

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 January 2025

DOCKET NUMBER: AR20240004960

APPLICANT REQUESTS: in effect, a reconsideration of her previous request for correction to her DD Form 214 (Certificate of Release or Discharge from Active Duty) to:

- change her uncharacterized discharge to honorable
- as a new request, a change to her narrative reason for separation to show she was injured on active duty

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

- DD Form 293 (Application for the Review of Discharge)
- DD Form 214
- Department of Veterans Affairs (VA) Statement of the Case, dated 7 May 2018
- Two letters issued by the VA, dated 9 May 2018 and 27 November 2023
- VA Disability Rating Decision, dated 7 October 2020

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20170005134 on 22 May 2020.

2. The applicant states she is requesting a reconsideration of her previous request for correction of her DD Form 214 to change her uncharacterized discharge to honorable. Additionally, she requests amendment of her narrative reason for separation to show she was injured on active duty. The applicant further explains that her bilateral infrapatellar bursitis, which is the condition she was separated for, did not exist prior to her service.

3. The applicant provides:

a. A VA Statement of the Case, 7 May 2018 shows her condition of infrapatellar bursitis of the right knee is service-connected and evaluated at disability rating of 10 percent (%), effective 4 January 2002.

b. In a letter issued by the VA, dated 9 May 2018, shows she filed a Notice of Disagreement with the VA's action. The VA provided the applicant information in regards to how to make the best argument to the Board of Veterans' Appeals (BVA), to overturn their decision for his disability rating.

c. On 7 October 2020, the VA issued the applicant a Disability Rating Decision. This document shows the applicant's conditions, disability ratings, and service connection as follows:

- Infrapatellar bursitis, right knee with joint osteoarthritis: Service Connected with a 10% disability rating
- Retropatellar syndrome of the left knee with joint Osteoarthritis associated with infrapatellar bursitis, right Knee with joint osteoarthritis: Service Connected with a 10% disability rating
- Limitation of extension, right knee associated with Infrapatellar bursitis, right knee with joint osteoarthritis: Service Connected with a 10% disability rating
- Limitation of extension, left knee associated with Retropatellar syndrome of the left knee with joint Osteoarthritis. This condition does not reflect service connection, or a disability rating

d. A letter issued by the VA, dated 27 November 2023 shows the applicant was awarded a 40% rating for her service-connected disabilities.

3. A review of the applicant's service record shows:

a. She enlisted in the Regular Army on 16 October 1997.

b. DA Form 3947 (Medical Evaluation Board Proceedings (MEB), dated 20 November 1997, reflects the following concerning her medical condition:

- Diagnosis: Pes Planus, symptomatic
- Approximate Date of Origin: existed prior to service (EPTS)
- Not incurred while entitled to basic pay
- Existed prior to her service
- Not permanently aggravated by service
- The board recommended she be separated from service
- She agreed with the board's findings and recommendation

c. On 20 November 1997, in a memorandum subject: Request for separation and waiver of Physical Evaluation Board (PEB) Evaluation, shows the applicant requested for discharge for her physical disability based upon findings and recommendations of an MEB. She also agreed and acknowledged the following:

- She has been fully informed and understands she is entitled to the same consideration and processing as any other Soldier being separated for a physical disability
- She understands this includes consideration of her case by a PEB and elected not to exercise that right
- She understands the VA will determine her entitlement to benefits
- If her application is approved, she understands she will be separated by reason of EPTS physical disability.
- She understands that she will receive a discharge in keeping with the character of her service as decided by the officer designated to affect her separation

d. On 1 December 1997, her chain of command was notified that the applicant was found medically unfit for retention in accordance with medical standards. In the opinion of the evaluating physicians, her condition did exist prior to her service.

e. On 2 December 1997, her commanding officer recommended that the applicant be separated from the Army, under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), Chapter 5. His recommendation was subsequently approved by the next level commander, in the applicant's chain of command.

f. On 2 December 1997, the separation authority directed the applicant's separation from the Army under the provisions of Army Regulation 635-40, Chapter 5. He further directed that the applicant be issued an "uncharacterized" characterization of service.

g. Medical records, which will be reviewed and discussed by the Army Review Boards Agency's medical staff.

h. DD Form 214 for the period ending 11 December 1997, shows she was discharged with an uncharacterized discharge, pursuant to Army Regulation 635-40, Chapter 5. The narrative reason for separation was "Disability, Existed Prior to Service-Medical Board". She was assigned a separation program designator (SPD) code of "KFN" and reentry code "3." She completed 1 month and 26 days of active service. She did not receive a military occupational specialty.

