

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 March 2025

DOCKET NUMBER: AR20240005030

APPLICANT REQUESTS: in effect, an addition of her name to the Permanent Disability Retired List (PDRL) and amendment of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to show her:

- narrative reason for separation as “retired” in-lieu of “disability, severance pay, non-combat related”
- separation code as “SFJ,” permanent disability-retired in lieu of “JEB,” disability, severance pay, non-combat related

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States) in lieu of a DD Form 149 (Application for Correction of Military Record)
- Two Character References
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Honorable Discharge Certificate
- Department of Veterans Affairs (VA) Benefits Letter

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 discharged without a medical retirement even though she was on active duty more than 90 days, and the Department of Defense (DOD) had rated her more than 30% disabled (this rating is not available to the Board to review with her case). Absent a medical retirement she is being denied access to veteran's benefits including healthcare, education, insurance, and other VA benefits that she should be entitled to receive. If her DD Form 214 showed she was “retired, and her separation code was listed as “SFJ,” she would be able to access all her VA benefits. Additionally, she requests to be added to the PDRL. She also annotated her application to the Board

to show she suffers from post-traumatic stress disorder (PTSD) and other mental health conditions.

3. Her service record contains a:

a. Clinical Record, dated 17 December 2019, showing prior to enlisting in the United States Army Reserve, she received a DD Form 2808 (Report of Medical Examination) with "PULHES of 111131" and "Waiver Approved PULHES of 111111." This document also lists the following comments:

- No keratoconus on eye exam. Waiver is approved
- Medical Fail Reasons: 62
- ICD-9 Codes: H52.209

b. DA Form 2808 showing in addition to the above Clinical Record in:

(1) Medical Evaluation:

- Block 35 (Feet) is annotated abnormal
- Block 35a (Pes Cavus) is annotated
- Block 35b, callous medical big toes, hallux valgus- NCD, mild right foot
- Block 35c, Asymptomatic is annotated
- Block 37, body marks, scars, and tattoos are abnormal

(2) Block 74 (Examinee), "Is not Medically Qualified, is annotated.

(3) Block 76 (Physical Profile):

- PULHES 113P101, 5 December 2019
- PULHES 111101, 16 December 2019
- PULHES 11113P1, 16 December 2019

(4) Block 77 (Significant or Disqualifying Medical Diagnoses) Astigmatism, ICD Code H52.209, Profile E3P.

(5) Block 78 (Summary of Medical Diagnosis): 54 Overweight (NCD), and 35 (hallux valgus mild – NCD).

(6) Block 79 (Recommendations): 62 - Manifest (Done) and 62 - Corneal Topography (Done).

4. On 20 December 2019, the applicant enlisted in the United States Army Reserve for 8 years.

5. Orders 1032021, Military Entrance Processing Station, 207 South Houston Street, Dallas, TX, dated 27 January 2021, shows she was ordered to initial active duty for training, with a report date of 1 February 2021, to Fort Jackson, SC.

6. Orders 076-379 Headquarters, U.S. Army Training Center, Fort Jackson, shows effective 16 April 2021, the applicant was assigned to Company A, 5th Battalion, 1st SWTG, Fort Jackson to complete military occupational specialty (MOS) 38B.

7. Orders 167-552, U.S. Army Installation Management Command, Headquarters, U.S. Army Garrison, Fort Jackson, shows she was released from Fort Jackson, and she was assigned to the 73rd Ordnance Battalion, Headquarters, Company A Training, Fort Gordon, GA, effective 25 June 2021, for completion of training in MOS 94F.

8. Orders 038-0900, Headquarters, U.S. Army Cyber Center of Excellence, Fort Gordon, GA, dated 7 February 2022, shows the applicant was scheduled for discharge on 14 February 2022 unless changed or rescinded. She had a disability rating of 10 percent. She was authorized disability severance pay in pay grade E-4 based on 3 years of service in accordance with section 1646 of the National Defense Authorization Act of 2008. Her service time equaled 1 year and 14 days as computed under Title 10 United States Code (USC), section 1208. Her disability was based on an injury or disease received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by law: No. Her disability resulted from a combat related injury as defined in 26 USC 104: No.

