

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 February 2025

DOCKET NUMBER: AR20240008095

APPLICANT REQUESTS: reconsideration of his previous requests for the correction of his service records to show a medical separation with compensation and rank advancement.

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

- DD Form 149 (Application for Correction of Military Record)
- Army Board for Correction of Military Records (ABCMR) letter
- Medical Records
- Unknown Department of Veterans Affairs (VA) document

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Numbers:

- AR20080001914, 15 April 2008
- AR2008010956, 2 October 2008
- AR20180011773, 17 July 2020
- AR20210010644, 13 September 2022

Based on a preponderance of the evidence, the Boards concurred with the medical advisory opinion findings that the Medical Evaluation Board (MEB) narrative summary, it was indicated that the applicant's visual acuity did not correct to better than 20/200 in either eye. This visual acuity failed to meet medical retention standards in accordance with Army Regulation 40-501 (Medical Services – Standards of Medical Fitness), chapter 3 (Medical Fitness Standards for Retention, Promotion and Separation Including Retirement). There was no documentation of eye or head injury while in the service. The applicant was discharged for Refractive Error of Both Eyes and Amblyopia of Both Eyes. Both of these conditions existed prior to his military service and available records were insufficient to prove a service aggravation. The Board determined a referral to the Integrated Disability Evaluation System for consideration of a medical separation was not warranted. After reviewing his applications, all supporting

documents, and the evidence found within his service record, the Board found that relief was not warranted.

2. The applicant states he provides new medical evidence which will verify his vision field test to refute the Army's previous finding of his vision condition to be a pre-existing condition which was a lifelong condition which wrongfully discharged him from the Army. He requests the reconsideration of his previous requests for the correction of his service records to show a medical separation with compensation and advancement in rank to the grade of E5 which he should have received in the heat of the Vietnam War. He voluntarily enlisted shortly after the death of his father in 1967 to send allotments to his grieving mother to assist her in the time of a financial loss of her husband's income.

3. A review of the applicant's service record shows:

a. On 31 July 1967, the applicant enlisted in the Regular Army in the rank of private (PVT)/E1.

b. DA Form 20 (Enlisted Qualification Record) shows in item 33 (Appointments and Reductions) the applicant was advanced to the rank of PVT/E2 effective 31 November 1967.

b. On 4 December 1967, the applicant applied for an expeditious discharge by reason of physical disability- existed prior to service. He was informed that the findings of the medical board he was unfit for retention in the military service by reason of physical disability which was found to have existed prior to his enlistment and was neither incident to nor aggravated by his military service. He exercised his right not to elect a hearing.

c. On 8 December 1967, the Physical Evaluation Board found the applicant to be physically unfit for retention and the disability was not:

- incurred while entitled to receive basic pay
- the proximate result of the performance of military service
- due to misconduct, or willful neglect, or incurred during a period of unauthorized absence
- a direct result of armed conflict
- caused by an instrumentality of war

The board recommended the applicant be separated under provision of AR 635-40, chapter 9. The commanding officer of Ireland Army Hospital requested the applicant be separated based on the approved board findings.

d. On 21 December 1967, the applicant was honorably discharged from active duty. DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows the applicant completed 4-months and 20-days of active service. It also shows in:

- item 5a (Grade, Rate or Rank): PVT
- item 5b (Pay Grade): E2
- item 6 (Date of Rank): 31 November 1967
- item 30 (Remarks): severance pay not authorized

e. Four pages of medical records; the narrative summary shows the basic trainee (the applicant) stated that he had poor vision in both eyes of a life-long duration despite any effort to correct this by refractive means. He also stated that in the past, despite any prescription glasses he had worn, his vision had been poor binocularly. He never has any ophthalmic surgery, trauma or illness known. He further stated that due to this particular problem he had been rejected and classified as 4-F on two occasions in the past. These documents are available for review of the Board.

4. The applicant provides:

a. ABCMR letter dated 30 April 2021 which notified the applicant he request for the reconsideration of his previous requests was denied by the Board.

b. Twenty-one pages of medical records which is available for the Board to review. A VA report states the applicant had a history of trauma to his Oculus Dexter (OD), which is Latin for "right eye" in 1967, he reported an altercation which resulted in hospitalization and temporary blindness of the OD. It may be that there is a mild optic neuropathy in the OD secondary to glaucoma and a mild traumatic optic neuropathy in the OD was also possible.

c. VA Form 21-4138 from D-C- dated 12 December 2011 which stated on or about 23 October 1967, he witnessed an incident that involved the applicant and two trainees at Fort Knox, KY. The two trainees began to fight and the applicant separated them by placing himself between them. One of the trainees pick-up a M-14 rifle and struck the applicant on the right side of his head which rendered him unconscious. The applicant was evacuated to the dispensary and then to the hospital.

d. Unknown VA document shows the applicant sustain a right eye injury in October 1967. The claimed primary disability was service connected. He is service connected for migraine headaches.

