

=====

IN THE SUPREME OF THE UNITED STATES

25A 876

-----

Jernice Hamilton

AKA

Garnaris Hamilton

Appellant/Plaintiff

V

UNITED STATES

Appellee/Defendant

-----

On Appeal from the United States Court of Appeal for the Federal Circuit

-----

APPENDIX OF THE APPELLANT

-----



Jernice Hamilton  
202 St James Ave 16-E  
Goose Creek S.C. 29445  
843-718-8952

INDEX OF APPELLANT APPENDIX

COURTS ..... page

U.S. Court of Appeals for the Federal Circuit decided August 14 2025 App. A Decision  
overruling 10 U.S.C.1214.....1-7

Petition for Rehearing En Banc order November 6 2025 App. B denying hearing the  
refusal to hear 5. U.S.C.706 App. A .....8-9

U.S. Court of Federal Claims Orders March 18 2024 granting 5 U.S.C.706 Amended  
Supplemental. App. B.....10

U.S. Court of Federal Claims May 20 2024 Opinion and Order denying Claim of 10  
U.S.C 1215 App. B.....11-19

Reconsideration Order July 18 2024 denying Reconsideration of 10 U.S.C. 1214 App.  
B.....20-25

United States District Court Charleston Division September 27 2022 denying 42  
U.S.C1983 App. C.....27

United States District Court Charleston Division Opinion and Order September 26  
denying Jurisdiction App. C.....28-31

..

United States District Court Charleston Division ECF NO 64 Page 5. Acknowledgement  
of 10 U.S.C 1214 App. C.....32

Defendants-Appellee's Corrected Informal Brief. App. D Admitting the Claims Court  
refusal to address the merits of the Phantom DD form 4, Death of Claimant 5 U.S.C.706  
at 42.....33-44

Defendants reply to Plaintiff's FRAP Rules 52(a)1 December 21 2020...App. D.....	45
Defendants 2021 ABCMR decision February 8 2022 App D AR 40-501 Admitting Claimant met Standard.....	51
Appellant's OMPF App. E.....	56-62
Department of Veterans Affairs Schedule Rating Disability.....	63-64
Appellant's second surgery Appellant's. E.....	73-74
Appellant's Department of Veterans Affairs Decision.....	75-79
Appellant's Chronological Records App. E .....	80-85
Appellant's personal MRI Physician records App. E.....	86-92
*Department of Veterans Affairs Beneficiary Identification Records Locator Subsystems (BIRLS) Official Death App. F Number for OMPF Pages.....	63
*Department of Veterans Affairs Compensation and Pension Disallowance Claimant was no show for 10 USC 1214 that Claimant was AR 600- 8-1 Whereabouts unknown App F.....	64

\*Pages 63 and 64 are placed in App F to highlight the seriousness of a Veteran declared Dead denying a Full and Fair Hearing

NOTE: This disposition is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

---

**JERNICE HAMILTON,  
AKA GARNARIS HAMILTON**  
*Plaintiff-Appellant,*

v.

**UNITED STATES,**  
*Defendant-Appellee.*

---

2024-2200

---

---

Appeal from the United States Court of Federal Claims  
in No. 1:23-cv-02153-CNL, Judge Carolyn N. Lerner.

---

Decided: August 14, 2025

---

JERNICE HAMILTON, Goose Creek, SC, pro se.

COLLIN T. MATHIAS, Commercial Litigation Branch,  
Civil Division, United States Department of Justice, Wash-  
ington, DC, for defendant-appellee. Also represented by  
BRIAN M. BOYNTON, PATRICIA M. MCCARTHY, WILLIAM J.  
GRIMALDI.

---

Before PROST, REYNA, and CHEN, *Circuit Judges*.

PER CURIAM.

Jernice Hamilton, appearing pro se, appeals from the United States Court of Federal Claims (Claims Court) decision dismissing his complaint for lack of subject matter jurisdiction. See *Hamilton v. United States*, No. 23-2153 (Fed. Cl. May 20, 2024); S. App'x 4-12.<sup>1</sup> For the following reasons, we *affirm*.

#### BACKGROUND

Mr. Hamilton filed a complaint which, liberally construed by the Claims Court, includes, among others, the following requests for relief: entitlement to disability retirement and back pay, correction of military records, and violations of the Fifth and Fourteenth Amendments. These claims arise from his service in the United States Army (Army) and United States Army Reserve (USAR) beginning in the late 1970s.

---

In August 1977, Mr. Hamilton reported for his entrance examination to join the Army. While playing basketball with a group of other recruits, he suffered an eye injury. After a successful surgery, he was cleared for service and formally enlisted in the USAR for a six-year term in October 1977. Days later, he signed a change of status form which required three years of active-duty service with the Army, followed by three years of reserve duty with the USAR. During basic training, Mr. Hamilton suffered a hand injury that required surgery in November 1977. After a successful operation, the Army cleared him for duty with limitation.