4. In a prior ABCMR Docket Number AR20170005134 on 22 May 2020, the applicant requested an upgrade of her uncharacterized service to honorable, due to the injury she sustained in her knee while attending basic training. After review of the application and all evidence, the Board determined there is insufficient evidence to grant relief. It states:

a. The Board concurred with the medical advisory opinion finding insufficient evidence of in-service mitigating factors for an upgrade. The governing regulation provides that a separation will be described as an entry level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. As such, the DD Form 214 properly shows her service as uncharacterized.

b. 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.

c. As a result, there is no basis for granting the applicant's request. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 applicant did not complete training and was discharged from active duty due to disability, existed prior to service – medical board. The Board determined her DD Form 214 properly shows the appropriate characterization of service as uncharacterized for her 1 month and 26 days of service.

2. 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. As a result, there is no basis for granting the applicant's request.

3. The Board additionally considered the applicant's request to change to her narrative reason for separation to show she was injured on active duty. However, the Board concluded the evidence of record shows the applicant's condition existed prior to service as determined by the medical board; therefore, determined relief was not appropriate.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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 amendment of the ABCMR decision rendered in Docket Number AR20170005134 on 22 May 2020.

5/5/2025

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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. Army Regulation 15-185 (Army Board for Correction of Military Records), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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.

2. Army Regulation 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. 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. Only the honorable characterization may be awarded to a Soldier upon completion of his or 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.

b. Entry level status separation. A separation will be described as an entry level separation with service uncharacterized if processing is initiated while a Soldier is in entry level status.

(1) Entry level status for Regular Army (RA) Soldiers, entry level status is:

- The first 180 days of continuous AD
- The first 180 days of continuous AD following a break of more than 92 days of active military service
- The first 180 days of continuous AD following a break of more than 92 days of active military service

(2) For ARNG and USAR Soldiers, entry level status begins:

- upon enlistment in the Army National Guard (ARNG)
- upon enlistment in the U. S. Army Reserve (USAR)
- Soldiers ordered to initial active duty training (IADT) for one continuous period of 180 days after beginning training

c. The Secretary of the Army, 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. Army Regulation 635-5 (Personnel Separations Separation Documents). The DD Form 214 (Certificate of Release or Discharge from Active Duty), is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of Release From Active Duty (REFRAD), retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier's service.

4. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-1 provides a list of RE codes:

- RE code "1" applies to personnel who have completed their obligated term of active service and are considered qualified to reenter the U.S. Army if all other criteria are met
- RE code "2" Applies to persons not eligible for immediate reenlistment
- RE code "3" applies to personnel who are not considered fully qualified for reentry or continuous service at time of separation, but whose disqualification is waivable. They are ineligible unless a waiver is granted
- RE code "4" applies to personnel separated from last period of active-duty service with a nonwaivable disqualification

5. Army Regulation 635-5-1 (Separation Program Designator Codes) states that the Separation Program Designator (SPD) codes are three-character alphabetic combinations which identify reasons for, and types of, separation from active duty. SPD code "KFN" and RE code "3" are the appropriate codes to assign to enlisted Soldiers who are administratively discharged under the provisions of Army Regulation 635-200, Chapter 5, Disability, Existed Prior Service-Medical Board.

6. Title 10, U.S. Code, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system (DES) and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 (Discharge Review Board

(DRB) Procedures and Standards) and Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a Medical Evaluation Board (MEB); when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an Military Occupational Specialty (MOS) Medical Retention Board (MMRB); and/or they are command-referred for a fitness-for-duty medical examination.

b. The disability evaluation assessment process involves two distinct stages: the MEB and Physical Evaluation Board (PEB). The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise his/her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether or not a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. Service members who are determined to be unfit for duty due to disability either are separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a one-time severance payment, while veterans who retire based upon disability receive monthly military retired pay and have access to all other benefits afforded to military retirees.

c. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

7. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) establishes the Army Physical Disability Evaluation System according to the provisions of chapter. 61, title 10, United States Code (10 USC 61) and Department of Defense Directive (DODD) 1332.18. It 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. If a Soldier is found unfit because of physical disability, this regulation provides for disposition of the Soldier according to applicable laws and regulations. Chapter 5 provides the following:

a. Separation for Non-Service Aggravated, Existed Prior to Service (EPTS) Conditions upon Soldier's Waiver of PEB Evaluation provides for separation of an enlisted soldier for non-service aggravated EPTS conditions when soldier requests waiver of PEB evaluation. It is applicable to enlisted Soldiers on active duty for more than 30 days.

b. Separation under the authority of this chapter is not to be confused with separation under the provisions of AR 635-200, chapter 5. The latter provides for involuntary separation within the first six months of entry onto active duty for failure to meet procurement fitness standards.

8. 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 applicant's (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//