

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 February 2025

DOCKET NUMBER: AR20240005190

APPLICANT REQUESTS: processing through the Disability Evaluation System (DES) for physical disability discharge in lieu of honorable administrative release from active duty due to completion of required active service

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

- DD Form 149 (Application for Correction of Military Record)
- 628 pages of service medical records, May 1992 – April 2016
- 697 pages of Department of Veterans Affairs (VA) medical records, June 2016 – April 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, before her expiration term of service (ETS), the orthopedic provider recommended a possible medical board for her wrists, as this was preventing her from doing the pushups event during the Army Physical Fitness Test (APFT) and preventing her from doing her job in her Military Occupational Specialty (MOS) 68W (Healthcare Specialist).
3. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she enlisted in the Regular Army on 28 June 2010, she was awarded the MOS 68W, and she deployed to Afghanistan from 4 April 2011 through 20 October 2011.
4. A DA Form 5691-R (Request for Reserve Component Assignment Orders) shows the applicant's Regular Army ETS was 3 June 2016, but she began terminal leave on 15 April 2016, and requested assignment orders in the Army National Guard (ARNG) for her remaining military service obligation (MSO) of 1 year, 2 months, and 3 days.

5. A DD Form 4 (Enlistment/Reenlistment Document) shows the applicant enlisted in the ARNG on 15 April 2016, for a period of 1 year, 2 months, and 3 days.

6. The acronym "PUHLES" describes the following six physical factors used in the profiling system to classify medical readiness: "P" (Physical capacity or stamina), "U" (Upper extremities), "L" (Lower extremities), "H" (Hearing), "E" (Eyes), and "S" (Psychiatric). Physical profile ratings are permanent (P) or temporary (T). A service member's level of functioning under each factor is represented by the following numerical designations: 1 indicates a high-level of fitness, 2 indicates some activity limitations are warranted, 3 reflects significant limitations, and 4 reflects one or more medical conditions of such a severity that performance of military duties must be drastically limited.

7. An Individual Medical Readiness form included in her ARNG enlistment documentation shows, at the time of her enlistment, her PULHES was 121111, with a rating of 2 in factor U based on her most current exam dated 26 February 2016.

8. The applicant's DD Form 214 further shows:

a. She was honorably released from active duty on 3 June 2016, under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), due to completion of required active service, with corresponding separation code MBK and a reentry code of "1."

b. She was credited with 5 years, 11 months, and 6 days of net active service transferred to a unit in the ARNG.

9. The applicant provided 628 pages of her service medical records, covering the period from May 1992 – April 2016, all of which have been provided in full to the Board for review.

a. Her service medical records reflect treatment and diagnosis of her active problems which include, but are not limited to:

- numerous encounters for right and left wrist pain, sprain
- traumatic arthropathy
- tenosynovitis de Quervain
- arthralgia-ulna/radius/wrist
- gastrointestinal symptoms
- joint pain in the right hip
- psychiatric diagnosis or condition
- adjustment disorder grief reaction

- reactive airway disease

b. Her provided service medical records do not contain a DA Form 3349 (Physical Profile) nor do they show:

- she was issued a permanent physical profile rating
- she suffered from a medical condition, physical or mental, that affected her ability to perform the duties required by her MOS and/or grade or rendered her unfit for military service
- she was diagnosed with a medical condition that warranted her entry into the DES
- she was diagnosed with a condition that failed retention standards and/or was unfitting

10. The applicant's National Guard Bureau (NGB) Form 22 (National Guard Report of Separation and Record of Service) shows she was honorably discharged from the ARNG effective 6 August 2017, under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management) due to ETS. She was credited with 1 year, 2 months, and 3 days of net service this period and 7 years of total service for retired pay, and she received a reentry code of "1."

11. The applicant's Enlisted Record Brief (ERB) shows her PULHES was 121111, based on her last physical exam in August 2017.

12. A review of the U.S. Army Human Resources Command (AHRC) Soldier Management System (SMS) corroborate the applicant's voluntary administrative discharge from the ARNG effective 6 August 2017, due to ETS and a PULHES of 121111, based on physical profile issued in February 2016.

13. The applicant provided 697 pages of her VA medical records, covering the period from June 2016 – April 2024, all of which have been provided in full to the Board for review. They include treatment and diagnosis of her active problems which include, but are not limited to:

- depression
- chronic PTSD
- shoulder pain
- closed injury, brachial plexus, lower roots
- trochanteric bursitis
- wrist pain
- neck pain
- asthma
- hip pain

- migraine

14. 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.