MEDICAL REVIEW:

On 17 July 2020, prior to the adjudication of the applicant's previous case, the Board requested a medical review. The Army Review Boards Agency senior medical advisor reviewed his case and determined that the conditions which were found to have existed prior to service and not permanently aggravated by military service are not compensable. The applicant clearly entered the Army with vision well below standards and which was incompatible with military service. Based on the information currently available, it was the opinion of the ARBA medical advisor that referral of his case to the Disability Evaluation Board was not warranted.

BOARD DISCUSSION:

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 review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the medical review, the Board concurred with the advising official finding that the applicant entered the Army with vision below standards which were incompatible with military service. The Board determined the applicant's condition existed prior to service. Based on this, the Board determined referral of his case to the Disability Evaluation System (DES) is not warranted and a medical separation with compensation is also not warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>
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:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XX	:XX	:XX	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. Army Regulation (AR) 635-40 (Physical Evaluation for Retention, Retirement or Separation) Chapter 9 (Expeditions Discharge for Disabilities Existing Prior to Service) in effect at the time provides that when an enlisted member on active duty is believed to be incapable of performing his duties with reasonable effectiveness because of a disability which is believed not to have been incurred or aggravated during any period of active service, the commander concerned will initiate action to request a medical examination.
 - a. When a medical board recommends that a member be separated because of medical unfitness which existed prior to entry into military service or which was incurred when the member was not entitled to basic pay and which has not been aggravated by such service, the medical treatment facility commander will cause the member to be offered the opportunity for expeditious separation, if he is otherwise eligible.
 - b. Any member of the Army discharged under the provisions of this chapter may not be considered for any disability benefits administered by the Army. He may, however, and should apply for compensation, pension, or other benefits administered by the Veterans Administration. Entitlement to these benefits will be determined by the Veterans Administration.
2. AR 40-501 (Standards of Medical Fitness) Chapter 3, paragraph 3-16 (Vision) in effect at that time provides that visual acuity which cannot be corrected to at least 20/40 in the better eye or visual acuity in the poorer eye has been reduced to light perception or less. Further noted concerning a person's field of vision is the presence of bilateral concentric constriction of the fields to less than 20 degrees. Normally members with conditions listed within this chapter will be considered unfit by reason of physical disability.
 - a. A single impairment or the combined effect of two or more impairments normally makes an individual unfit because of physical disability if the individual is precluded from a reasonable fulfillment of the purpose of his employment in the military service.
 - b. An individual who is accepted for and enters the military service is presumed to be in sound physical condition except for those conditions and abnormalities recorded in his procurement medical records. However, this presumption may be overcome by conclusive evidence that an impairment was incurred while the individual was not entitled to receive basic pay. Likewise, the presumption that an increase in severity of such an impairment is the result of service, must be overcome by conclusive evidence.
3. AR 635-40A (Personnel Separations) in effect at that time provides that Title 10, United States Code, chapter 61, prescribes that any member of the uniformed services

found to be unfit to perform the duties of his office, rank, grade, or rating by reason of physical disability and who otherwise qualifies as herein after provided may be retired or separated subject to the provisions of this title. When it is determined that the member has incurred a physical disability which renders him unfit and which is determined to have existed prior to, his term of active service and not permanently aggravated as a result of active service, such member will be discharged without entitlement to any benefits provided by these regulations.

4. Title 38 United States Code (USC), section 1110 (General – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in the line of duty, or for aggravation of a pre-existing injury suffered or disease contracted in the line of duty, in the active military 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 pre-existed injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability was a result of the veteran's own willful misconduct or abuse or alcohol or drugs.

5. Title 38 USC, section 1131 (Peacetime Disability Compensation – Basic Entitlement) states for a disability resulting from personal injury suffered or disease contracted in the line of duty, or for aggravation of a pre-existing injury suffered or disease contracted in the line of duty, in the active military, 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 pre-existed injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability was a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

//NOTHING FOLLOWS//