

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 January 2025

DOCKET NUMBER: AR20240004995

APPLICANT REQUESTS: an upgrade of his uncharacterized discharge to honorable

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

- DD Form 149 (Application for Correction of Military Record)
- Department of the Army (DA) Form 5181-R (Screening note of Acute Medical Care)
- DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings)
- Department of Veterans Affairs (VA) service verification letter
- VA summary of benefits
- VA service-connected compensation

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 hurt during training in jump school where ligaments were damaged and now he has limited movement. The VA has given him 40% disability rating and has rated it as service connected.
3. The applicant provides:
  - a. A DA Form 5181-R shows in the comments, the applicant stepped off the side of a curb during physical training and he was unable to bear weight on his ankle. The applicant informed the medical staff five years ago he had pins placed in his right ankle.
  - b. A DA Form 4707 shows, the applicant sustained a right ankle fracture approximately five-year prior which he underwent open reduction internal fixation using two lag screws. The orthopedic doctors recommended the applicant be given an expeditious discharge.

c. On 15 February 2024, a VA letter to the applicant shows the applicant served from 1 December 1994 to 24 March 1995 and he received a general, under honorable conditions discharge.

d. On 15 February 2024, a VA summary of benefits shows the applicant began receiving VA benefits 1 December 2023 with 40% service-connected disabilities.

e. On 15 February 2024, a VA service compensation letter shows the applicant's gross benefits amount.

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

a. He enlisted in the Regular Army on 1 December 1994.

b. On 6 March 1995, a DA Form 4707 shows:

- block 8: the applicant sustained a right ankle fracture approximately five years prior which he underwent open reduction internal fixation using two lag screws. Since that time when the applicant engages in any repetitive lower extremity activities, he developed chronic pain. The orthopedic doctors recommended the applicant be given an expeditious discharge.
- blocks 12 – 14, on 8 March 1995, the Deputy Commander for Clinical Services approved the findings.
- block 21 – 23, on 16 March 1995, the applicant concurred with the proceedings and requested to be discharged for the United States Army without delay.
- block 25, 16 March 1995, the intermediate commander recommended approval of the applicant's discharge.
- block 29, on 21 March 1995, the separation authority approved the discharge of the applicant.

c. Orders 81-369, dated 22 March 1995, discharged the applicant from active duty with an effective date of 24 March 1995.

d. On 24 March 1995, he was discharged from active duty with an uncharacterized of service. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 3 months, and 24 days of active service with no lost time. He was assigned separation code JFK and the narrative reason for separation listed as "Failure

to meet Procurement Medical Fitness Standards," with reentry code 3. It also shows he was awarded or authorized:

- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
- Expert Marksmanship Qualification Badge with Hand Grenade
- National Defense Service Medal

5. There is no evidence the applicant has applied to the Army Discharge Review Board for review of her discharge within that board's 15-year statute of limitations.

6. By regulation (AR 635-8), the DD Form 214 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, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

7. By regulation (AR 635-200), 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 (AD) or active duty training (ADT) for initial entry training may be separated. Such findings will result in an entrance physical standards board which must be convened within the Soldier's first 6 months of AD.

8. In reaching its determination, the Board can consider the applicants petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the regulatory guidance related to separations initiated within the first 180 days of military service and the lack of evidence showing the applicant's injury was unfitting for future military service, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

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.

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.

   
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. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets forth the basic authority for the separation of enlisted personnel.
  - a. Paragraph 3-7a (Honorable Discharge) states an honorable discharge is a separation with honor. 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 3-9 (Uncharacterized Discharge) states a separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status.

c. Chapter 5-11 of the regulation 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 (AD) or active duty training (ADT) for initial entry training may be separated. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by appropriate military medical authority within 6 months of the Soldier's initial entrance on AD for RA, or during ADT for initial entry training. Unless the reason for separation requires a specific characterization, a Soldier being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conditions, or an uncharacterized description of service if in entry-level status.

3. Army Regulation 635-8 (Separation Processing and Documents), in effect at the time, states the DD Form 214 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, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

//NOTHING FOLLOWS//