9. On 14 February 2022, the applicant was discharged. She completed 1 year and 14 days of net active service this period. The DD Form 214 also shows in:

- Block 24 (Character of Service), Honorable
- Block 25 (Separation Authority), "AR 635-40 (Disability Evaluation for Retention, Retirement, or Separation), Paragraph 27c(3)"
- Block 26 (Separation Code), "JEB"
- Block 27 (Reentry Code), "3"
- Block 28 (Narrative Reason for Separation), "Disability, Severance Pay, Non-Combat Related"

10. Her service record shows she was released from active duty due to "disability, severance pay, non-combat related." According to the Army Regulation (AR) 635-200, she was assigned the appropriate separation code, reentry code, and narrative reason for separation.

11. The applicant stated she was providing her separation packet along with the following documents; however, it was not included as a part of her submissions:

a. Two-character references, both appear to have met the applicant during initial entry training and both became good friends with the applicant. Both speak very highly of the applicant. Both spoke of her kindness, and state she was a very caring person, and she was an integral part in their careers.

b. A VA Benefits Letter, dated 13 January 2023, stating she has a combined service-connected evaluation of 80 percent, effective 1 December 2022.

c. Her submissions were provided to the Board in their entirety.

12. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting to change her honorable medical discharge to a permanent medical retirement. She contends that mental health conditions including PTSD related to her request. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) The applicant enlisted in the United States Army Reserve (USAR) on 20 December 2019, and she entered active duty for initial training for Basic Combat Training (BCT) on 01 February 2021; 2) The applicant was discharged on 14 February 2022 per AR 635-40 Paragraph 4-27 C(3). Her service was determined to be honorable. She completed 1 year and 14 days of net active service. The applicant was discharged from USAR, by reason of disability, severance pay, non-combat related.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service and medical records. The VA's Joint Legacy Viewer (JLV) and hardcopy VA records provided by the applicant were also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts she experienced mental health conditions including PTSD while on active service warranting a medical discharge. The applicant was treated at the behavioral health clinic beginning on 12 May 2021 and continued to attend treatment until her discharge from active service. During that time, she was treated primarily for adjustment disorder with mixed anxiety and depressed mood. On 01 July 2021 according to her DA Form 3947, she began her MEB process due to chronic hip pain. On 9 August 2021, her orthopedic provider began her fitness for duty evaluation, which was approximately 6 months into her active service. As documented in her medical board narrative and her orthopedic provider's documentation, her adjustment disorder with anxiety and depressed mood was included in her medical board using the documentation from her 13 September 2021 VA compensation and pension (C&P)

examination. According to her VA C&P examination, her evaluating provider attributed her mental health symptoms directly to extensive childhood trauma and diagnosed the applicant with PTSD. This evaluator denied the influence of any other stressors or diagnoses related to military service. During a 12 October 2021 behavioral health encounter, she noted an increase in symptoms due to the stress of her physical difficulties and pending medical board that precipitated into suicidal ideation. During this encounter, the applicant received the additional diagnoses of PTSD and problems in relationship with spouse or partner and was referred to intensive outpatient treatment (IOP) beginning on 26 Oct 2021. She attended IOP until 22 November 2021 when her additional diagnoses were removed and her diagnosis returned to solely adjustment disorder with mixed anxiety and depressed mood. On 07 Jan 2022, the PEB convened and determined her unfit for military service. The PEB determined 10% disability for a left hip injury, to which the applicant confirmed, agreed to this determination and rating, and waived her right to appeal on 14 January 2022. Her final active-duty behavioral health encounter occurred on 12 April 2022 to connect her with VA behavioral health care.

