during the Soldier's first 180 days of continuous active duty. The Secretary of the Army could, on a case-by-case basis, issue an honorable character of service to entry-level Soldiers when clearly warranted by unusual circumstances involving personal conduct or duty performance.

e. Paragraph 5-11 specifically provided that Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment were to be separated. EPSBD proceedings were required to be convened within the Soldier's first 6 months of active duty service, and had to establish the following: that medical authority identified the disqualifying medical condition(s) within 6 months of the Soldier's initial entrance on active duty; that the condition(s) would have permanently disqualified the Soldier from entry into military service, had it been detected earlier; and that the medical condition did not disqualify him/her for retention in military service. A Soldier disqualified under this provision could request retention on active duty; the separation authority made the final determination.

f. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

5. Army Regulation 635-5-1 (SPD Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. This regulation prescribed that the separation code "JFW" was an appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200, paragraph 5-11, by reason of failure to meet procurement medical fitness standards. Additionally, the SPD/ RE Code Cross Reference Table established that RE code "3" was the proper reentry code to assign to Soldiers separated under this authority and for this reason.

6. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, governed the evaluation for physical fitness of Soldiers who might be unfit to perform their military duties due to a disability. It states the mere presence of an impairment did not, of itself, justify a finding of unfitness due to physical disability. In each case, it was necessary to compare the nature and degree of the physical disability with the duty requirements of the soldier, based on his or her office,

grade, rank, or rating; and a Soldier was presumed to be in sound physical and mental condition upon entering active duty.

//NOTHING FOLLOWS//