

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 April 2025

DOCKET NUMBER: AR20240009171

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show he was medically discharged instead of by reason of "condition, not a disability."

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Letter, Department of Veterans Affairs (VA), 23 September 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, he feels that his under honorable conditions (general) discharge is unfair since he has multiple awards for good conduct. When he was being discharged, his leadership told him that they wouldn't do a medical board because it would have kept him past his expiration term of service date, so he feels he was lied to and that he deserves an honorable discharge since he was discharged for medical reasons. They lied to him and on his DD Form 214 stating that he was discharged for reasons other than a disability. As soon as he was discharged, he was awarded 70% disability and is now rated at 90%.
3. The applicant enlisted in the Regular Army on 19 August 2019. He served in military occupational specialty 11B (Infantryman). The highest rank/grade he attained while on active duty was private first class (PFC)/E-3; however, it appears he was demoted to private/E-2 on 2 March 2021.
4. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding his discharge process. However, his application notes he received non-judicial punishment under the provisions of Article 15, Uniform Code of

Military Justice for threatening a noncommissioned officer. Additionally, his record contains a DD Form 214 that identifies the authority and reason for his discharge. The DD Form 214 shows on 8 March 2022, he received an under honorable conditions (general) discharge in accordance with Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), by reason of a condition, not a disability. He completed 2 year, 6 months, and 20 days of net active service. He was assigned a separation code of "JFV." The form further shows he was awarded or authorized the:

- Army Achievement Medal (2nd Award)
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Army Service Ribbon
- Air Assault Badge

5. The applicant provides a letter from the VA dated 23 September 2024, which shows he receives service-connected disability compensation at 90% for:

- Degenerative arthritis, right hip, limitation of extension
- Lateral collateral ligament sprain, medial tibial stress syndrome, right ankle
- Degenerative arthritis, right hip, limitation of abduction, adduction
- Degenerative arthritis, right hip, painful motion
- Knee strain, right with shin splints
- Headache unspecified
- Adjustment disorder with mixed anxiety and depressive disorder
- Radiculopathy left lower extremity (sciatic nerve)
- Cervical strain
- Thoracolumbar strain
- Right knee scar
- Tinnitus
- Right elbow scar status post burn
- Right simple renal cyst

6. The Army and the VA are independent of one another. A diagnosis of a medical condition and/or a subsequent award of a rating by another agency does not establish an error by the Army. Operating under different laws and policies, the VA does not have the authority or the responsibility to determine medical unfitness for military service. The VA may award ratings because a medical condition is related to service (service connected) and affects the individual's civilian employability. The VA has the responsibility and jurisdiction to recognize any changes in a condition over time by adjusting a disability rating.

7. 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/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 an upgrade his discharge and that he be permanently retired for physical disability. He states in part:

I feel that under honorable is unfair as I have multiple awards for good conduct and as I was getting out my leadership told me that they wouldn't do a med board because it would've kept me past my ETS date so I feel I was lied to and that I deserve an honorable discharge due to the fact that I got out for medical reasons and they lied to me and on my DD214 stating that I got out for reasons other than a disability. As soon as I was discharged, I was awarded 70% disability and am now rated 90%."

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 19 August 2019 and was discharged under honorable conditions (general) on 8 March 2022 under the separation authority provided in paragraph 5-14 of AR 635-200, Active Duty Enlisted Administrative Separations (28 June 2021): Other designated physical or mental conditions

d. Paragraph 5-14 of AR 635-200:

"a. Excluding conditions appropriate for separation under paragraph 5 – 10, commanders specified in paragraph 1 – 20 may initiate separation under this paragraph on the basis of other physical or mental conditions not amounting to disability (see DoDI 1332.18, AR 40 – 501, and AR 635 – 40) that interfere with assignment to or performance of duty. Such physical or mental conditions may include, but are not limited to:

(1) Airsickness, motion, and/or travel sickness.

- (2) Phobic fear of air, sea, and submarine modes of transportation.
- (3) Attention-Deficit/Hyperactivity Disorder.
- (4) Sleepwalking.
- (5) Enuresis.
- (6) Adjustment Disorder (except Chronic Adjustment Disorder).
 - e. The EMR shows the applicant was seen on multiple occasions for low back pain. Plain radiographs and his MRI were negative.
 - f. The applicant underwent a separation examination on 7 September 2021 after which the provider wrote "No history or physical exam findings req. MED [medical evaluation board] or immediate intervention and cleared him for separation.
 - g. Neither the applicant's separation packed nor documents addressing his discharge were submitted with the application or uploaded into iPERMS. Thus, the reason(s) for his separation with an under honorable conditions discharge is unknown.
 - h. There is insufficient probative medical evidence the applicant had any additional duty incurred medical condition which would have 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.
JLV shows he has been awarded multiple VA service-connected disability ratings, including ratings for chronic adjustment disorder and migraine headaches. However, the DES only compensates an individual for permanent service incurred medical condition(s) which have been determined to disqualify him or her from further military service and consequently prematurely ends their career. 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.
 - i. Without knowledge of the reason for his separation and a separation examination which cleared him for separation, the ARBA medical advisor is unable to make a recommendation for referral of his case back to the DES.