---

<sup>1</sup> "S. App'x" refers to the supplemental appendix filed with the government's informal response brief.

S.Ct. App. 2 A

Mr. Hamilton continued on active duty until January 1980, when he was court-martialed and convicted of various offenses, including indecent exposure, assault, battery, and drug-related misconduct. He was officially discharged from the Army in September 1980. In August 1981, Mr. Hamilton filed a claim with the United States Department of Veterans Affairs (VA), but was denied due to his bad conduct discharge.

Nearly four decades later, starting in 2018, he filed multiple applications with the VA and Army Board for Correction of Military Records (ABCMR) seeking, among other relief, disability benefits, an upgrade of his bad conduct discharge to honorable, and correction of his Certificate of Release or Discharge from Active Duty, or DD Form 214. Each request was denied.

In December 2023, Mr. Hamilton filed suit in the Claims Court. The court dismissed the complaint for lack of subject matter jurisdiction, holding that many of his claims were time-barred under the six-year statute of limitations set forth in 28 U.S.C. § 2501, and that the court lacked jurisdiction over the remaining claims. S. App'x 7-12. Mr. Hamilton appeals.

#### DISCUSSION

We review the Claims Court's dismissal of a complaint for a lack of jurisdiction de novo. *Diversified Grp. Inc. v. United States*, 841 F.3d 975, 980 (Fed. Cir. 2016). The Tucker Act gives the Claims Court jurisdiction over claims against the United States "founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort." 28 U.S.C. § 1491(a)(1). Such claims must adhere to the Tucker Act's six-year statute of limitations. 28 U.S.C. § 2501. Although pro se filings are held to "less stringent standards,"

S. Ct. App. 3 A

*Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam), a pro se litigant still bears the burden of establishing jurisdiction, *Sanders v. United States*, 252 F.3d 1329, 1333 (Fed. Cir. 2001).

We see no error in the Claims Court's dismissal of the complaint for lack of jurisdiction. Claims brought before the Claims Court must adhere to the Tucker Act's six-year statute of limitations. 28 U.S.C. § 2501; *John R. Sand & Gravel Co. v. United States*, 552 U.S. 130, 133–34 (2008) (holding that the Tucker Act's six-year statute of limitations is jurisdictional). Mr. Hamilton's claims related to correction of records, back pay, or retirement began to accrue in September 1980 when he was discharged from service. His complaint—filed over 40 years later—is well beyond the six-year limitation.

On appeal, Mr. Hamilton appears to argue that he was never discharged from the USAR when he was transferred to the Army in October 1977 because he did not receive a DD Form 214. Pet'r's Informal Br. 5. He contends that, as a result, the statute of limitations on his claims never began to run. *See id.* However, a DD Form 214 (also known as a Certificate of Release or Discharge from Active Duty) is issued upon discharge from *active* duty. *See* Army Reg. 635–5 at 1 (Sept. 15, 2000) (providing that a DD Form 214 “must be prepared for soldiers on retirement, discharge, [or] release from active duty service”). It is not ordinarily issued for release from the reserve component unless that service included qualifying active duty. *See* Department of Defense, Instr. 1336.01, *Certificate of Uniformed Service (DD Form 214/5 Series)* (Feb. 2022). Mr. Hamilton does not dispute that he properly received a DD Form 214 upon his discharge from the Army in 1980, which, as noted by the Claims Court, was found by the ABCMR to contain “no error . . . concerning his two days in the active reserve.” S. App'x 5. In any event, because Mr. Hamilton did not file suit within six years of his 1980 discharge, all claims

S.Ct. App. 4 A

arising from that or any earlier separation are untimely. See 28 U.S.C. § 2501; *Martinez v. United States*, 333 F.3d 1295, 1304 (Fed. Cir. 2003) (en banc).

Mr. Hamilton also appears to contend that his disability claim did not accrue until the ABCMR's final action in 2022, rather than upon the date of his discharge in 1980. Pet'r's Informal Br. 8–12. He relies on *Chambers v. United States*, in which this Court held that “[u]nlike claims for unlawful discharge, however, claims of entitlement to disability retirement pay generally do not accrue until an appropriate military board either finally denies such a claim or refuses to hear it.” 417 F.3d 1218, 1224 (Fed. Cir. 2005). However, *Chambers* also makes clear that the statute of limitations may begin to run at the time of discharge if the service member had “sufficient actual or constructive notice of his disability, and hence, of his entitlement to disability retirement pay.” *Id.* at 1226. Here, as the Claims Court noted, Mr. Hamilton sought treatment for eye, hand, and back injuries in the late 1970s—demonstrating actual knowledge of the conditions underlying his disability claim. S. App'x 9. Because he had actual knowledge upon his discharge in 1980, his claims accrued at that time and are therefore time-barred by the six-year limitations period. See *Chambers*, 417 F.3d at 1226.