15. 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, the Army Aeromedical Resource Office (AERO), 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 referral to the Disability Evaluation System (DES). She requests:

"Before ETS-ing [end term of service], the ortho provider recommended a possible medical board for my wrists as this was preventing me from conducting the pushups during an APFT and preventing me from doing my job as a 68W [combat medic]. I was not offered a medical extension and therefore ETS'd before I could go through a medical board. I would like to have my wrists and PTSD processed through the LDES [Legacy DES]."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. A DD 214 shows the applicant entered the regular Army on 28 June 2010 and was honorably discharged at the completion of her required active service on 3 June 2016 under the authority provided in chapter 4 of AR 635-200, Personnel Separations – Enlisted Personnel (17 December 2009). Her reentry code of "1" indicates she was fully qualified to reenlist.

d. As noted in the ROP, the applicant was treated for a variety of conditions during this period of Service but none were found to be duty limiting. On 1 April 2016 (two months before her separation), the applicant was placed on a non-duty limiting permanent physical profile for post-surgical wrist symptoms. No other conditions were listed on the profile. The applicant was marked as capable of performing all the

functional activities required of all Soldiers, including live in an austere environment. The profile simply allowed the applicant to not perform the push-up event for her Army Physical Fitness Test (APFT). No further permanent profiles were issued.

e. The applicant was seen intermittently by behavioral health from 2011-2014, with just two visits in 2011, one visit in 2012, and one visit in 2014. The remaining visits were in 2013. She was diagnosed with "Adjustment Disorder Grief Reaction" after informing the provider in December 2012 "her unborn child's father is ignoring her and in October of 2012 her mother died from Lou Gehrig's disease. She says she is not in the Christmas spirit this year." This remained her diagnosis thru December 2013. Her next and final visit was on 14 October 2014 and was a follow-up for psychoeducation. She was released without limitations.

f. Her final NCO Evaluation Report was an annual covering 1 December 2014 thru 30 November 2015 and shows she was a successful Soldier. She passed her APFT in May 2015. Her rater marked her as having exceeded or met the standard for all Values and NCO Responsibilities and blocked her as fully capable. Her senior rater blocked her with a 2 on a scale of 1 to 5 for overall performance and a 1 for overall potential stating:

- o promote to Staff Sergeant with peers
- o send to Advanced Leaders Course with peers
- o a competent leader who exudes self-confidence; discharged duties with complete professionalism
- o unlimited potential; assign to challenging positions when available

g. There is insufficient probative evidence the applicant had any duty incurred medical condition which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to her discharge. Thus, there was no cause for referral to the Disability Evaluation System. Furthermore, there is no evidence that any medical condition prevented the applicant from being able to reasonably perform the duties of her office, grade, rank, or rating prior to his discharge.

h. The applicant entered the Army National Guard the day after separating from the Army. Her Report of Separation and Record of Service (NGB 22) shows the drilling Guardsman entered the Army National Guard on 4 June 2016 and was honorably discharged from the Louisiana Army National Guard (LAARNG) on 6 August 1017 under paragraph 6-35a of NGR 600-200, Enlisted Personnel Management (31 July 2009): End Term of Service. Her reenlistment code of "1" shows she was fully qualified to reenlist.

i. She completed a Periodic Health Assessment on 5 March 2017. It shows the applicant was undergoing treatment for PTSD, asthma, migraines, and joint pain at the VA, and that none of the conditions were duty limiting. Her wrist pain remained her only non-duty limiting physical condition.

j. There is insufficient probative evidence the applicant had any duty incurred medical condition which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to his discharge. Thus, there was no cause for referral to the Disability Evaluation System. Furthermore, there is no evidence that any medical condition prevented the applicant from being able to reasonably perform the duties of his office, grade, rank, or rating prior to his discharge.

k. JLV shows she has been awarded multiple VA service-connected disability ratings, including ratings for PTSD, migraine headaches, and asthma. However, the DES only compensates an individual for permanent service incurred medical condition(s) which have been determined to disqualify him or her from further military service and consequently prematurely ends their career. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service; or which did not cause or contribute to the termination of their military career. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

l. It is the opinion of the ARBA medical advisor that a referral of her case to the Disability Evaluation System is not warranted.

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. Upon review of the applicant's request, available military records and medical review, the Board concurred with the advising opinion of the ARBA medical advisor that a referral of her case to the Disability Evaluation System is not warranted. Furthermore, the record does not support a finding that any medical condition materially impaired the applicant's ability to reasonably perform the duties of his office, grade, rank, or rating prior to discharge.

2. The Board acknowledged the applicant's DD Form 214 and National Guard Bureau (NGB) Form 22 both reflect honorable service and a reentry code of "1," indicating full eligibility for continued service. The Board also noted the applicant's record is void of any evidence that any of the conditions rendered her medically unfit for duty at the time of separation. Specifically, her records do not contain a DA Form 3349 (Physical Profile) indicating a permanent profile, nor do they show a diagnosis of a condition that failed retention standards under Army Regulation 40-501, Chapter 3. Her Individual Medical Readiness documentation and Enlisted Record Brief both reflect a PULHES of 121111, indicating she was medically qualified for continued service. As such, there was no basis for referral to the Disability Evaluation System and relief was denied.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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. 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 Discharge Review Boards (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder (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 (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.

4. 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.

5. 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.

6. 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.

7. 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.

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 applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//