

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 August 2025

DOCKET NUMBER: AR20240010223

APPLICANT REQUESTS:

- physical disability discharge in lieu of honorable administrative release from active duty due to expiration term of service (ETS)
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- self-authored statement
- Standard Form 88 (Report of Medical Examination), 19 May 1976
- Standard Form 88, 23 May 1979
- 17 additional pages of service dental and medical records
- DD Form 214 (Report of Separation from Active Duty) covering the period ending 23 May 1979
- Department of Veterans Affairs (VA) letter, 25 July 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:

a. He used to run 4 1/2 miles, five days per week in Army boots. He started having problems with his feet and was unable to keep up with his unit as his condition continued to get worse. He went to sick call and only saw a medic. He was given Epsom salt and a basin to soak his feet, but never saw a foot specialist and wasn't diagnosed until after he got out of the Army.

b. He developed flat feet and chronic plantar fasciitis. He could never complete any running exercises with his unit. His feet would always give out on him and he would

have to stop and rest his feet, walking the rest of the way back to his unit. He was given multiple physical profiles and limited work details because he also injured his ankles and feet running. He additionally developed hearing loss, ringing in the ears, migraines, dizziness, and vertigo while he was in the Army, but never saw a specialist nor was he diagnosed with these conditions until he was out of the Army.

c. He did have a hearing test, which he failed, and he was supposed to take another test, but his first sergeant cancelled his appointment and it was never rescheduled. His first sergeant took him to the hospital for some test. They went to the hospital on post for an examination because they assumed he was not really hurt. He ran on the treadmill and the doctor had him attached to machines that checked his heart rate, blood pressure, and breathing. He also took a different physical agility test and the doctor told his first sergeant that he failed the examination.

d. He was the number one scout in his unit and there was no one as skilled and experienced to take his place. This is why he was allowed to stay in the Army. He should have been given a medical discharge, but he was allowed to stay because his first sergeant told the doctor they needed him. It is in his medical records that he failed the examination.

e. He used to be an excellent runner, but he started having problems with his feet and did not get the proper medical care. He was allowed to stay in the Army, but he didn't have to run. He was allowed to walk during their training exercises. Five times in his medical records he complained about his feet, but his condition was never properly treated. He sprained his ankles twice while running and had to use crutches.

f. Ever since this incident, he had limited mobility. It took him a long time to figure out when he first started having issues with his feet, hearing loss, ringing in the ears, and vertigo. He should have been medically discharged and it would give him justice if his medical condition were acknowledged when and where it first began. He was denied proper medical care, he was young and taken advantage of because he didn't know his rights and his first sergeant overstepped his authority by telling the doctor they needed him. He didn't have his best interest or the unit's best interest in mind because his condition limited his mobility and threatened the safety of the unit.

g. He has never recovered from his injury. Since he left the Army, he had a hip mass removed from his left side. He has had three vertebrae out of alignment on his right side. An orthopedic doctor told him your feet can affect your whole body. He has back pain and hip pain because of the issues with his feet. He has a permanent work profile as a disabled veteran, with no prolonged walking or standing because of the injuries he received when he was in the Army. His limited mobility has damaged his opportunity for career advancement and limited his ability to make a better income.

h. He only just discovered about 1 month ago that there is a process for changing his honorable discharge to a medical discharge. It took him a long time to get his 100 percent disability and now he is seeking justice. He was a public servant starting in 1982, as a peace officer, mentor, and a chaplain. He had to retire early because of his disabilities and is submitting this letter in hopes that this grievous error is corrected.

3. 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.

4. A Standard Form 88 shows the applicant underwent medical examination on 19 May 1976, for the purpose of regular Army enlistment and was found qualified for enlistment with a PULHES of 111121, with a physical profile rating of 2 in factor E.

5. The applicant enlisted in the Regular Army on 24 May 1976.

6. The applicant's service records contain multiple DA Forms 3349 (Medical Condition – Physical Profile Record), which show:

a. On 12 December 1977, he was given a temporary physical profile rating of 3 in factor L post wart removal, with a profile expiration date of 19 December 1977. He was limited to no running, jumping, prolonged standing, marching, and field duty for 7 days.

b. On 17 February 1978, he was given temporary physical profile rating (physical profile rating and factor are unlisted) due to broken right first and second toes, with a profile expiration in 50 days. He had multiple limitations, including no crawling, no parachute jumping, no standing or walking more than 10 minutes, and no working in combat boots.

c. On 20 March 1978, he was given a temporary physical profile rating of 3 in factor P for fracture to first and second toes of his right foot, with a profile expiration date of 5 April 1978. He was found medically qualified with limited duty. He was limited to no climbing of ropes, ladder, mountain, stairs; no wearing of combat boot on his right foot; no crawling, jumping, parachute jumping, running, standing, marching or walking for over 10 minutes; no push-ups or pull-ups, and he was to wear a tennis shoe on his right foot.

