

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 September 2025

DOCKET NUMBER: AR20240006713

APPLICANT REQUESTS, in effect: correction of his DD Form 214, Certificate of Release or Discharge from Active Duty, to show:

- he was discharged or retired due to a disability
- his service was characterized as honorable
- a video/telephone appearance before the Board

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

- DD Form 149, Application for Correction of Military Record
- Applicant's Cover Sheet and Statement
- U.S. Military Entrance Processing Command (USMEPCOM) Form, 27 June 2000
- Headquarters, Medical Activity memorandum, 28 August 2000
- Headquarters, Medical Activity memorandum, 20 October 2000
- DA Form 4187, Personnel Action, undated
- U.S. Army Field artillery School and Fort Sill Orders 026-0127, 26 January 2001
- DD Form 214, 30 January 2001
- Department of Veterans Affairs (VA) letter, 13 May 2002
- VA letter, 5 February 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, in effect:

a. He sustained injuries while participating in Basic Combat Training. He contends that he had no pre-existing injuries prior enlisting in the military. The physical examination he received at the MEPS shows he was eligible for enlistment, and he had a high level of physical fitness.

b. He further contends he sustained his injury during a 15-mile, night road march. He had marched about 11 miles, wearing a gas mask and he stepped into a hole about 12-15 inches deep with his left foot causing him to fall forward. He was wearing combat boots, and the hole was not wide enough for his boot to fall flush to the bottom of the hole. This caused the front of his boot to curl upward and he started to fall forward. He planted his rifle down to break his fall and held on with both of his hands. As he fell, his left leg, below his knee prevented him from falling on his face. This is probably when he broke his tibia. His rifle was slung in front of his chest. His right boot got completely bent forward on his fall at the toes of his boot fracturing some of his toes on his right foot.

c. When he tried to get up, with his foot still in the hole, his body turned around 180 degrees due to all the weight he was carrying on his back that had shifted (Alice Frame, large ruck sack, canteen, ammunition belt, fully load suspenders, full Summer and winter gear, five Meals Ready to Eat, gas mask, sleeping bag, field radio and three batteries) and he fell on his back. He landed with his head pointing North. He was in great pain in his toes, lower left leg, right knee, and lower back. He sustained an injury to his spine at the base of his skull and down his sciatic nerve where the rucksack frame hit him on the fall backwards. Two of his fellow Soldiers helped him get out of the hole and he marched for about another mile before not being able to go any further. He was transported back to the Troop Medical Clinic (TMC) and eventually sent to the Base Clinic three days later.

d. While at the TMC he received a bone scan which showed that he had a stress fracture in his left tibial plateau and the 2nd and 5th toes on his right foot were broken. He was placed on medical hold for the purpose of receiving physical therapy. He spent several weeks in physical therapy. After completing physical therapy he was sent back to Week 2 of BCT. He was in constant pain but he managed to completed BCT and was sent to Advanced Individual Training but failed to complete the course due to the injuries he sustained in BCT.

e. His command chose to discharged him without the benefit of a disability processing. He was just a junior Soldier, and he trusted his leaders to apply the proper Army regulation to evaluate his injuries. This was an error and an injustice. To this day he continues to have this pain that was caused from his initial fall into that hole while on a night 15-mile road march.

f. The VA has awarded him a disability rating of 30 percent for his service connected injuries.

3. The record shows that on 30 November 2001, the applicant underwent a physical examination for the purpose of enlistment in the U.S. Army. After a consultation with orthodontics, he was granted a waiver for a bone cyst, and ultimately found acceptable for military service.

4. On 1 June 2000, the applicant underwent a physical examination for the purpose on entering the military. He indicated he was in good health and was not taking any medication. The examining military medical professional found the applicant was qualified for enlistment. The applicant was also found qualified to attend Airborne training and perform Airborne duties.

5. The applicant enlisted in the Regular Army on 27 June 2000.

6. His military record is void of a separation package; however, his DD Form 214 shows he was discharged on 30 January 2001, under the provisions of Army Regulation 635-200, Personnel Separation-Enlisted Personnel, paragraph 5-11, failure to meet procurement medical fitness standards. His DD Form 214 also shows his service was uncharacterized.