To the extent that Mr. Hamilton raises violations of the Fifth and Fourteenth Amendments on appeal, this Court has made clear that the Claims Court does not have jurisdiction to consider claims arising under the Due Process clauses of the Fifth and Fourteenth Amendments. See *LeBlanc v. United States*, 50 F.3d 1025, 1028 (Fed. Cir. 1995). Further, Mr. Hamilton has not stated a Takings Claim within the Claims Court's jurisdiction because “a statutory right to be paid money, at least in the context of federal employee compensation and benefit entitlement statutes, is not a property interest for purposes of the Takings

S.Ct. App. 5 A

Clause.” *Adams v. United States*, 391 F.3d 1212, 1225 (Fed. Cir. 2004).

We have considered Mr. Hamilton’s remaining arguments and find them unpersuasive. For the foregoing reasons, we *affirm* the decision of the Claims Court.

**AFFIRMED**

COSTS

No costs.

---

S.Ct. App. 6 A

**United States Court of Appeals  
for the Federal Circuit**

---

**JERNICE HAMILTON, AKA GARNARIS HAMILTON,**  
*Plaintiff-Appellant*

v.

**UNITED STATES,**  
*Defendant-Appellee*

---

2024-2200

---

Appeal from the United States Court of Federal Claims in No.  
1:23-cv-02153-CNL, Judge Carolyn N. Lerner.

---

**JUDGMENT**

---

THIS CAUSE having been considered, it is

ORDERED AND ADJUDGED:

**AFFIRMED**

FOR THE COURT

August 14, 2025

Date



Jarrett B. Perlow  
Clerk of Court

S.Ct. App. 7 A

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

---

**JERNICE HAMILTON, AKA GARNARIS  
HAMILTON,**  
*Plaintiff-Appellant*

v.

**UNITED STATES,**  
*Defendant-Appellee*

---

2024-2200

---

Appeal from the United States Court of Federal Claims  
in No. 1:23-cv-02153-CNL, Judge Carolyn N. Lerner.

---

**ON PETITION FOR REHEARING EN BANC**

---

Before MOORE, *Chief Judge*, LOURIE, DYK, PROST, REYNA,  
TARANTO, CHEN, HUGHES, STOLL, CUNNINGHAM, and  
STARK, *Circuit Judges*.<sup>1</sup>

PER CURIAM.

**O R D E R**

---

<sup>1</sup> Circuit Judge Newman did not participate.

S.Ct. App. 8 A

On September 30, 2025, Jernice Hamilton filed a petition for rehearing en banc [ECF No. 41]. The petition was first referred to the panel that heard the appeal, and thereafter the petition was referred to the circuit judges who are in regular active service.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The petition for rehearing en banc is denied.

FOR THE COURT



Jarrett B. Perlow  
Clerk of Court

November 6, 2025  
Date

S.Ct. App. 9 A

In the United States Court of Federal Claims

JERNICE HAMILTON,

*Plaintiff,*

v.

THE UNITED STATES,

*Defendant.*

No. 23-2153

(Filed: March 18, 2024)

ORDER

On March 18, 2024, Plaintiff Jernice Hamilton filed a Motion to Amend Pleadings. ECF No. 10. Liberally construed, the motion appears to be a supplement to Mr. Hamilton's Complaint, ECF No. 1. As such, the Court will recharacterize and accept Mr. Hamilton's Motion to Amend Pleadings as a supplemental document rather than a motion. Accordingly, the Government does not need to respond to this filing.

If he so chooses, Mr. Hamilton may still respond to the Government's Motion to Dismiss, ECF No. 8. As this is a non-ECF case and it may take time for Mr. Hamilton to receive notice of this Order, the Court extends the deadline for Mr. Hamilton to respond by 14 days. Mr. Hamilton's response to the Government's Motion to Dismiss, ECF No. 8, is due by April 5, 2024.

IT IS SO ORDERED.

s/ Carolyn N. Lerner  
CAROLYN N. LERNER  
Judge

S.Ct. App. 10 B

## In the United States Court of Federal Claims

JERNICE HAMILTON, a/k/a GARNARIS  
HAMILTON,

*Plaintiff,*

v.

THE UNITED STATES,

*Defendant.*

No. 23-2153  
(Filed: May 20, 2024)

*Jernice Hamilton, pro se, Goose Creek, SC.*

*Joshua Moore, Civil Division, United States Department of Justice, Washington, DC, for  
Defendant.*

### OPINION AND ORDER

**LERNER, Judge.**

Plaintiff Jernice Hamilton, also known as Garnaris Hamilton, filed a pro se Complaint in this Court on December 15, 2023. Compl., ECF No. 1. The Complaint sets out a myriad of claims which, liberally construed, include the following: The United States Army ("Army") violated Mr. Hamilton's rights by inducing him without contract into service; he is entitled to compensation related to disability retirement and back pay; his court-martial proceeding lacked due process; the Army took his property in violation of the Fifth Amendment; and the Army Board for the Correction of Military Records ("ABCMR" or "the Board") and the Department of Veterans Affairs ("VA") erred in denying him benefits. Compl. at 1-15. Mr. Hamilton also requests correction of his military records to reflect an honorable discharge, military back pay, and a Purple Heart award. *Id.* at 15.