BEHAVIORAL HEALTH REVIEW:

a. The applicant is applying to the ABCMR requesting a correction of his DD Form 214 to show he was medically discharged instead of by reason of "condition, not a disability." In effect, the applicant contends that his leadership did not support a medical board as it would have kept him past his expiration term of service date. Furthermore, he stated that as soon as he was discharged, he was awarded 70% service-connection through the VA, which has since been increased to 90%. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) the applicant enlisted in the Regular Army on 19 August 2019, 2) his record is void of a separation packet containing the specific facts and circumstances surrounding his discharge process. However, his application notes he received non-judicial punishment under the provisions of Article 15 for threatening a noncommissioned officer (NCO), 3) his DD Form 214 shows he was discharged on 08 March 2022 under the provisions of AR 635-200, under honorable conditions (general), by reason of "condition, not a disability," with a separation code of JFV and reentry code of '3.' He completed 2 years, 6 months, and 20 days of net active service.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. In-service medical records were available for review from 22 August 2019 through 18 January 2022. Review of records shows the applicant first presented to BH on 11 March 2021 due to problems with anxiety, reporting chest tightness, increased heart rate, and heavy breathing at night 4 to 5 times per week. It was documented that his symptoms started 2 months prior following a first reading of an Article 15 for a non-direct threat. It was documented that he did not report any other significant concerns. He was diagnosed with Anxiety Disorder, Unspecified with a rule out (R/O) of Adjustment Disorder. The applicant continued to follow-up with BH on approximately a monthly basis (at times twice per month) for supportive counseling through 04 August 2021. Throughout treatment the applicant reported problems due to concerns about his wife's mental health, his physical health, and occupational stressors/treatment by his chain of command. He was diagnosed with several psychosocial stressors (Other Symptoms and Signs Involving Emotional State; Occupational Problem; Occupational Stressors; Other Problems Related to Employment; and Problems with Employment). He was also diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood and Other Sleep Disorders. His BH provider documented on 04 August 2021 that he had been prescribed Celecoxib for pain, anxiety, and migraine headaches, and Elavil (antidepressant) at bedtime, which were managed by his primary care doctor, though he stopped taking the medications due to side effects. The provider also documented that

they discussed him being separated under a Medical Chapter 5-17 and not a BH Chapter 5-17 [Advisor's Note: now falls under AR 635-200, Chapter 5-14]. It was noted that the applicant expressed frustration due to not being able to get a diagnosis and understand what was going on with his back prior to being separated from the Army. The available documentation shows the applicant was consistently documented to meet retention standards IAW AR 40-501, Chapter 3 and did not require duty limitations for BH reasons (i.e., no BH profile was issued).

d. The applicant underwent a separation physical on 12 July 2021. The Report of Medical History shows he endorsed the following BH-related items: nervous trouble of any sort, frequent trouble sleeping, received counseling of any type, depression or excessive worry, and been evaluated or treated for a mental condition. His Report of Medical Examination shows psychiatric was marked as 'normal' and his PULHES reflected 111111, indicating he was not on a BH profile (S=psychiatric). He was medically cleared for separation.

e. The applicant underwent a Mental Status Evaluation (MSE) on 17 September 2021 for the purposes of Chapter 14 separation. All domains of the MSE were within normal limits (WNL) and the provider documented he did not have any duty limitations due to BH reasons. He was diagnosed with Occupational Stressors. The provider documented that he met medical retention standards IAW AR 40-501, Chapter 3 and did not require a medical board for psychiatric purposes. He was psychiatrically cleared for Chapter 14.

f. The applicant presented to the Family Advocacy Program (FAP) on 19 October 2021 as referred for Intimate Partner Abuse as the alleged offender. The diagnosis was noted as Other Specified Problems Related to Psychosocial Circumstances. On 26 October 2021, it was recommended he enroll in anger management and connecting through communication workshop. The diagnosis was documented as Adult Psychological Abuse, Suspected, Initial Encounter. The Case Review Committee (CRC) results were not available for review though it was documented on 08 December 2021 that the case was closed, and he was released without limitations.

g. A review of JLV shows the applicant is 100% service-connected through the VA for various health conditions, to include 70% for Chronic Adjustment Disorder. The applicant underwent a Compensation and Pension (C&P) examination on 15 June 2022 and was diagnosed with Mixed Anxiety and Depressive Disorder. It was documented that he reported experiencing the following symptoms: depressed mood, anxiety, panic attacks more than once a week, chronic sleep impairment, flattened affect, disturbance of motivation and mood, and difficulty in establishing and maintaining effective work and social relationships.