7. The applicant provides:

a. A memorandum, 28 August 2000, Headquarters, Medical Activity, Fort Sill, OK. This memorandum states the applicant had a stress fractures of the left tibial plateau and right 2nd and 5th metatarsals diagnosed on 24 August 2000. His recovery program included physical therapy daily, follow-up every two weeks at the TMC, and nonsteroidal anti-inflammatory drugs. The estimated time for completion of rehabilitation was four to six weeks.

b. A memorandum, 20 October 2000, Headquarters, Medical Activity, Fort Sill, OK. The Office in Charge (OIC), TMC, recommended the applicant be returned to duty. The TMC OIC and Physical Therapy reviewed normal x-rays of the applicant's right foot and left tibias on 19 October 2000. As such, it was recommended that the applicant be returned to full duty.

c. A DA Form 4187, which reassigned the applicant from the Holdover Detachment, Fort Sill, OK to A Battery, 1st Battalion, 19th Field Artillery, Fort Sill, OK, with a reporting date of 3 November 2000.

d. Orders 026-0127, 26 January 2001, published by U.S. Army Field Artillery School and Fort Sill, OK assigned the applicant to the U.S. Army Transition Center, Fort Sill, OK, effective 30 January 2001.

e. VA correspondence which shows that the applicant's residual of left tibial stress fracture, tinnitus, and right foot fracture of 2nd and 5th metatarsals were found to be service-connected. He was awarded a combined disability rating of 30%.

8. AR 635-200, paragraph 5-11 states:

a. 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 or active duty training from initial entry training, may be separated. Such conditions must be discovered during the first six months of active duty. Such findings will result in an entrance physical standards board. This board must also be convened within the Soldier's first six months of active duty.

b. A character of service under honorable conditions is normally inappropriate for Soldiers separated under the provisions of this paragraph. Medical examinations are required for Soldiers being processed for separation under this paragraph.

9. The mere presence of impairment does not of itself justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the member reasonably may be expected to perform because of his or her office, rank, grade, or rating.

10. The Board should consider the applicant's overall record and provided statement in accordance with the published equity, injustice, or clemency determination guidance.

11. The ABCMR will decide cases on the evidence of record. It is not an investigative body. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires. Additionally, applicants may be represented by counsel at their own expense.

12. 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 in part:

"I was informed the reason for my discharge was pre-existing injuries, AR 635-200 PARA 5-11 and I should have been discharged under AR 635-40 (Disability Evaluation for Retention, Retirement, or Separation) by a MEB [medical evaluation board]. I attest to you I had no previous injuries in my life prior to my enlistment. I

was just an E-2 and trusted the authority over me that the Army Regs were justified as UNCHARACTTZED DISCHARGE regarding my inability to be fit for duty due to injuries I the field.”

c. The Record of Proceedings details the applicant’s military service and the circumstances of the case. His DD 214 shows he entered the regular Army on 27 June 2000 and received an uncharacterized discharge 30 January 2001 under provisions provided in paragraph 5-11 of AR 635-200, Active Duty Enlisted Administrative Separations (1 November 2000): Separation of personnel who did not meet procurement medical fitness standards.

d. Paragraph 5-11a of 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 AD [active duty] or ADT [active duty for training] for initial entry training, may be separated. Such conditions must be discovered during the first 6 months of AD. Such findings will result in an entrance physical standards board. This board must also be convened within the soldier's first 6 months of AD.

e. There are only two documents addressing the applicant’s medical condition and separation. A 28 August 2000 memorandum to his commander requested the applicant be placed in a physical training and rehabilitation program (PTRP) for stress fractures in his left tibia and right foot. It stated in part:

“PVT [Applicant]’s estimated time for complete rehabilitation is 4 to 6 weeks.

PVT [Applicant]’s expected return to his unit for completion of training is in 4 to 6 weeks from today’s date.

This date of return supersedes all other previous written profiles and includes recovery time.

Please allow this soldier the opportunity to rehabilitate at PTRP until he can complete all rehabilitation requirements.”

f. Now called the Warrior Training and Rehabilitation Program, or WTRP, the PTRP provides a modified basic combat training (BCT) and/or one station unit training (OSUT) environment designed to return Soldiers to regular initial military training programs with higher levels of motivation, fitness, training, and education than when they entered, while providing them the quality health care they need to rehabilitate their injuries. The results of this evaluation are unknown, and while she would appear to have been a

good candidate for the program, she may have declined it and instead opted to be separated rather than extend her time in basic combat training.

g. On 20 October 2000, a physician recommended the applicant be returned to full duty:

“1. DISCUSSION: PVT [Applicant] was sent to Holdover / PTRP for stress fractures of the 2ND AND 5TH right metatarsal on 24 AUG 2000. His estimated time for full recovery for this injury was 4-6 weeks. He was evaluated by physical therapy and myself and after review of normal x-rays of the right foot and left tibia on 19 OCT 00 we are in doubt of his original bone scan findings.

