ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 24 March 2025

DOCKET NUMBER: AR20240007804

APPLICANT REQUESTS: reconsideration of his prior request for physical disability retirement in lieu of administrative discharge due to expiration term of service (ETS)

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

- DD Form 149 (Application for Correction of Military Record)
- self-authored statement
- DA Form 2166-4 (Enlisted Efficiency Report), 13 December 1972
- DA Form 2796 (Disposition Form),7 January 1974
- Commander in Chief, U.S. Army Europe (CINCUSAREUR) memorandum, 10 January 1974
- DA Form 2166-4, 18 January 1974
- 20 pages of service medical records, 1972 – 1974
- 20 pages of Department of Veterans Affairs (VA) and civilian medical records, 1975 – 1988
- VA letter, 13 October 1983
- The Ohio State University letter, 21 February 1985
- excerpt Army Regulation 40-501 (Standards of Medical Fitness)
- excerpt Department of Defense Instruction (DODI) 6130.03, Volume 1 (Medical Standards for Military Service: Appointment, Enlistment, or Induction)
- Wikipedia article, “Armed Forces Health Longitudinal Technology Application” [AHLTA]

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20230003007 on 26 October 2023.

2. The applicant states:

a. He is requesting reconsideration of the previous denial of his request for disability retirement based on new and material evidence from his service medical records. He takes issue with multiple portions of the prior Record of Proceedings. Page 1 shows his claim was not filed in a timely manner, within a 3-year timeframe), but in the interest of justice his failure to timely file was waived.

b. While stationed at Fliegerhorst Kaserne, in Hanau, Germany, he began to have abdominal cramping, serve gastritis, blood in his stools, and painful bowels. He informed his first sergeant (1SG) and reported to sick call. After medical testing he was diagnosed with ulcerative colitis. The severity of the condition caused drastic weight loss, anemia, and resulted in his hospitalization. The condition made it impossible to work in his Military Occupational Specialty (MOS) 63B (Wheel Vehicle Mechanic).

c. He was hospitalized at the 97th Army General Hospital in Frankfurt, Germany, yet the Record of Proceedings on page 5 does not go into any details of the findings of the military electronic medical records the Board stated it reviewed, which would describe his condition at the time of hospitalization, to include the severity of the condition and the methods of treatment, including discharge instructions and medication upon release back to his unit.

d. He was not in remission upon release from the 97th General Hospital and was placed on light duty outside of his MOS, which stayed in effect until his denial of reenlistment and transfer back to the States in January 1974, under Project Transition. He has yet to receive a copy of his military medical records after several requests from the National Personnel Records Center (NPRC). At one point he was told the VA had charge of them, but his request to the VA for those records was unsuccessful. While going through his records at home he found some service medical records pertaining to his diagnosis and treatment for ulcerative colitis while stationed in Germany and has attached them to this request.

e. The Record of Proceedings also mentions his electronic military medical record, an electronic physical evaluation board, a Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, Interactive Personnel Electronic Records Management System (iPERMS), and AHLTA were reviewed with no explanation of what was found in the review, making it impossible to dispute the decision. With regard to AHLTA, this electronic health records system wasn't implemented until 2004, but this was 30 years after he was separated from the Army and none of his records from 1973 – 1974 could have possibly even been reviewed from this system.

f. The Record of Proceedings on page 6 also states that his denial of reenlistment was undated, but that is not true if you see the attached highlighted document. The date gives a timeline from the date he was diagnosed with ulcerative colitis to the date he was denied reenlistment, leading him to believe it was his incurable ulcerative colitis, which was not only a bar to reenlistment, but also a bar to retention, per DODI 6130.03, Volume 1.

g. He strongly feels his diagnosis of ulcerative colitis led to his command's directive to deny him reenlistment under the guise of the Qualitative Management Program, rather than medically retiring him due to ulcerative colitis. His Enlisted Efficiency Reports from 1972 and 1974, have been included, where it can be seen his quality of service could have in no way warranted a bar to reenlistment under qualitative screening. Neither form shows he was denied continued active duty for his performance.

h. The reason for his reenlistment denial had to be medical. His Fliegerhorst Kaserne medical records with a Proctology Report, diagnosing him with ulcerative colitis on 23 May 1973, shows this was approximately 86 days prior to being barred from reenlistment. Had he been referred to a Medical Evaluation Board (MEB) and a Physical Evaluation Board (PEB), he more likely than not would have been eligible for disability retirement, or at least he would have been placed on the Temporary Disability Retired List (TDRL). Ulcerative colitis is a permanent and incurable medical condition, which shortly after his diagnosis landed him in the hospital with serious symptoms, including extreme weight loss, abdominal cramps, gastritis, anemia with bleeding from the rectus, and painful diarrhea up to 6 times per day.

i. Within 1 year of his 13 June 1974 discharge from the Army, he was granted service-connected compensation through the VA for this condition. Page 5 of the Record of Proceedings states the Army only rates conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. Army regulatory guidance bars a person from both enlistment and retention in the Army due to ulcerative colitis.

