

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 March 2025

DOCKET NUMBER: AR20240007714

APPLICANT REQUESTS:

- an upgrade of his uncharacterized service to honorable
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Standard Form (SF) 88 (Report of Medical Examination, 22 December 1988)
- SF 513 (Consultation Sheet), 5 September 1989
- DA form 3349 (Physical Profile), 4 September 1989
- DD Form 214 (Certificate of Release or Discharge from Active Duty), effective 16 October 1989

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 enlisted in the U.S. Army under the delayed entry program on 22 December 1988. He was examined by Dr. M_ F_ and determined to be physically fit to proceed on active duty. On 23 August 1989, Dr. M_ H_ approved his Airborne qualification and he received a qualified status for Airborne. On 14 September 1989, he was directed to proceed to main post for an examination due to injury in both knees and was diagnosed with Osgood Schlatter's disease in both knees and was discharged from the Army. He has since contacted the Department of Veterans Affairs (VA) and was informed there was no record of him serving which subsequently led him to the National Archives. He was notified of his separation status and is requesting an upgrade.
3. The applicant provides:

a. An SF 88 dated 22 December 1988 shows he was given a medical examination and found to be qualified for service in the Army and qualified for Airborne. His PULHES (the acronym used to address factors comprising the Military Physical Profile Serial System) was rated as "1-1-1-1-1-1," indicating he had no medically recorded deficiency related to his: physical capacity or stamina (P); upper extremities (U); lower extremities (L), hearing and ears (H); eyes (E); or psychological or psychiatric condition (S).

b. An SF 513 dated 8 September 1989 shows the applicant was at the troop medical clinic (TMC) on 5 September 1989 and was diagnosed with Osgood Schlatter disease.

c. A DD Form 3349 dated 14 September 1989 shows his PULHES was rated as "1-1-3-1-1-1," indicating he had a medically recorded deficiency related to his lower extremities and was placed on a permanent profile.

4. A review of the applicant's service records show:

a. On 22 December 1988 the applicant underwent a medical examination for the purpose of enlistment. The SF 88 shows the applicant was in good health and denied any significant health problems. The examining provider determined he was medically qualified for service.

b. On 23 August 1989 he enlisted in the Regular Army.

c. A DA Form 5181-R dated 5 September 1989 shows the applicant was seen at the TMC for his knee pain which showed signs of being swollen and discoloration. The doctor notes Osgood Schlatter's disease.

d. A DD Form 3349 dated 14 September 1989 shows he was placed on a permanent profile for his lower extremities (L), rated a (3), which signifies that the individual has one or more medical conditions or physical defects that may require significant limitations.

e. A DA Form 4707 (Entrance Physical Standards Board [EPSBD] Proceedings), dated 14 September 1989, shows the following:

(1) During his third week of basic training he was seen and evaluated and was found to have the following medical condition: Osgood-Schlatter disease of both knees.

(2) The evaluating physicians recommended that he be separated, and he did not meet the medical fitness standards for enlistment. The condition was determined to have existed prior to service (EPTS).

(3) The applicant agreed with the findings and recommendation and requested to be discharged without delay.

f. Orders Number 195-38, issued by Headquarters U.S. Army Infantry Center, Fort Benning GA on 11 October 1989 shows the applicant was reassigned to transition point for separation processing.

g. The applicant was discharged on 16 October 1989, under the provisions of Army Regulation 635-200, paragraph 5-11, by reason of failure to meet procurement medical fitness standards – no disability. His DD Form 214 shows he completed 1 month and 16 days of active service. His service was uncharacterized, with separation code JFT and reentry code RE-3. He was not awarded a military occupational specialty.

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

6. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

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 entrance on active duty, active duty for training, or initial entry training would be separated. 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.

8. In reaching its determination, the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

9. MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). The applicant requests discharge designation change from 'Uncharacterized' to 'Honorable'.

2. The ABCMR ROP summarized the applicant's record and circumstances surrounding the case. The applicant enlisted in the Army Reserve 22Dec1988 and entered active service 23Aug1989. He was discharged less than one month later on

16Oct1989 for failure to meet procurement medical fitness standards. He was discharged under provisions of AR 635-200, para 5-11. His service was designated as 'Uncharacterized'.

a. 22Dec1988 Report of Medical Examination (SF Form 88). This exam for enlistment showed normal lower extremities exam. He was deemed qualified for service. In addition, the exam was marked that he was airborne qualified. He denied 'trick or locked knee' during the accompanying Report of Medical History (SF Form 93).