Before the Court is Defendant's Motion to Dismiss or, Alternatively, Motion for Judgment Upon the Administrative Record ("Mot. to Dismiss"). ECF No. 8. Also pending is Mr. Hamilton's Application to Proceed *In Forma Pauperis*, ECF No. 2, Mr. Hamilton's Motion to Appoint Counsel, ECF No. 5, and the Government's Response to Motion to Appoint Counsel, ECF No. 7.

Claims brought under the Tucker Act must adhere to its six-year statute of limitations. Many of Mr. Hamilton's claims do not, and this Court lacks jurisdiction over those remaining. Accordingly, Defendant's Motion to Dismiss is **GRANTED** and Mr. Hamilton's Complaint is **DISMISSED** without prejudice. In addition, Mr. Hamilton's Application to Proceed *In Forma Pauperis* is **GRANTED**, and his Motion to Appoint Counsel is **DENIED** as moot.

## I. Background

On August 5, 1977, Mr. Hamilton reported for his entrance examination to join the Army. AR 4. After completing his initial evaluation, Mr. Hamilton joined a group of other recruits to play basketball, and he sustained an injury to his left eye from a fingernail. AR 4, 12, 24. A physician diagnosed the injury as a scleral laceration and performed a successful surgery on the eye. AR 24. Once healed, Mr. Hamilton returned to the Army enlistment office where he was subsequently cleared for service. AR 26. On October 25, 1977, Mr. Hamilton formally enlisted in the United States Army Reserve ("USAR") for six years. AR 30. Three days later, on October 28, 1977, as part of a delayed entry program, he signed a change of status form which required active-duty service for three years and an additional three years of reserve duty. AR 40.

After enlisting and signing his change of status paperwork, Mr. Hamilton began basic training where he sustained a hand injury. The injury required surgery in November 1977. AR 41. After a successful operation, the Army cleared him for duty with limitation. AR 319. Mr. Hamilton continued to serve in an active-duty status until he was court-martialed in January 1980. AR 4, 19-20, 22; Compl. at 14. Mr. Hamilton ultimately received a bad conduct discharge ("BCD") for convictions related to indecent exposure, assault and battery, and the possession, sale, and transfer of a controlled substance. AR 20. After review by the U.S. Army Court of Military Review (now called the U.S. Army Court of Criminal Appeals), his sentence was affirmed. On September 5, 1980, Mr. Hamilton was officially discharged. AR 577. In August 1981, he filed a claim with the VA for disability benefits, AR 6, 13, 75, but due to the bad conduct discharge, the VA denied the claim. AR 13. Nearly thirty-seven years later, in 2018, Mr. Hamilton again filed an application for disability benefits. AR 349-51. The VA reiterated that since Mr. Hamilton's military service was dishonorable, neither he nor his dependents were eligible for benefits. AR 349.

In June 2018, Mr. Hamilton applied for the correction of his military records with ABCMR. AR 379. Mr. Hamilton requested an "upgrade of his bad conduct discharge to honorable," a discharge from the USAR, a "reenlistment code upgrade on his DD form 214," and a review of his DD Form 4 (Enlistment or Reenlistment Agreement - Armed Forces of the United States) for alleged breach of contract. AR 236, 249.

The Board denied Mr. Hamilton's request for relief in August 2019. AR 236, 245. The Board noted that notwithstanding Mr. Hamilton's failure to file within the three-year time frame provided by 10 U.S.C. § 1552(b), a careful review of the application and evidence demonstrated that relief was unwarranted. AR 245. It determined that Mr. Hamilton had not provided "character witness statements or evidence of post-service achievements for the Board to consider," and that "[b]ased upon the serious criminal offenses, as well as the failure to accept responsibility and show remorse for the events leading to his separation, the Board agreed that [Mr. Hamilton's] discharge characterization and reenry code is warranted as a result of the misconduct." *Id.*

In November 2019, Mr. Hamilton petitioned ABCMR to reconsider its decision, repeating many of the same arguments from his original application. AR 157. The Board again denied Mr. Hamilton's request in June 2020. AR 144. It determined there was "no error in his transfer to the Regular Army," that there "is no error on his DD Form 214 concerning his two days in the inactive reserve," and that there was "no violation of any constitutional law" with regards to his court-martial proceeding. AR 143-44. The Board also concluded it "does not

have any jurisdiction over VA actions or records,” and that “there was no error or injustice in [Mr. Hamilton’s] discharge or character of service, or basis for clemency.” *Id.*

Roughly nine months later, Mr. Hamilton again petitioned ABCMR to reconsider its decision. AR 3. In February 2022, the Board once more concluded that Mr. Hamilton’s original petition was properly denied:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. Based upon the criminal and violent nature of the pattern of misconduct leading to the applicant’s separation, as well as the findings of the medical advisor, the Board concluded there was insufficient evidence of an error or injustice which would warrant a change to the applicant’s characterization of service and/or the narrative reason for separation.

