

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 December 2024

DOCKET NUMBER: AR20240005678

APPLICANT REQUESTS: correction of the reason for his discharge from the Army National Guard from "Medically Unfit for Retention" to "Disability."

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Card and Service Connection Disability 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 the entire reason for his discharge is precisely his service-connected disability, in line of duty. His medical unfitness was a direct result of his injury in line of duty. His VA Card clearly says, "service connected." He needs the same reflected on his DD Form 214 (Certificate of Release or Discharge from Active Duty) and NGB Form 22 (Report of Separation and Record of Service).
3. The applicant enlisted in [REDACTED] Army National Guard ([REDACTED] ARNG) in the rank of private/E-2 on 5 October 1998 and extended his enlistment by 2 months on 23 November 1998.
  - a. He entered active duty for training (ADT) on 19 May 1999 and completed training for award of military occupational specialty (MOS) 12B, Cannon Crewmember.
  - b. He was released from ADT on 28 August 1998 in accordance with chapter 4 of Army Regulation 635-200 (Personnel Separations) due to completion of his required active service. He completed 3 months and 10 days of active service, and his service is uncharacterized (it should be honorable).

c. On his release from ADT, he returned to the control of his State ARNG unit, Battery C, 1st Battalion, 148th Field Artillery, ■■■ ARNG.

d. On 15 February 2001, by memorandum to the Commanding General, the Adjutant, ■■■ ARNG stated that the request for medical evaluation is forwarded for review. The initial review concluded that this condition (mild pes planus) existed prior to training, and it is possible that the training aggravated the condition.

e. On 11 August 2001, ■■■ ARNG convened an MOS Medical Retention Board (MMRB) without the applicant as he had waived his right to appear before the board. All records, reports, and other pertinent documentation was reviewed.

(1) The MMRB carefully considered the evidence before it finds the applicant's physical condition and resultant limitations are incompatible with both basic soldering skills as well as the requirements for his MOS. Furthermore, continued service will only aggravate and accelerate his chronic medical condition. This is based on documentation from his Doctor and Podiatrist as well as exam and interview by the State Surgeon. It is determined that his severely fallen arches due to basic training rigors and poor footgear will increase if he continues service. He is unable to run, march, or traverse uneven ground.

(2) In view of the findings, the MMRB recommends that the applicant be medically discharged from the Idaho Army National Guard.

f. On 16 August 2001, ■■■ ARNG published Orders 432-004 ordering his discharge from the ARNG effective 14 July 2001.

g. The applicant was discharged from the ARNG on 14 July 2001. His NGB Form 22 shows he was discharged in accordance with paragraph 8-26j of National Guard Regulation (NGR) 600-200, Enlisted Personnel Management, by reason of being "Medically Unfit for Retention." He completed 2 years, 9 months, and 10 days of ARNG service.

4. On 30 April 2001, by letter to a Member of Congress, The Adjutant General stated that the applicant the enlisted in the ■■■ ARNG in October 1998. At the time, the Military Entrance Processing Station physician noted that he had asymptomatic mild pes planus 'fallen arches'. In the opinion of the physician, this finding was not significant enough to warrant his medical disqualification. In June 1999, while attending training, he was seen at the Medical Treatment Facility for plant fasciitis. The Health Service Section received a request for medical review of the applicant's medical condition in late February 2001.

5. The applicant is receiving VA service-connected disability compensation at 30%

6. 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 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 in essence requesting a referral to the Disability Evaluation System. He states:

“The correction is very simple. The language on my file says ‘medically unfit for retention’ as my discharge instead of ‘discharged for disability.’ Because the entire reason I was discharged was precisely for my service-connected disability in the line of duty. I had no one to advocate for the precise correct language in 2001. It’s a critically important difference. My ‘medical unfitness’ was a direct result of injuries in the line of duty.”