3. A DD Form 4 (Enlistment Contract – Armed Forces of the United States) shows the applicant initially enlisted in the Regular Army on 5 December 1967.

4. An Enlisted Personnel Data sheet shows the applicant served in Vietnam from February 1969 through August 1970.

5. A DD Form 214 (Report of Separation from Active Duty) shows the applicant was honorably released from active duty on 15 August 1970, due to early separation of overseas returnees and was transferred to the U.S Army Reserve (USAR) Control

Group (Reinforcement). He was credited with 2 years, 8 months, and 11 days of net active service.

6. A DD Form 4 shows the applicant again enlisted in the Regular Army on 1 June 1971.

7. A DA Form 2166-4, 13 December 1972, provides the applicant's ratings on his Enlisted Efficiency Report. It contains no negative comments and the Advancement Potential section does not reflect he should be denied continued active duty.

8. The applicant provided 20 pages of service medical records, dated between 1972 – 1974, all of which have been provided in full to the Board for review, and in pertinent part show his diagnosis and treatment of ulcerative colitis between May 1973 and May 1974. These service medical records do not contain a DA Form 3349 (Physical Profile).

9. An undated Headquarters, 3rd Armored Division memorandum advised the applicant that at the direction of Headquarters, Department of the Army, a Qualitative Management Review Board convened and after a comprehensive and impartial review of his military records, it was determined his further reenlistment should be denied. He was encouraged to participate in Project Transition to assist him in his transition to civilian life.

10. On 13 August 1973, the applicant acknowledged notification from 3rd Armored Division of his denial of reenlistment under the Qualitative management Program and understood this action was final, with no opportunity for rebuttal.

11. A DA Form 2496 shows on 7 January 1974, the applicant requested release from military duties to attend a Continental U.S. (CONUS) Project Transition Training Course, at Fort Knox, KY, from 4 February 1974 -through 3 May 1974. His immediate commander signed the form on 7 January 1974, recommending approval and indicating the applicant's conduct and efficiency were excellent.

12. A CINCUSAREUR memorandum, 10 January 1974, shows the applicant's request for early release from his overseas assignment in Germany for the purpose of participation in Project Transition at Fort Knox, KY, was approved.

13. A second DA Form 2166-4, 18 January 1974, provides the applicant's Enlisted Efficiency Report rating, shows no negative comments, and the Advancement Potential section does not reflect he should be denied continued active duty.

14. 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.

15. A Standard Form 88 (Report of Medical Examination) shows the applicant underwent medical examination on 13 May 1974, for the purpose of ETS separation and was found qualified for separation with a PULHES of 111111. His history of ulcerative colitis is referenced on the form.

16. A DA Form 3082-R (Statement of Medical Condition), 13 June 1974, shows the applicant's last separation examination was on 17 May 1974 and to the best of his knowledge, there had been no change in his medical condition.

17. A second DD Form 214 shows the applicant was honorably discharged on 13 June 1974, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), due to ETS. He was credited with 3 years and 13 days of net active service this period and 2 years, 8 months, and 11 days of prior active service.

18. The applicant provided 20 pages of VA and civilian medical records, dated 1975 - 1988, which have been provided in full to the Board for review, and further reflect his diagnosis and treatment of ulcerative colitis.

19. A letter from The Ohio State University, 21 February 1985, shows the applicant was unable to work since November 1984 due to ulcerative colitis.

20. In a not entirely unrelated case, the applicant applied to the ABCMR in June 1989, requesting a change to his Reentry (RE) Code to allow his enlistment in the U.S. Army National Guard. On his application to the ABCMR, the applicant indicated he was denied reenlistment because he did not pass his pro-pay test, which he thought was inaccurate.

21. The applicant was advised that his RE code was correct as shown on his DD Form 214, as he was denied reenlistment by the DA Screening/Selection Board in August 1973 and a waiver of qualitative screening is required prior to enlistment. He was further advised he did not exhaust all administrative remedies and was advised to request a waiver through his recruiter.

22. The applicant's records contain two DD Forms 215 (Correction to DD Form 214), which corrected his name and added the Combat Infantryman Badge to his DD Form 214 covering the period ending 13 June 1974.

23. A printout of VA Rated Disabilities, presumably pertaining to the applicant although his name is not on the document, shows the applicant has a 100 percent service-connected rating for ileostomy, total colectomy with rectal pain and history of ulcerative colitis, effective 14 December 1984.

