ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 31 March 2025

DOCKET NUMBER: AR20240009819

APPLICANT REQUESTS: physical disability retirement.

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States) in lieu DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period 10 October to 29 December 2022
- DA Form 5016 (Retirement Account Statement), 14 June 2023
- Department of Veterans Affairs (VA) benefits decision letter, 14 December 2023
- Functional Capability Form – Army Combat Fitness Test (ACFT), 21 December 2023
- DA Form 3349-SG (Physical Profile Record), 11 March 2024
- Memorandum from Army Reserve Medical Management Center, subject: Non-Duty Related Conditions(s) Notification of Medical Disqualification, 27 March 2024
- Statement of Understanding and Election of Options – Acknowledgement of Notification of Failure to Meet Medical Retention Standards
- separation orders, 24 April 2024
- 72 pages of medical records

FACTS:

1. The applicant states she is a disabled military veteran. She understand that she is physically unfit for military duty. She completed her final election paperwork incorrectly. Her intention was to go through a medical board before she was separated because she believes she has duty related issues. She selected the incorrect option in regard to separation without a board review. She feels like she was rushed through the separation process. She believes she is entitled to a permanent disability retirement. She was on active duty orders when the medical issues began. She had a permanent profile for her knees and her back (lumbar) before separating from the military on 9 May 2024. She would like to have her medical separation case reviewed and updated if possible.

2. The applicant enlisted in the U.S. Army Reserve (USAR) on 11 May 2018. Her DD Form 214 shows she entered active duty on 10 February 2022 and served in Kuwait in support of Operation Enduring Freedom (Spartan Shield) from 26 March to 18 November 2022.

3. The applicant provided a VA benefits decision letter, dated 14 December 2023, showing she was granted service-connected disability compensation for various conditions with a combined 100% rating. She also provided her Functional Capability Form – ACFT, 21 December 2023, showing she was permanently unable to participate in all six ACFT events.

4. On 11 March 2024, the applicant was issued a permanent physical profile due to lower back/tailbone injury/pain.

5. A memorandum form the Army Reserve Medical Management Center, dated 27 March 2024, subject: Non-duty Related Conditions(s) Notification of Medical Disqualification, informed the applicant the following:

a. A determination has been made that you no longer meet Army medical standards for retention in accordance with Army Regulation 40-501 (Standards of Medical Fitness), Chapter 3, due to your permanent (P)3/P4 condition(s) on your DA Form 3349, Physical Profile Record. Based on this determination, you must choose to be medically discharged or request a Physical Disability Evaluation System (PDES) board. Failure to respond or comply with requests to process your case will result in your case being placed in non-compliance status and cause you to be discharged, with no appeal, except to the Army Board for Correction of Military Records (ABCMR).

b. Please read this memorandum in its entirety. You are encouraged to review and update your personnel records and note the following:

(1) Your DA Form 5016 - Chronological Statement of Retirement Points is enclosed and reflects you currently have 5 years of creditable service. If you have identified any discrepancies, please contact your Army Reserve Administrator or Human Resource Office for correction procedures.

(2) Your current expiration term of service (ETS) or mandatory removal date (MRD) is 14 May 2026. Please be advised if you are within 90 days of ETS or MRD you may require an extension depending on your election on the election of options form. All extensions are processed by your unit. Requesting an antedated reenlistment may take up to a year to process and will delay your case.

(3) Per a medical records review by an Army Reserve Medical Management Center nurse case manager and profiling medical provider, your condition(s) have been

determined to be non-duty related. You do not have an approved line of duty for your condition(s), and per review your condition(s) and/or circumstances of said condition(s) do not meet Integrated Disability Evaluation System (IDES) referral memorandum criteria.

(4) You now have one (1) of four (4) available options to elect on the enclosed Election of Options Form. It is advised that you seek advice and counsel from the Office of the Soldier's Counsel prior to electing an option. In order to elect options A or B, you must have 20 or 15 years creditable years of service. Final discharge under election option C: Honorable Discharge, is available in the event you have less than 15 credible years of service. Finally, election option D: PDES, is also commonly referred to as the Non-Duty Physical Evaluation Board (NDPEB). This is not a Medical Evaluation Board (MEB). The main purpose of this election is for a board to make a final determination of your medical fitness for retention and/or separation. The NDPEB does not make any determination of benefits of any kind.

c. You must make an election on the Election of Options Form by the 45-day suspense date on this memorandum (11 May 2024). If you believe your condition is duty related, you have until the suspense on this memorandum to provide all documents necessary to the correct personnel. If the documents are submitted by the suspense date, your case will remain in good standing. If the documentation provided is not sufficient to support duty relation after review, the Army Reserve Medical Management Center will proceed with your elected option.

6. The memorandum also informed the applicant of the documents and circumstances necessary to support an IDES referral memorandum and that .