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His Report of Separation and Record of Service (NGB Form 22) shows he entered the Army National Guard on 5 October 1998 and received an honorable discharge from [REDACTED] Army National Guard ([REDACTED] ARNG) 14 July 2001 under authority provided in paragraph 8-26j(1) of NGR 600-200, Enlisted Personnel Management (1 March 1997): Medically unfit for retention per AR 40-501 (Standards of Medical Fitness).

d. A DD 214 in combination with Part II of his Personnel Qualification Record (DA form 2-1) shows the applicant entered active duty for one station unit training (OSUT) on 19 May 1999, completed basic combat training and 13B (Cannon Crewmember) advanced individual training (AIT), and was released from active duty on 28 August 1999.

e. The applicant underwent an MOS (military occupational specialty) Medical Review Board (MMRB) on 11 August 2001 and the Board found him unfit for retention for his severe pes planus (flat feet):

“FINDINGS: In the board proceedings concerning Private First Class [Applicant], the board carefully considered the evidence before it finds:

a. The soldier's physical condition and resultant limitations are incompatible with both basic soldering skills as well as the requirements for his MOS. Furthermore, continued service will only aggravate and accelerate his chronic medical condition.

b. This is based on documentation from his Doctor and Podiatrist as well as exam and interview by the State Surgeon. It is determined that his severely fallen arches due to basic training rigors and poor footgear will increase if he continues service. He is unable to run, march, or traverse uneven ground.

RECOMMENDATIONS': In view of the findings, the board recommends that Private [Applicant] be medically discharged from [REDACTED] Army National Guard.”

f. Orders published by the [REDACTED] ARNG show the applicant was honorably discharged from on 14 July 2001.

g. Though this condition was service connected by the VA in 2005 with a 10% rating, there is insufficient probative evidence the applicant's pre-service pes planus noted on his pre-entrance medical examination was either incurred during or permanently aggravated by his military Service.

h. The applicant graduated AIT in August 1999 and underwent his MMRB almost two years later. As a drilling member, a formal line of duty investigation would be required to find that there was no intervening non-duty related cause for his condition and it had been continuous (i.e. permanently service aggravated) since his graduation from AIT. However, additional documentation addressing this medical disqualifying condition was not in the supporting documentation, in MEDCHART, or uploaded into iPERMS, and his period of service predates the EMR. Thus, there is currently insufficient evidence upon which to base such an investigation and so he is currently ineligible for referral to the DES.

i. It is the opinion of the Agency Medical Advisor that a referral of his case to the Disability Evaluation System is not warranted.

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 recommendation outlined in the medical review, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's narrative reason for separation.

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.

3/17/2025

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. National Guard Regulation 600-200, Enlisted Personnel Management, in effect at the time, set forth the basic authority for the personnel management of enlisted personnel of the ARNG. Paragraph 8-26j (1) stated a Soldier would be discharged from the ARNG for being medically unfit for retention standards. It also stated commanders who suspected that a Soldier might not be medically qualified for retention would direct the Soldier to report for a complete medical examination.

3. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) states that when a commander or other proper authority believes that a Soldier not on extended active duty is unable to perform the duties of his or her grade or rank because of physical disability, the commander will refer the Soldier for medical evaluation according to Army Regulation 40-501 (Standards of Medical Fitness). Soldiers who sustain or aggravate physically unfitting disabilities must meet several line of duty criteria to be eligible to receive retirement and severance pay benefits. One of the criteria is that the disability must have been incurred or aggravated while the Soldier was entitled to basic pay or was the proximate cause of performing active duty or inactive duty training.

4. Army Regulation 635-8 (Separation Processing and Documents), currently in effect, prescribes policy and procedural guidance relating to transition management. Specifically, it references instruction related to the preparation of the DD Form 214. The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active-duty service at the time of release from active duty, retirement, or discharge.

a. Paragraph 5-1f states that a DD Form 214 will be prepared for Reserve Component (RC) Soldiers completing active duty that results in the award of an MOS, even when the active-duty period was less than 90 days (for example, completion of the advanced individual training component of ARNGUS Alternate Training Program or USAR Split Training Program).

b. Paragraph 5-6 states: "When a RC Soldier successfully completes initial active duty training the character of service is Honorable unless directed otherwise by the separation approval authority."

//NOTHING FOLLOWS//