7. The applicant provided 17 pages of additional dental and medical records, which have been provided in full to the Board for review.
8. A second Standard Form 88 shows the applicant underwent medical examination on 23 May 1979, for the purpose of ETS and was found qualified for ETS separation with a PULHES of 111111.
9. The applicant's DD Form 214 shows he was honorably released from active duty on 23 May 1979, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel, chapter 2, due to ETS, and transferred to the U.S. Army Reserve (USAR) Control Group (Reinforcement).
10. U.S. Army Reserve Components Personnel and Administration Center Orders 04-110724, 30 April 1981, released the applicant in the USAR from the Control Group (Reinforcement) and transferred him to a Troop Program Unit (TPU) effective 6 April 1981, due to voluntary request.
11. After having received multiple Letters of Instructions – Unexcused Absences, on 15 October 1981, 12 January 1982, and 24 February 1982, A Failure to Participate Satisfactorily letter, 10 March 1982, shows:
 - a. The applicant was advised he had a contractual obligation to satisfactorily participate and to attend 48 scheduled unit training assemblies and 15 days of annual training each year of his enlistment.
 - b. He accumulated 12 unexcused absences between 10 October 1981 and 14 February 1982.
 - c. Accumulation of 9 unexcused absences in a 1-year period or failure to attend annual training established him as an unsatisfactory participant and required his transfer to the Individual Ready Reserve (IRR). Unless he furnished a reason for his nonattendance, he would be transferred to the IRR.
12. Headquarters, First U.S. Army Orders 86-20, 7 May 1982, honorably discharged the applicant from his USAR TPU assignment and transferred him to the USAR Ready Reserve effective 18 May 1982.
13. A VA letter, 25 July 2024, shows the applicant receives a 100 percent service-connected disability from the VA effective 1 December 2023.
14. 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.

15. MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). The applicant requests a medical discharge. He stated that he injured his feet and ankles while in service and essentially was given a permanent no run profile. He also stated that he developed hearing loss, ringing in the ear, migraines, dizziness, and vertigo while in service.

2. The ABCMR ROP summarized the applicant's record and circumstances surrounding the case. The applicant entered the Regular Army 24May1976. His MOS was 13B, Cannon Crewman. He was released from active duty 23May1979 under provisions of AR 635-200 chapter 2 due to release from active duty at the expiration of service. His service was characterized as honorable. He was voluntarily relieved from USAR Control Group Reinforcement effective 06Apr1981 and was transferred to TPU. By 24Feb1982, the applicant had accumulated 12 unexcused absences within a one-year period (in reality, within about 4 months). He was honorably discharged from USAR Ready Reserve effective 18May1982.

3. Summary of medical records while in service

a. 19May1976 Report of Medical Examination (SF 88) entrance exam. He endorsed a history of jaw fracture in 1973 (no residual) and mild hay fever. The exam was normal including the feet except for vision. He was given an E2 profile and designated as physical category B. He was deemed qualified for entry into the Army.

b. 02Feb1977 Troop Medical Clinic (TMC). The applicant was seen for a fungal rash on his right hip and a gastric problem. *There was no immediate follow up visit available for review.*

c. 15Sep1977 Emergency Room Womack. An attempt was made to excise a foreign body from the left foot that was present for 2 weeks. The x-ray was negative. He was referred to the emergency room where the glass was removed. Status post excision, the wound did not require sutures. *There was no further follow up.*

d. 31Oct1977 TMC. He was seen for a rash in the groin area treated with antifungal agent. *There was no immediate follow up visit available for review.*

e. 05Dec1977 TMC. His left foot was sore. He denied injury. A wart with callous formation was found on the heel. Topical treatment (moleskin) was initially prescribed. He returned and the wart was removed with liquid nitrogen, and he was given a 7-day

physical profile on 12Dec1977 Physical Profile. He was restricted from PT, prolonged standing, walking, marching and running. He was given a cane and pain medication. On 14Dec1977 TMC, previous duty limitations were extended. He had developed a blister from the liquid nitrogen treatment and returned 19Dec1977 for incision and drainage.