7. On 2 April 2024, the applicant completed the Election of Options Form and elected option C (less than 15 qualifying years and request honorable discharge). The applicant also acknowledged she understood that she had chosen to separate from service and her choice was final. The form also shows she acknowledged she understood that counseling was available through the Office of Soldier's Counsel.

8. Orders published on 26 April 2024 directed the applicant's involuntary discharge from the USAR effective 9 May 2024.

9. 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 is applying to the ABCMR in essence requesting revocation of her separation election and a referral to the Disability Evaluation System. She states in part:

> "I understand that I am physically unlit for military duty. I have completed my final election paperwork incorrectly. My intention was to go through a board before I was separated b/c I believe I have duty related issues. I have selected the incorrect option in regard to separation without a board review. I feel like I was rushed through the separation process. I believe I should be entitled to receive medical permanent disability retirement payments."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case.

d. AHLTA shows she was treated for shin splints and non-specific knee pain while she was in initial entry training from 10 February 2022 thru 29 December 2022. She was treated conservatively and graduated with an MOS of 92A – Automated Logistical Specialist. She then returned to the USAR.

e. The submitted civilian medical documentation is from 2023, so while she was a drilling member. One such note from October 2023 shows the applicant had been diagnosed with cervicalgia (neck pain), cervical radiculopathy, lumbar spondylosis (degenerative changes), and fibromyalgia.

f. The applicant was placed on a duty limiting permanent physical profile for non-duty related Lower Back/Tailbone Pain/Injury on 11 March 2024.

g. There is insufficient probative evidence one or more of these conditions was incurred during or permanently aggravated by her military service, i.e., duty related. As such, she was not eligible for referral to the duty related side of the DES.

h. The United States Army Reserve Command's Army Reserve Medical Management Center notified the applicant in a memorandum 27 March 2024 that this condition was disqualifying for continued military service and gave her until 11 May 2024 to respond. As seen on her Statement of Understanding and Elections of Options (page 20 of the supporting documents), she was counseled on her four options:

1. Transferring to the Retired Reserve if he had 20 qualifying years of service;

2. Receiving a 15-year notice of eligibility for a non-regular retirement due to being discharged for a non-duty related medical condition yet having between 15 and 20 years of qualifying service and subsequently transferred to the Retired Reserve;

3. Honorable discharge if he had less than 15 years of qualifying service;

4. To request a non-duty related physical evaluation board, or NDR PEB, for a determination of medical fitness.

i. The applicant elected with her initials: "I have less than fifteen (15) qualifying years and request an Honorable Discharge from the U.S. Army Reserve." Just below that, she initialed: "I understand that I have chosen to separate from service and my choice Is final."

j. JLV shows she has been awarded numerous VA service-connected disability ratings, including ratings for neurosis, flat foot condition, and lumbosacral or cervical strain. However, the DES compensates an individual only 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. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

k. It is the opinion of the ARBA medical advisor that neither a reversal of her election nor a referral of her case to the DES is 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 recommendations of 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. Army Regulation 40-501 (Standards of Medical Fitness) provides information on medical fitness standards for induction, enlistment, appointment, retention, and related policies and procedures. Chapter 3 gives the various medical conditions and physical defects which may render a Soldier unfit for further military service and which fall below the standards required. These medical conditions and physical defects, individually or in combination, are those that:

a. Significantly limit or interfere with the Soldier's performance of their duties.

b. May compromise or aggravate the Soldier's health or well-being if they were to remain in the military Service. This may involve dependence on certain medications, appliances, severe dietary restrictions, or frequent special treatments, or a requirement for frequent clinical monitoring.

c. May compromise the health or well-being of other Soldiers.

d. May prejudice the best interests of the Government if the individual were to remain in the military Service.

2. Army Regulation 40-501 (Medical Fitness Standards), also states in:

a. Paragraph 9-10, normally, Reservists who do not meet the fitness standards set by chapter 3 will be transferred to the Retired Reserve or discharged from the USAR. They will be transferred to the Retired Reserve only if eligible and if they apply for it. Reservists who do not meet medical retention standards may request continuance in active USAR status. In such cases, a medical impairment incurred in either military or civilian status will be acceptable; it need not have been incurred only in the line of duty. Reservists with non-duty related medical conditions who are pending separation for not meeting the medical retention standards of chapter 3 may request referral to a physical evaluation board)PEB) for a determination of fitness.

b. Paragraph 9-12, Reserve Component (RC) Soldiers with non-duty related medical conditions who are pending separation for failing to meet the medical retention standards of chapter 3 of this regulation are eligible to request referral to a PEB for a determination of fitness. Because these are cases of RC Soldiers with non-duty related medical conditions, medical evaluation boards are not required and cases are not sent through the PEB liaison officers at the medical treatment facilities. Once a Soldier requests in writing that his or her case be reviewed by a PEB for a fitness determination, the case will be forwarded to the PEB and will include the results of a medical evaluation that provides a clear description of the medical condition(s) that cause the Soldier not to meet medical retention standards.

3. 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//