2. PLAN: Recommend that PVT [Applicant] be returned to duty. He has been given adequate time for healing, and physical training to be ready for full duty.

h. No additional medical documentation was submitted with the application and there are no encounters in the EMR. Neither his separation packet nor additional documents addressing his separation were submitted with the application or uploaded into iPERMS.

i. The applicant appears to have been referred to an entry physical standards board (EPSBD) for exercise stress fractures/injuries under provisions in paragraph 5-11 of AR 635-200. EPSBDs are convened IAW paragraph 7-12 of AR 40-400, Patient Administration. This process is for enlisted Soldiers who within their first 6 months of active service are found to have a preexisting condition or develop a condition which does not meet the enlistment standard in chapter 2 of AR 40-501, Standards of Medical Fitness, but does meet the chapter 3 retention standard of the same regulation. The fourth criterion for this process is that the preexisting condition was not permanently service aggravated.

j. Given his discharge under paragraph 5-11 of AR 635-200 as the separation authority, it must be concluded the board found his condition failed enlistment standards, had existed prior to service, was not permanently aggravated by his service, and was not compatible with continued service.

k. His healing stress injuries/fractures did not constitute a permanent disability IAW AR 635-40, Physical Evaluation for Retention, Retirement, or Separation. Given the nature of his injuries and the treatment thereof in a healthy individual, the healing injuries would be expected to heal once removed from the rigors of military training; and been quite unlikely to have gone on to fail the medical retention standards of chapter 3, AR 40-501 prior to her discharge. Thus, there was no cause for referral to the Disability Evaluation System.

l. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Through no fault of his own, the applicant developed a condition in his first six months of service which was incompatible with continued military service.

m. It is the opinion of the ARBA Medical Advisor that neither a change in her separation authority nor a referral of her case to the Disability Evaluation System is not warranted.

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 available documentation, the Board made the following findings and recommendation related to the requested relief:

- Discharged or retired due to a disability: DENY, based upon the findings and recommendations outlined above in the medical review
- Upgrade characterization of service to Honorable: DENY, based upon the short term of service completed by the applicant and the regulatory guidance related to separations INITIATED within the first 180 days of military service.

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.

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**X**

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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 Army Board for Correction of Military Records (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 (AR) 635-200, Personnel Separations-Enlisted Personnel, sets forth the basic authority for the separation of enlisted personnel.

a. The service of Soldiers in entry level status is normally described as uncharacterized. For Regular Army Soldiers, entry-level status is the first 180 days of continuous active duty or the first 180 days of continuous active duty following a break of more than 92 days of active military service.

b. Paragraph 5-3, Secretarial Plenary Authority, states separation under this paragraph is the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision applies, and early separation is clearly in the best interest of the Army. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated, memorandums.

c. Paragraph 5-11 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 or active duty

training from initial entry training, may be separated. Such conditions must be discovered during the first six months of active duty. Such findings will result in an entrance physical standards board. This board must also be convened within the Soldier's first six months of active duty. 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. Medical examinations are required for Soldiers being processed for separation under this paragraph.

3. AR 635-40, Personnel Separations-Physical Evaluation for Retention, Retirement, or Separation, establishes the Army Physical Disability Evaluation System (PDES) and sets forth the 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. It states that after establishing the fact that a Soldier is unfit because of a physical disability, and that the Soldier is entitled to benefits, the PEB must decide the percentage rating for each unfitting disability. The VASRD, as modified in the regulation, is used to establish this rating. This regulation states:

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 service.

b. The mere presence of impairment does not of itself justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the member reasonably may be expected to perform because of his or her office, rank, grade, or rating.

c. Rating disabilities which are neither unfitting nor contribute to the physical unfitness of a Soldier is prohibited.

d. 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.

e. 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.

- f. Permits for permanent retirement when the disability is rated at 30 percent or more under VASRD, or the Soldier has at least 20 years of active Federal service.
4. Title 10, U.S. Code, section 1203, provides for the physical disability separation with severance pay of a member who has less than 20 years of service and a disability rated at less than 30 percent.
5. Title 38, U.S. Code, section 1110, General - Basic Entitlement: 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.
6. Title 38, U.S. Code, section 1131, Peacetime Disability Compensation - Basic Entitlement: 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.
7. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.
- a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

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

9. AR 15-185, Boards, Commissions, and Committees-ABCMR prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR will decide cases on the evidence of record. It is not an investigative body. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires. Additionally, applicants may be represented by counsel at their own expense.

//NOTHING FOLLOWS//