

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 April 2025

DOCKET NUMBER: AR20240010674

APPLICANT REQUESTS: in effect, an honorable medical discharge in lieu of an uncharacterized discharge due to failing to meet Army weight control standards.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Orders: 185-4, Military Entrance Processing Station (MEPS), 22 September 1994
- Orders: 130-837, Headquarters, U.S. Army Engineer Center and Fort Leonard Wood, 10 May 1995
- DA Form 2823 (Sworn Statement), 13 July 1995
- Orders: 195-00208, Headquarters, Fifth U.S. Army and Fort Sam Houston, 14 July 1995
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Orders: 103-49, Headquarters, 81st Regional Support Command, 12 April 1996
- Orders: P247-148, Departments of the Army and the Air Force, Florida National Guard, Office of the Adjutant General, 3 September 1996
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service)
- Service Computation System Document
- Department of Veterans Affairs (VA) Form 21-4138 (Statement in Support of Claim), 13 December 2023
- Letter, VA Rating Decision, 12 June 2024

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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:

a. She was injured during Basic Combat Training (BCT) and Advanced Individual Training (AIT), then recalled to her U.S. Army Reserve (USAR) unit to rest, recover, and return in a year. During this time, she moved to Florida and received a conditional release to join the Florida Army National Guard (FLARNG). When she went to ship out, she had gained weight and received an uncharacterized discharge because she had served less than 180 days.

b. She claims her weight gain was the result of the pain of physical activity which aggravated the injuries she sustained in BCT and AIT, which prevented her from participating in the exercises necessary to maintain an adequate weight. The VA subsequently rated her 80 percent service-connected for her injuries.

3. The applicant enlisted for a period of 8 years in the USAR on 16 September 1994. Her Standard Form 88 (Report of Medical Examination) performed the same day notes she was overweight, but apparently passed the tape test.

4. The complete facts and circumstances of her discharge are not available for review with this case. However, her record contains a DD Form 214 which shows she was released from active duty training (ADT) on 21 July 1995 upon the completion of ADT. She was credited with 3 months and 23 days of net active service, and she was not awarded a military occupational specialty (MOS). Her service was uncharacterized.

5. The applicant provides, in part:

a. Orders 103-49, Headquarters, 81st Regional Support Command, 12 April 1996, which show she enlisted in the FLARNG effective 25 January 1996.

b. Orders P247-148, Departments of the Army and Air Force, Florida National Guard, 3 September 1996, which shows she was discharged from the ARNG and as a Reserve of the Army effective 5 October 1996, in accordance with National Guard Regulation 600-200 (Enlisted Personnel Management), paragraph 8-26m, for failing to meet Army weight control standards. The type of discharge is listed as uncharacterized.

c. VA Rating Decision, 12 June 2024, which shows service-connection for:

(1) Bilateral plantar fasciitis and flatfoot (pes planus) with left foot degenerative arthritis and calcaneal spurs (claimed as stress fracture to changes-flat feet).

(2) Knee instability, patellofemoral pain syndrome, and shin splints with limitation of extension, left (claimed as retro patellar pain syndrome, patellar tendonitis, crepitus bilateral knees, and shin splints with pitting edema).

(3) Knee instability, patellofemoral pain syndrome, and shin splints with limitation of extension, right (claimed as retro patellar pain syndrome, patellar tendonitis, crepitus bilateral knees, and shin splints with pitting edema).

(4) Knee instability, patellofemoral pain syndrome, and shin splints with other impairment of the knee, left (claimed as retro patellar pain syndrome, patellar tendonitis, crepitus bilateral knees, and shin splints with pitting edema).

(5) Knee instability, patellofemoral pain syndrome, and shin splints with other impairment of the knee, right (claimed as retro patellar pain syndrome, patellar tendonitis, crepitus bilateral knees, and shin splints with pitting edema).

6. Title 10, USC, 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.

7. 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.

8. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

9. Title 38, Code of Federal Regulations (CFR), Part IV is the VA's schedule for rating disabilities. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. 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.

10. 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 (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and 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 a referral to the Disability Evaluation System (DES). She states she received an uncharacterized discharge “as the weight gain was a result of the pain of physical activity which aggravated the injuries sustained in BCT [basic combat training] and AIT [advanced individual training] which prevented me from participating in the exercises necessary to maintain an adequate weight.”

c. The Record of Proceedings outlines the applicant’s military service and the circumstances of the case. The NGB Form 22 shows she entered the Army National Guard on 26 January 1996 and was discharged 5 October 1996 under the provisions in paragraph 8-26m of NGR 600-200 (Enlisted Personnel Management) 24 January 1996: Failure to Meet Army Weight Control Standards.

d. No medical documentation was submitted with the application and her period of Service predates AHLTA and iPERMS.

e. Her pre-entrance Report of Medial Examination states she was overweight before entering the Army

f. In her 13 July 1995 Sworn statement, the applicant states she had a variety of lower extremity pains/stress injuries and issues during her initial entry training. Her DD Form 214 shows she completed this period of service from 29 March 1995 thru 21 July 1995 but does not appear to have graduated as there is no military occupational specialty listed on the DD Form 214. It is likely this was, as she said, to allow her to return to her unit for:

g. Paragraph 2-3d(4) of AR 600-9, The Army Weight Control Program, states:
“The use of certain medications to treat an underlying medical disorder or the inability to perform all aerobic events may contribute to weight gain but are not considered sufficient justification for noncompliance with this regulation.”

h. Paragraph 2-3e of AR 600-9:

“If the underlying medical condition does not require referral to an MEB/PEB and a Soldier is classified as overweight, these facts will be documented, and the Soldier will be entered into the AWCP except as described in paragraph 3-2b.”

i. Neither her separation packet nor additional documentation addressing her separation was submitted with the application.

j. There is insufficient probative evidence the applicant has a permanent condition which failed the medical retention standards of chapter 3, AR 40-501, Standards of Medical Fitness prior to his discharge. This is a requirement for referral to the Disability Evaluation System.

k. JLV shows he has been awarded multiple VA service-connected disability ratings in 2023 and 2024. 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 VA and executed under a different set of laws

l. An uncharacterized discharge is given to individuals on active duty who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. For the reserve components, it also includes discharges prior to completing initial entry training (IET). There are two phases - Basic Combat Training (BCT) and Advanced Individual Training (AIT). Because the applicant did not complete IET, she was in an entry level status at the time of his discharge and so received an uncharacterized discharge. This type of discharge does not attempt to characterize service as good or bad.

m. It is the opinion of the Agency Medical Advisor that referral of his case to the DES is 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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The applicant did not complete training and was released from active duty due to failing to meet Army weight control standards. The Board

concurred with the medical advisor's review finding that neither an upgrade of her discharge nor a referral of her case to the Disability Evaluation System is 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.

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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 and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with Department of Defense Directive 1332.18 and Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation).

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. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501, chapter 3, as evidenced in a medical evaluation board (MEB); when they receive a permanent physical profile rating of "3" or "4" in any functional capacity factor and are referred by a Military Occupational Specialty Medical Retention Board; 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 or 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 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 are either 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 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 medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

d. 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.

e. Paragraph 3-4 states 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.

4. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10, U.S. Code, section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating of less than 30 percent.

5. Army Regulation 635-200 (Personnel Separations), in effect at the time, set forth the basic authority for the separation of enlisted personnel. Chapter 3 of that regulation describes the different types of characterization of service. It states that 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 condition is authorized under 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. Entry level status

begins on enlistment in the Army National Guard or the USAR and, for Soldiers ordered to initial ADT for one continuous period, ends 180 days after beginning training.

6. Army Regulation 635-200, paragraph 3-7a, provides 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.

7. Army Regulation 15-185 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//