

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 February 2024

DOCKET NUMBER: AR20240008012

APPLICANT REQUESTS: change his uncharacterized discharge to honorable or general.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record)

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, he was separated due to not meeting medical procurement standards.
3. The applicant enlisted in the U.S. Army Reserve for 8 years on 25 August 1997. He entered active duty for training (ADT) on 10 September 1997. He was assigned to Fort Knox, KY for initial entry training.
4. His records contain a DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings), dated 9 February 1998. This form shows after careful consideration of the medical records, laboratory, findings, and medical examinations, the EPSBD found the service member was medically unfit for appointment or enlistment in accordance with current medical fitness standards and in the opinion of the evaluating physicians he had an EPTS (existed prior to service) condition.
  - a. History: This 21-year-old male has been in the Army approximately five months and was complaining of persistent back pain. He states he has not been able to pass the APFT (Army Physical Fitness Test) due to his back pain. He related no specific problems with his back for which he sought medical attention prior to military service.
  - b. Physical examination: General Examination: 21-year-old male in no acute distress. Lumbar spine examination: examination specific to the lumbar spine reveals no

specific tenderness. Range of motion is within normal limits. Straight leg raises were negative. Deep tendon reflexes were 2+ and symmetrical. No decreased sensation to light touch. Routine radiographs revealed some irregularities at the L5-S1 level. There appears to be some degenerative changes in the facets at that level. Obliques reveal some irregularity of the pars interarticularis, revealing a spondylolysis unilaterally on the right.

c. Diagnosis: Low back pain with spondylolysis at L5, symptomatic.

d. Recommendation: The patient does not meet enlistment standards in accordance with Army Regulation (AR) 40-501 (Standards of Medical Fitness), Chapter 2-36k. A waiver is not recommended.

5. The medical approving authority approved the findings of the board and forwarded the EPSBD to the applicant's commander for disposition.

a. On 12 February 1998, the applicant was counseled by his immediate commander who informed him of the medical findings of the EPSBD and of the proposed separation under the provisions of AR 635-200 (Personnel Separations), paragraph 5-11, based on separation of personnel who did not meet procurement medical fitness standards.

b. The applicant acknowledged that he was informed of the medical findings. He also acknowledged he understood that legal advice of an attorney employed by the Army was available to him and that he could consult with civilian counsel at his own expense. He further acknowledged he understood he could request to be discharged from the Army without delay or request retention on active duty. After counseling, the applicant concurred with the proceedings and requested to be discharged from the Army without delay.

c. The applicant's immediate commander recommended the applicant be discharged. On 4 March 1998, the separation authority approved the applicant's separation from the Army under the provisions of AR 635-200, paragraph 5-11, by reason of failure to meet procurement medical fitness standards.

d. On 4 March 1998, Headquarters, U.S. Army Armor Center, Fort Knox published orders reassigning him to the U.S. Army Transition Center for separation processing, effective 9 March 1998.

e. The applicant was discharged on 9 March 1998. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under the provisions of AR 635-200, paragraph 5-11. The narrative reason for separation shows "FAILURE TO MEET PROCUREMENT MEDICAL FITNESS STANDARDS" and his service was uncharacterized, Separation Code JFW and Reentry Code 3. He completed 6 months of

active service. He did not complete training and was not awarded a military occupational specialty.

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

7. By regulation (AR 600-200), the characterization of service for Soldiers separated under paragraph 5-11 of AR 635-200 will normally be honorable but will be uncharacterized if the Soldier has not completed more than 180 days of creditable continuous active-duty service prior to initiation of separation action.

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 unfit conditions resulting in the applicant's separation existing prior to entry into military service, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's characterization of service.

An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:X	:X	:X	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 635-200 (Personnel Separations, Enlisted Personnel) sets forth the basic authority for separation of enlisted personnel.

a. Paragraph 5-11 specifically provides that Soldiers who are 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, active duty for training, or initial entry training will be separated. A medical proceeding conducted by an EPSBD, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within 6 months of the Soldier's initial entrance on active duty, the condition would have permanently or temporarily disqualified the Soldier for entry into the military service had it been detected at the time of enlistment, and the medical condition does not disqualify the Soldier from retention in the service under the provisions of AR 40-501, chapter 3. The characterization of service for Soldiers separated under this provision will normally be honorable but will be uncharacterized if the Soldier has not completed more than 180 days of creditable continuous active-duty service prior to initiation of separation action.

b. An uncharacterized separation is an entry-level separation. A separation will be described as an entry-level separation if processing is initiated while a member is in

entry-level status, except when characterization under other than honorable conditions is authorized by the reason for separation and is warranted by the circumstances of the case or when the Secretary of the Army, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty.

c. Paragraph 3-7a states that 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.

3. Army Regulation 40-501 (Standards of Medical Fitness) (30 August 1995) governs medical fitness standards for enlistment, induction, appointment, retention, and separation. Chapter 2 provides the physical standards for enlistment/induction. This chapter prescribes the medical conditions and physical defects that are causes for rejection for appointment, enlistment, and induction into military service. Unless otherwise stipulated, the conditions listed in this chapter are those that would be disqualifying by virtue of current diagnosis, or for which the candidate has a verified past medical history. Other standards may be prescribed by DOD in the event of mobilization or a national emergency. Paragraph 3-36 (Spine and sacroiliac joints), sub-paragraph (k) refers to spondylolysis that is asymptomatic or likely to interfere with performance of duty or limit assignments even if successfully fused.

//NOTHING FOLLOWS//