h. Based on the available information, it is the opinion of the Agency Medical Advisor that there is insufficient evidence that the applicant failed medical retention standards IAW AR 40-501, Chapter 3-33 while in the military. Thus, a referral to the Disability Evaluation System (DES) is not warranted for BH reasons.

i. The applicant was diagnosed with Anxiety Disorder, Unspecified and Adjustment Disorder with Mixed Anxiety and Depressed Mood in-service and has been service-connected through the VA for Chronic Adjustment Disorder. It is of note that psychosocial stressors do not fall under the purview of AR 40-501. The applicant states that his command did not permit him to undergo a medical board and cites his VA disability rating as evidence of error in discharge and requests records amendment to show he was discharged due to disability. However, it is of note that VA examinations are based on different standards and parameters, they do not address whether a medical condition met or failed Army retention criteria or if was a ratable condition during the period of service. Therefore, a VA disability rating does not imply failure to meet Army retention standards at the time of service or that a different diagnosis rendered on active duty is inaccurate. A subsequent diagnosis of Chronic Adjustment Disorder through the VA is not indicative of a misdiagnosis or other injustice at the time of service. Furthermore, even an in-service diagnosis of Chronic Adjustment Disorder is not automatically unfitting per AR 40-501 and would not automatically result in medical separation processing. Per AR 40-501, Chapter 3-33, a referral to the DES is required when the condition results in: 1) Persistence or recurrence of symptoms sufficient to require extended or recurrent hospitalization, and/or 2) Persistence or recurrence of symptoms that interfere with duty performance and necessitate limitation of duty or duty in a protected environment. The complete facts and circumstances surrounding the applicant's discharge were unavailable for review; however, a review of his medical records shows he had been considered for separation due to issues with his physical health and that he had been recommended for separation under Chapter 5-17 due to medical problems, not for BH reasons. There is no documentation available showing that he required a BH profile necessitating duty limitations nor that he required recurrent or extended psychiatric hospitalizations due to a BH condition while in service. As such, there is insufficient medical evidence that the applicant failed medical retention standards for BH reasons IAW AR 40-501, Chapter 3-33.

j. Kurta Questions:

- (1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? N/A
- (2) Did the condition exist or experience occur during military service? N/A

(3) Does the condition or experience actually excuse or mitigate the discharge? N/A

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 applicant's contentions, the military record, and regulatory guidance were carefully considered.
2. The Board concurs with the medical advisory opinion; based on the available information, there is insufficient evidence that the applicant failed medical retention standards while in the military. Thus, a referral to the Disability Evaluation System (DES) is not warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

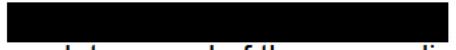
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
			DENY APPLICATION

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.

5/6/2025



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 (Active Duty Enlisted Administrative Separations) provides for the separation of enlisted personnel from active duty for a variety of reasons. Paragraph 5-17, states commanders who are special court-martial convening authorities may approve separation under this paragraph based on other physical or mental conditions not amounting to disability that potentially interfere with assignment to or performance of duty. A recommendation for separation must be supported by documentation confirming the existence of the physical or mental condition. Members may be separated for physical or mental conditions not amounting to disability, which is sufficiently severe that the Soldier's ability to effectively perform military duties is significantly impaired.
3. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD code to be entered on the DD Form 214. It identifies SPD code "JFV" as the appropriate code assigned to enlisted Soldiers who are administratively discharged under the provisions of Army Regulation 635-200, paragraph 5-17, based on a condition, not a disability.
4. Army Regulation 40-501 (Standards of Medical Fitness) governs medical fitness standards for enlistment; induction; appointment, including officer procurement programs; retention; and separation, including retirement.
5. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) establishes the Army disability 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 or her office, grade, rank, or rating. It provides for medical evaluation boards, which are convened to document a Soldier's medical status and duty limitations insofar as duty is affected by the Soldier's status. A decision is made as to the Soldier's medical qualifications for retention based on the criteria in Army Regulation 40-501. Paragraph 3-1 provides that 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 Soldier

reasonably may be expected to perform because of their office, grade, rank, or rating. To ensure all Soldiers are physically qualified to perform their duties in a reasonable manner, medical retention qualification standards have been established in Army Regulation 40-501, chapter 3.

6. Title 38, U.S. Code, 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 higher VA rating does not establish error or injustice on the part of the Army. The Army rates only conditions determined to be physically unfitting at the time of discharge which disqualify the Soldier from further military service. The VA does not have the authority or responsibility for determining physical fitness for military service. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge, to compensate the individual for loss of civilian employability. These two government agencies operate under different policies. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

7. 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 considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//