d. A review of JLV revealed that the applicant was connected with VA care immediately following her time in service on 26 May 2022 and attended her first full VA behavioral health appointment on 03 June 2022. She initially carried the diagnoses of unspecified bipolar and related disorder, unspecified anxiety disorder, premenstrual dysphoric disorder, problems adjusting to life-cycle transitions, and relationship distress with spouse or intimate partner. Since that time, she has consistently attended behavioral health care with the VA. Her most recent documented encounter occurred on 07 March 2025 for the treatment of generalized anxiety disorder; PTSD; and ADHD, combined type. The applicant is currently 100% VA service connected for PTSD and various physical conditions.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence at this time to warrant a change to her discharge status. The applicant did undergo a medical board process while on active-duty status and was granted physical disability status at 10%, to which she agreed. This evaluation took into account her mental health care and conditions when generating a decision prior to discharge. The applicant did undergo mental health treatment for greater than 6 months, including one intensive outpatient program. However, the increased intensity of her care was attributed to her reaction to her pending medical board and separation from service. In addition, she displayed a lessening and/or resolution of many symptoms following these interventions and did not require a permanent behavioral health profile during her time in service. The applicant's medical separation took into account her behavioral health symptoms prior to discharge and determined that they did not warrant an additional medical disability percentage as a part of her discharge from active service. She did not attend more than six months of treatment without improvement, nor did she required to be hospitalized in inpatient psychiatric treatment

on two or more occasions, nor was she ever placed on a psychiatric permanent profile while on active service. Therefore, there is insufficient evidence the applicant's case warrants a second referral to DES from a behavioral health perspective, at this time.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? N/A. The applicant is requesting a medical discharge.

(2) Did the condition exist or experience occur during military service? N/A. The applicant is requesting a medical discharge.

(3) Does the condition or experience actually excuse or mitigate the misconduct? N/A. The applicant is requesting a medical discharge.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation and the findings and recommendations outlined in the medical review, the Board concluded there was insufficient evidence of an error or injustice warranting a change to her narrative reason for separation.

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.

//SIGNED//

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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. 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. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD, traumatic brain injury (TBI), sexual assault, or sexual harassment. Boards are to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based, in whole or in part, on those conditions or experiences.
3. 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 and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 and Army Regulation 635-40.
 - 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; 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.

4. AR 635-5-1 (SPD Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. The SPD code "JEB" is the appropriate code to assign Soldiers separated under the provisions of AR 635-40, paragraph 4-27c(3), by reason of disability, severance pay, non-combat related.

5. The SPD/RE Code Cross Reference Table stipulates the RE code of "3" would be assigned to members separated with the SPD code of JEB."

6. AR 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the RA and the USAR. Table 3-1 includes a list of the RA RE codes:

a. RE-1 applies to Soldiers completing their term of active service who are considered qualified to reenter the U.S. Army. They are qualified for enlistment if all other criteria are met.

b. RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. They are ineligible unless a waiver is granted.

7. Army Regulation 635-40 establishes the Army Disability Evaluation 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 office, grade, rank, or rating. 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.

a. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in military service.

b. Soldiers who sustain or aggravate physically unfitting disabilities must meet the following line-of-duty criteria to be eligible to receive retirement and severance pay benefits:

(1) The disability must have been incurred or aggravated while the Soldier was entitled to basic pay or as the proximate cause of performing active duty or inactive duty training.

(2) The disability must not have resulted from the Soldier's intentional misconduct or willful neglect and must not have been incurred during a period of unauthorized absence.

c. The percentage assigned to a medical defect or condition is the disability rating. A rating is not assigned until the PEB determines the Soldier is physically unfit for duty. Ratings are assigned from the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). The fact that a Soldier has a condition listed in the VASRD does not equate to a finding of physical unfitness. An unfitting, or ratable condition, is one which renders the Soldier unable to perform the duties of their office, grade, rank, or rating in such a way as to reasonably fulfill the purpose of their employment on active duty. 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.

8. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10, U.S. Code, section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating of less than 30 percent.

9. Title 38, U.S. Code, section 1110 (General – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

10. Title 38, U.S. Code, section 1131 (Peacetime Disability Compensation – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

//NOTHING FOLLOWS//