f. 16Feb1978 Emergency Room Womack Army Hospital. He was sent for x-ray of the right foot. The 17Feb1978 Medical Condition Physical Profile Record indicated that he was given a temporary limited duty (30 day) profile for no crawling, jumping, standing etc. for Fracture 1st and 2nd Toes, Right Foot. He followed up on 28Feb1978 for a bandage change and again 2 weeks later on 14Mar1979. In March 1978, he was seen for a profile re-evaluation and was given a temporary limited duty (15 day) profile for no climbing, no crawling, no wearing of combat boots etc. for Fracture 1st and 2nd Toes, Right Foot (20Mar1978 Medical Condition Physical Profile Record). *There was no further follow up.*

g. 23Apr1978 TMC. He was seen for chest pain and was ultimately diagnosed with gastroenteritis. *There was no follow up visit available for review.*

h. 21Jul1978 TMC. He was seen for mild right knee pain without swelling. *There was no follow up visit available for review.*

i. 21Jul1978 TMC. He was seen for a rash in the groin area and diagnosed with Jock Rash. *There was no follow up visit available for review.*

j. 21Sep1978 TMC. He was seen for left foot/ankle sprain with duration of one day After falling in a hole. *There was no follow up visit available for review.*

k. 31Jan1979 Medical Condition Physical Profile Record. He was given a temporary profile (2 week) for Status Post Circumcision. On 14Feb1979, he was deemed to be not medically qualified for full military duty. The profile was extended 14 days (until 28Feb1979) which included no crawling, running, jumping etc., no overhead work, pushups or pullups and no lifting over 15 pounds. *There was no further follow up available for review.*

l. 23May1979 Report of Medical Examination (SF 88). The physical exam completed for ETS, was normal including the feet. The recent circumcision was noted. He was not on profile. He was deemed qualified for ETS.

4. Pertinent medical records after service (JLV source).

a. JLV search showed that the applicant was first seen at a VA facility in 2008,

twenty-five years after service. No interim treatment records were found/submitted. He was total combined service connected by the VA at 100%. The total VA rating included but was not limited to the following conditions: Flat Feet; Foot Injury; Labyrinthitis (which can be associated with dizziness and tinnitus); Tinnitus (or ringing in the ear); Right Thigh; Left Thigh and Migraines.

b. He underwent a 02Jul2018 Foot Conditions DBQ which revealed the following: He reported that he developed foot symptoms during the second year of service and sought care during that time. While in service, he stated that he was told to put on extra socks and soak his feet. He stated that he did not follow up after the second year of service for his ongoing foot problems. Currently, he was a police officer for 35 plus years and endorsed that the job required him to stand/walk. It had become harder over the last 30 plus years. Diagnosis: Plantar Fasciitis, Bilateral. Current treatment: Meloxicam (anti-inflammatory); boots that he wears in the evening; rubbing/stretching his feet on a ball in the evening.

5. Summary/Opinion

The record contained multiple unexcused absences. These occurred from 10Oct1981 to 14Feb1982, well after the dates of treatment records. The date of the circumcision on 31Jan1979, was the last treatment record. And the most recent physical profile expired on 28Feb1979, almost 3 months before the applicant was released from active service. Based on records currently available for review, the applicant's medical conditions did not appear to be related to his release from active service in May 1979 or to his discharge from USAR Ready Reserve in May 1982. In addition, evidence was insufficient to support that the applicant had medical conditions which failed medical retention standards of AR 40-501 chapter 3 at the time of release from active service. Referral for medical discharge processing is not recommended.

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 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 noted the applicant's unexcused absences and letter of instructions and concurred with the advising official findings there was insufficient to support he had medical conditions which failed medical retention standards. Therefore, the Board determined there was insufficient evidence to support a referral to the Integrated Disability Evaluation System (DES) for a medical discharge recommendation and denied relief.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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. 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. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Chapter 2 provided for the honorable discharge or release from active duty of Soldiers upon completion of their required active service.

5. 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.

6. 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.

7. 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.

8. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Paragraph 2-11 states applicants do not have a right to a formal hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//