24. A VA letter, 12 December 2022, confirms the applicant has a 100 percent service-connected disability rating and is considered totally and permanently disabled due to his service-connected disability effective 14 December 1984.

25. The applicant previously applied to the ABCMR in December 2022, requesting physical disability retirement due to ulcerative colitis.

26. The entire prior Record of Proceedings has been provided to the Board for review, which includes the medical review. On 26 October 2023, The Board denied the applicant's request, determining the evidence presented does not demonstrate the existence of a probable error or injustice and the overall merits of the case are insufficient as a basis for correction of his records.

27. Title 38, USC, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

28. 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 previous ABCMR denial (4 September 2019; AR20170015060), the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant has applied to the ABCMR requesting reconsideration of their prior denial of his request for a referral to the Disability Evaluation System. He states:

> "My Germany Service Personnel and Medical Records were not mentioned in your decision which would verify my diagnosis of Ulcerative Colitis. I am now providing New and Material Evidence to support my request for Disability Retirement (Service Medical and Personnel Records) discovered in my home files."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His DD 214 for the period of Service under consideration shows he entered the regular Army on 1 June 1971 and received an honorable discharge on 13 June 1974 under the provisions provided paragraph 2-18 of AR 635-200, Personnel Management – Enlisted Personnel (10 April 1974): Expiration of term of service.

d. The separation program designator SPD 201 denotes "Enlisted Personnel - Expiration of term of service." A Soldier may have a reenlistment code of 3C for a number or reasons. In the U.S. Army, a 3C code indicates that the individual requires a waiver for reenlistment. This might be due to specific disqualifications or circumstances related to the individual's previous service.

e. This request was previously denied by the ABCMR on 26 October 2023 (AR20230003007). Rather than repeat their findings here, the board is referred to the record of proceedings and medical advisory opinion for that case. This review will concentrate on the new evidence submitted by the applicant.

f. The applicant's period of service predates electronic medical and personnel records systems.

g. New medical documentation shows the applicant was seen on several occasions in May 1973 for abdominal cramping and diarrhea sometimes accompanied by blood. He was evaluated by proctology. Their working diagnosis was colitis granulomatous. They referred him to gastroenterology and ordered barium studies. These studies, including a proctoscope, were normal.

h. Gastroenterology evaluated the applicant on 2 August 1973 and their impressing was: "Status post bout of diarrhea, rectal bleeding - ? Early inflammatory bowel disease." They ordered some labs, recommended no further work-up, and directed the applicant to return as needed if symptoms return.
Symptoms returned in October 1973 and he was diagnosed with ulcerative colitis and he was started on treatment.

i. On 14 December 1973, the condition was noted to be in remission.

j. The applicant underwent a pre-separation medical examination on 13 May 1974. The provider documented a normal examination. He noted the applicant's history of ulcerative colitis and that it was in remission.

k. Paragraph 3-5 of AR 40-501, Standards of Medical Fitness (1 December 1983, the closest available with the applicable paragraph), states the ulcerative colitis fails medical retention standards except when responding well to treatment. As note above, his appears to have responded well to treatment and was in remission.

l. The post-service documentation from May 1975 to November 1984 appears to be from the VA for ulcerative colitis .

m. He states in his self-authored letter:

> "I strongly feel that my diagnosis of Ulcerative Colitis led to my commands directive to deny reenlistment ushering me out of the military under the guise of Qualitative Screening rather than retiring me due to Ulcerative Colitis."

n. In an undated memorandum, the applicant acknowledged he was being denied reenlistment as the result of the Qualitative Management Program:

> "I hereby acknowledge notification of the contents of letter, AETFAC-PA, DA, 3d Armored Division, SUBJ: Denial of Reenlistment – Qualitative Management Program, dated 8 August 1973. I further understand that the board decision is final and that there are no provisions for rebuttal or appeal of the board action."

o. The undated Denial of Reenlist memorandum to the applicant did not directly identify the reason for the separation, simply stating:

> "Qualitative screening is one of several management programs initiated by Department of the Army to balance personnel assets with personnel strength authorizations. The Army recognizes and appreciates your service and contribution to the Army and our country."

p. There is insufficient probative medical evidence the applicant's ulcerative colitis 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.

q. Review of his records in JLV shows he has been awarded numerous VA service-connected disability ratings. This includes several related to his gastrointestinal, the first of which was awarded in 1984. However, the DES only compensates an individual for service incurred medical condition(s) which have been determined to disqualify him or her from further military service. 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.

r. It is the opinion of the ARBA Medical Advisor that referral of the applicant's case to the DES 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
: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//
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. 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.

3. 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.

4. 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.

5. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel. Is provides for the honorable separation of enlisted personnel upon expiration of term of service (ETS).

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//