b. ?Sep1989 Screening Note of Acute Care. The applicant complained of bilateral knee pain for 1 day. The pain started after a PT run. There had been no trauma in the past 72 hours. There was no swelling or discoloration in the joint area. ROM was painful (extension and flexion). There was tenderness to palpation below the knee. There was tenderness and swelling to the ATT (anterior tibial tuberosity). The provider suspected Osgood-Schlatter Disease.

c. 14Sep1989 Entrance Physical Standards Board (EPSBD Proceedings indicated that the applicant was first seen in the 3rd week of training with complaints of pain in both knees when running or when crawling in his knees. The note does not mention injury or trauma. Physical exam showed tenderness over both tibial tuberosities. X-rays revealed avulsion of anterior tibial tuberosities of both knees. He was diagnosed with Osgood-Schlatter Disease, Bilateral. He was recommended to separate under provisions of AR 635-200 para 5-11 for a condition not meeting medical fitness standards for enlistment of AR 40-501 chapter 2. The condition was considered to have existed prior to service (EPTS), and the condition had not been aggravated by his military service. He was given a permanent P3 profile for no running, marching or crawling.

d. 13Sep2024 Knee and Lower Leg DBQ. The history was noted that 3 weeks into training at Fort Benning, the applicant was seen for bilateral knee pain. He also provided the history that he played football and basketball as a youth. Diagnoses Degenerative Arthritis, Other Than Posttraumatic; and Osgood-Schlatter Disease

3. Summary/Opinion

a. JLV search revealed the applicant was not service connected by the VA. His available records showed first engagement with a VA facility in 2024. There were no available intervening treatment records for the knees between his discharge from service in 1989 and 2024.

b. The applicant's Osgood-Schlatter Disease was an overuse injury which

precluded completion of his military physical train-up activities. Overuse or stress injuries would be expected to heal without sequelae, with time and appropriate care and compliance to treatment. In general, these type injuries meet retention standards and are not considered to rise to the level of permanently disabling conditions to provide cause for medical disability discharge processing.

c. There was no indication in the applicant's statements or in the available records, that would lead one to reasonably conclude that the applicant experienced psychosis, MST, or catastrophic event; or performed an extreme act of heroism, while in the military that might warrant consideration for a change in characterization of service from 'Uncharacterized'.

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. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. Upon review of the applicant's petition, available military records and the medical review, the Board concurred with the advising opine finding that neither the applicant's statements nor the available records provide a basis to reasonably conclude he suffered from psychosis, MST, or a catastrophic event, or engaged in extraordinary heroism that would justify altering his characterization of service from "Uncharacterized."

2. The Board determined there is insufficient evidence to support the applicant's contentions upgrade of his uncharacterized service to honorable. The Board acknowledged the applicant's enlistment under the delayed entry program, his initial qualification for Airborne, and his subsequent medical evaluation during basic training. However, the record clearly shows that within three weeks of initial entry training he was diagnosed with a preexisting knee condition, determined not to meet procurement medical fitness standards, and processed for separation under Army Regulation 635-200, paragraph 5-11. The Board noted, by regulation, Soldiers separated prior to completing 180 days of active duty service, or when separation action is initiated within that period, will receive an uncharacterized discharge. The applicant completed only 1 month and 16 days of active service and did not earn a military occupational specialty. His DD Form 214 properly reflects an uncharacterized entry-level separation. While the Board recognizes the applicant's frustration with the administrative consequences of this status, there is no error or injustice in the characterization of his service. His

separation was appropriate and in accordance with governing regulations. Therefore, relief is denied.

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.

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. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

3. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. 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. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A characterization of under honorable conditions may be issued only when the reason for the Soldier's separation specifically allows such characterization.

c. A separation would be described as entry level with uncharacterized service if processing was initiated while a Soldier was in an entry-level status, except when:

(1) a discharge under other than honorable conditions was authorized, due to the reason for separation and was warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, determined a characterization of service as honorable was clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization was authorized when the Soldier was separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

d. Paragraph 5-11 (Separation of Personnel who did not Meet Procurement Medical Fitness Standards) provides that 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 entrance on active duty, active duty for training, or initial entry training would be separated. Medical proceeding, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within six months of the Soldier's initial entrance on active duty, that the condition would have permanently or temporarily disqualified the Soldier for entry into military service had it been detected at that time, and the medical condition did not disqualify the Soldier from retention in the service under the provisions of Army Regulation 40-501(Standards of Medical Fitness).

e. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

4. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NR) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

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.

5. Section 1556 of Title 10, United States Code, 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//