AR 7:

In January 2021, before he filed his second petition for reconsideration with ABCMR, Mr. Hamilton filed a complaint against ABCMR in the U.S. District Court for the District of South Carolina. *See* Complaint, *Hamilton v. Army Bd. for Corr.*, No. CV 2:21-195-BHH-HMC, 2022 WL 4481468 (D.S.C. Sept. 27, 2022), *aff’d*, No. 22-2121, 2023 WL 3581703 (4th Cir. May 22, 2023). Liberally construed, Mr. Hamilton asked the court for restoration of his benefits, back pay for an alleged breach of military contract and taking of his property in violation of the Fifth Amendment, and \$14.5 million for incarceration and forty years of denied benefits. *Id.* at 5.

Magistrate Judge Molly H. Cherry determined that the district court lacked jurisdiction over Mr. Hamilton’s claims. *Hamilton*, 2022 WL 4481468, at \*2. However, the Magistrate Judge recognized that “because the Court of Federal Claims may provide an ‘adequate remedy’ for Plaintiff’s claim pursuant to the Tucker Act,” she further “analyzed whether such a Tucker Act claim is viable under the circumstances.” *Id.* She ultimately “concluded that transfer to the Court of Federal Claims is not in the interest of justice and is otherwise futile because Plaintiff’s claim for back pay based on wrongful discharge is barred by the Tucker Act’s six-year statute of limitations.” *Id.* The Magistrate Judge recommended dismissal since the district court lacked jurisdiction, and “transfer is not in the interest of justice” because there was “little doubt that the Court of Claims would summarily grant Defendant’s Motion to Dismiss if confronted with the issue.” Report and Recommendation, *Hamilton v. Army Bd. for Corr.*, No. CV 2:21-195-BHH-MHC, 2021 WL 9553007, at \*5–6, 8 (D.S.C. Dec. 7, 2021).

After de novo review, the District Court Judge agreed with the Magistrate Judge that Mr. Hamilton’s “claims for back pay based on wrongful discharge” and disability payment “would have accrued at the time of his discharge . . . and are thus barred by the Tucker Act’s six-year statute of limitations.” *Hamilton*, 2022 WL 4481468, at \*2. The court also agreed “with the Magistrate Judge’s finding that transfer to the Court of Federal Claims is not in the interest of justice and [p]laintiff’s objections provide no basis on which to deviate from the sound reasoning and analysis in the [Magistrate Judge’s] Report.” *Id.* Accordingly, the court granted the government’s motion to dismiss for lack of jurisdiction. *Id.* at \*3.

Mr. Hamilton appealed to the U.S. Court of Appeals for the Fourth Circuit. In affirming the lower court, the Fourth Circuit stated it “reviewed the record de novo and identified no error

in the district court's decision" to grant the government's motion to dismiss. *Hamilton v. Army Bd. for Corr.*, No. 22-2121, 2023 WL 3581703, at \*1 (4th Cir. May 22, 2023).

On December 15, 2023, Mr. Hamilton filed the instant Complaint. *See* Compl. On March 13, 2024, Mr. Hamilton moved to amend his Complaint, which the Court recharacterized as a supplemental document rather than a motion. *See* Suppl., ECF No. 10. Roughly two weeks later, Mr. Hamilton filed another set of documents, a section of which appear to be stylized as a Motion for Summary Judgment. These documents were recharacterized and accepted by the Court as a Memorandum in Support of his Complaint. *See* ECF No. 12 at 42-73.

While difficult to discern, Mr. Hamilton's Complaint and supplement appear to be a rehashing of the same arguments Mr. Hamilton presented before ABCMR and the U.S. District Court of South Carolina. First, he was improperly transferred from the reserves to active duty, resulting in violation of his rights and is therefore owed backpay. Compl. at 5-10; Suppl. at 2-4. Second, he should have been entered into the Disability Evaluation System when he was discharged so that he would have been medically retired and entitled to disability retirement. Compl. at 5, 7, 9-11; Suppl. at 1. Third, his court-martial proceedings lacked due process and jurisdiction. Compl. at 8, 14; Suppl. at 1-2. Fourth, the Army committed several errors, including failing to award him a Purple Heart and taking his property in violation of the Fifth Amendment. Compl. at 2, 4, 6, 10, 12-13, 15; Suppl. at 4-5. Finally, Mr. Hamilton claims that ABCMR did not explain its decision, and the VA committed errors in denying him benefits. Compl. 2-4, 7, 10-12, 14-15; Suppl. at 1-3. For relief, Mr. Hamilton requests his name be made "honorable[, ]awarded [the] Purple Heart, disability retirement back-pay, continue pay USAR, disability retirement status as [of] October 27 1977 with Continue back pay, incarcerated compensation, and Compensation for forty-one years [for being] held as a militant to an unlawful BCD." Compl. at 15; Suppl. at 5. He asks for \$135.5 million as compensation for these alleged violations. Compl. at 15, Compl. at 1-1.

## II. Jurisdiction and Standard of Review

The Government moves to dismiss under Rule 12(b)(6) for lack of subject-matter jurisdiction and Rule 12(b)(1) for failure to state a claim. Mot. to Dismiss; *see also* Rules of the Court of Federal Claims. This Court construes pleadings from pro se plaintiffs liberally and generally holds their pleadings to "less stringent standards than formal pleadings drafted by lawyers." *See Naskar v. United States*, 82 Fed. Cl. 319, 320 (2008) (quoting *Haines v. Kerner*, 404 U.S. 519, 520 (1972)). That said, the leniency afforded to pro se litigants does not give the court discretion to bend jurisdictional requirements. *See Stanley v. United States*, 107 Fed. Cl. 94, 98 (2012). Pro se plaintiffs still bear the burden of establishing the Court's jurisdiction. *Tindle v. United States*, 56 Fed. Cl. 337, 341 (2003).

The Tucker Act grants the Court of Federal Claims subject-matter jurisdiction over claims against the United States "founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort." 28 U.S.C. § 1491(a)(1). However, even where a money mandating statute permits this Court to hear a case, the claims must adhere to the Tucker Act's six-year statute of limitations. 28 U.S.C. § 2501 ("Every claim of which the United States Court of Federal Claims has jurisdiction shall be barred unless the petition thereon is filed within six years after such claim first accrues."). In other words, this jurisdictional limit bars all claims filed more than six years after accrual. *See*

*id.*; see also *John R. Sand & Gravel Co. v. United States*, 552 U.S. 130, 132 (2008) (holding that the six-year statute of limitations is a jurisdictional bar on actions in the Court of Federal Claims). A claim against the United States accrues when “all the events have occurred which fix the liability of the government and entitle the claimant to institute an action.” *Goodrich v. United States*, 434 F.3d 1329, 1333 (Fed. Cir. 2006).

### III. Discussion

Mr. Hamilton seeks entitlement to various military benefits, correction of his military records, and backpay related to his service. While Mr. Hamilton may have endured hardship since his court-martial conviction, his Complaint must be dismissed for lack of subject-matter jurisdiction. Mr. Hamilton’s claims are either outside the Court’s six-year statute of limitations or are otherwise beyond its jurisdiction. For the following reasons, the Court grants Defendant’s Motion to Dismiss.

#### A. Many claims are barred by the statute of limitations.

##### i. Mr. Hamilton’s court-martial challenge is time-barred.

Mr. Hamilton collaterally attacks his court-martial conviction in order to revive eligibility for veteran benefits. Mr. Hamilton was court-martialed in January 1980 on charges related to indecent exposure, assault and battery, as well as the possession and sale of a controlled substance. AR 4–5, 19–20; see also Compl. at 14 (stating he also received two nonjudicial punishments for failure to obey a lawful order and being absent without leave). As part of his sentence, Mr. Hamilton received a bad conduct discharge. *Id.* The U.S. Army Court of Military Review affirmed the findings and sentence in April 1980. AR 96. Mr. Hamilton was subsequently discharged on September 5, 1980. AR 5, 22.

To successfully bring a claim before this Court, the action must be “filed within six years after such claim first accrues.” 28 U.S.C. § 2501. For claims collaterally attacking a court-martial conviction, claim accrual begins on the date of final decision. See *Piotrowski v. United States*, 722 F. App’x 982, 985 (Fed. Cir. 2018) (holding that the Court of Federal Claims properly determined the accrual date for collateral attack claims as the date the conviction became final); *MacLean v. United States*, 67 Fed. Cl. 14, 21–22 (2005), *aff’d*, 454 F.3d 1334 (Fed. Cir. 2006) (discussing finality in the court-martial process and its impact on collateral attacks). At the very latest, Mr. Hamilton’s claim began to accrue in September 1980 when he was discharged from service. This allegation, brought over forty years later, is well beyond the six-year limitation. As a result, this Court lacks jurisdiction over Mr. Hamilton’s challenges to his court-martial conviction.

##### ii. Mr. Hamilton’s disability retirement claim is time-barred.

Mr. Hamilton contends he is entitled to disability retirement. Compl. at 15. “Unlike claims for unlawful discharge . . . claims of entitlement to disability retirement pay generally do not accrue until the appropriate military board either finally denies such a claim or refuses to hear it.” *Chambers v. United States*, 417 F.3d 1218, 1224 (Fed. Cir. 2005); see also *Real v. United States*, 906 F.2d 1557, 1560 (Fed. Cir. 1990). However, a service member’s failure to request a disability board hearing prior to discharge can “invoke the statute of limitations when the service member has sufficient actual or constructive notice of his disability, and hence, of his entitlement to disability retirement pay, at the time of discharge.” *Chambers*, 417 F.3d at 1226; see also *Real*, 906 F.2d at 1560.

5959706

Mr. Hamilton maintains he was not put on notice of his entitlement to disability benefits until 2018 when, as Mr. Hamilton vaguely alleges, several “microfiche” documents were made available to him by the records board. Compl. at 14. According to Mr. Hamilton, these documents “brought to his attention he was not only [sic] able to receive his disability.” *Id.* As noted by the Government, however, it is not at all clear to which documents Mr. Hamilton is referring or what they “brought to his attention” on why he could receive disability. Mot. to Dismiss at 22. Regardless, Mr. Hamilton’s Complaint provides that following his discharge he filed for disability with the USAR Enlistment in 1980. Compl. at 14. Mr. Hamilton also filed a claim for benefits with the VA in August 1981, and again in December 2017. AR 13. All claims were denied. AR 13. Because Mr. Hamilton previously filed for benefits related to his injuries, he cannot now claim that he was unaware of these injuries until 2018.

Furthermore, under the standard set out in *Chambers* and *Real*, Mr. Hamilton had “sufficient actual or constructive notice of his disability” at the time of discharge. Mr. Hamilton’s eye surgery was in September 1977. Compl. 13; AR 6–7. He also states that in November 1977 he felt pain in his lower back and in January 1978 had hand surgery. Compl. at 13–14; AR 7. There is no evidence these were permanent, duty prohibiting injuries at the time of discharge such that Mr. Hamilton could be entitled to disability retirement pay. Indeed, these injuries occurred several years before Mr. Hamilton’s discharge in 1980, and he was deemed fit enough to serve for several years after sustaining these apparent injuries.

More importantly, Mr. Hamilton has long been aware of these claimed injuries. He first saw a doctor in September 1977 for his eye and had at least one follow-up appointment several weeks later. AR 24. He consulted a doctor for his back in 1978. AR 336. He also went to the hospital for his hand in January 1978. *See* AR 6, 319 (“Patient was taken to the OR on 25 Jan. and the foreign body was removed from the right hand.”). In short, Mr. Hamilton had actual knowledge of his claimed injuries on the date of his discharge and had six years from that date to bring a claim before this Court. *See Ingram v. United States*, 560 F.3d 1311, 1314 (Fed. Cir. 2009) (“A claim falling within the jurisdiction of the Court of Federal Claims must be brought within six years of the date that the cause of action accrued. 28 U.S.C. § 2501. A claim first accrues when all the events have occurred that fix the alleged liability of the government and entitle the claimant to institute an action.”).

Mr. Hamilton suggests the accrual suspension rule tolls the statute of limitations for his disability retirement claim. Suppl. at 2. However, “[s]trictly and narrowly applied, the accrual suspension rule is triggered only when a plaintiff can demonstrate that the government concealed its acts, resulting in plaintiff’s lack of awareness, or that the alleged injury was inherently unknowable at the time the cause of action accrued.” *McCluskey v. United States*, No. 19-1516L, 2022 WL 4008740, at \*2 (Fed. Cl. Aug. 15, 2022) (cleaned up) (quoting *Ingram*, 560 F.3d at 1315). The accrual suspension rule similarly does not apply to Mr. Hamilton’s claim for disability retirement because he had actual knowledge of these injuries at the time of his discharge. As a result, accrual suspension does not apply, and this Court lacks jurisdiction over Mr. Hamilton’s claim for disability retirement pay. *See Report and Recommendation, Hamilton*, 2021 WL 9553007, at \*6 (concluding that Mr. Hamilton’s disability claims “would have accrued at the time of his discharge and, thus, are barred by the [Tucker Act’s] six-year statute of limitations”); *Young v. United States*, 529 F.3d 1380, 1385 (Fed. Cir. 2008) (declining to suspend accrual because plaintiff was aware of his medical condition while serving and there was “no

suggestion that the Army concealed any fact that might be relevant to his claim” and therefore plaintiff simply “waited too long to bring [his] Tucker Act claim”).

iii. Mr. Hamilton’s claim for retired status and back pay is time-barred.

Mr. Hamilton’s claim for back pay is also time barred by the Tucker Act’s statute of limitations. Mr. Hamilton appears to allege he was illegally transferred from reserve to active status, improperly discharged, and is therefore owed “continue back pay” and “continue pay [sic] USAR.” Compl. at 15. The Military Pay Act provides a substantive right to back pay in military discharge cases. See 37 U.S.C. § 204; *Martinez v. United States*, 333 F.3d 1295, 1315 (Fed. Cir. 2003). “In addition to back pay and other allowances, the court may grant relief incidental and collateral to judgment granted for monetary relief, such as changes in military or retirement status and corrections of military records.” *Remie v. United States*, 98 Fed. Cl. 383, 385 (2011). Nonetheless, like all claims before the Court, actions brought under the Military Pay Act are subject to the six-year statute of limitations. 28 U.S.C. § 2501. Military back pay claims run from the date of discharge or separation and cannot be equitably tolled. See *Davis v. United States*, 108 Fed. Cl. 331, 339–40 (2012) (“A date-of-discharge rule applies to wrongful discharge claimants seeking back pay, whether labeled by plaintiff’s counsel as ‘back pay,’ ‘retirement pay,’ or ‘back retired pay.’”); *Martinez*, 333 F.3d at 1303 (“In a military discharge case, this court and the Court of Claims have long held that the plaintiff’s cause of action for back pay accrues at the time of the plaintiff’s discharge.”) (collecting cases).

Here, any potential claim accrued in 1980 following Mr. Hamilton’s bad conduct discharge. Mr. Hamilton filed his Complaint in 2023, more than 40 years after the accrual date. Accordingly, this Court lacks subject-matter jurisdiction and must dismiss Mr. Hamilton’s claims for back pay stemming from an alleged improper discharge and illegal transfer to active status. See also Report and Recommendation, *Hamilton*, 2021 WL 9553007, at \*5 (“[Mr. Hamilton’s] purported claim for back pay based on wrongful discharge is barred by the statute of limitations.”).

**B. The Court lacks jurisdiction over Mr. Hamilton’s remaining claims.**

i. The Court lacks jurisdiction over Mr. Hamilton’s Fifth Amendment claims.

Liberal construed, Mr. Hamilton seems to argue that by failing to grant his previous petitions for disability and retirement pay, the government has effectuated a taking of his property interests in violation of the Fifth Amendment Takings Clause. Compl. at 2, 4, 6, 10, 12–13. However, statutory obligations to pay money do not create property interests within the meaning of the Fifth Amendment. See *Adams v. United States*, 391 F.3d 1212, 1225 (Fed. Cir. 2004) (concluding “that a statutory right to be paid money, at least in the context of federal employee compensation and benefit entitlement statutes, is not a property interest for purposes of the Takings Clause” and that “a statutory obligation to be paid money” is not “a property interest grounded in property law”); *Williams v. United States*, 86 Fed. Cl. 594, 605–06 (2009) (“Neither a government salary nor military benefits, however, are cognizable property interests for purposes of the Takings Clause.”). When a plaintiff fails to allege a recognized property interest, that plaintiff fails to state a claim for a taking. See, e.g., *Beres v. United States*, 64 Fed. Cl. 403, 408 (2005) (“[A] takings plaintiff must have a legally cognizable property interest . . .”). Putting aside the fact that this claim is likely time-barred as well, Mr. Hamilton’s Complaint

does not highlight any property interest that would permit this Court to exercise jurisdiction under the Takings Clause.

ii. The Court lacks jurisdiction over Mr. Hamilton's other constitutional claims.

Mr. Hamilton vaguely alleges that the Army violated his due process rights under the Fifth and Fourteenth Amendments. Compl. at 2, 5–6, 13. However, as noted by the Government, the Federal Circuit has made clear that this Court does not have jurisdiction to consider claims arising under the Due Process clauses of the Fifth and Fourteenth Amendments. See Mot. to Dismiss at 26 (citing *LeBlanc v. United States*, 50 F.3d 1025, 1028 (Fed. Cir. 1995)); see also *Smith v. United States*, 709 F.3d 1114, 1116 (Fed. Cir. 2013) (“The law is well settled that the Due Process clauses of both the Fifth and Fourteenth Amendments do not mandate the payment of money and thus do not provide a cause of action under the Tucker Act.”). Accordingly, the Court lacks jurisdiction over Mr. Hamilton's other constitutional claims.

iii. The Court lacks jurisdiction over Mr. Hamilton's request that the government award him the Purple Heart.

Mr. Hamilton requests he be “awarded the Purple Heart.” Compl. at 15. For the reasons discussed earlier demonstrating Mr. Hamilton's long awareness of his claimed injuries, this request is also barred under the Court's six-year statute of limitations. However, even if this claim were not time barred, the Court would still lack jurisdiction. As noted by the Government, “this Court still does not possess jurisdiction to correct Mr. Hamilton's military records because 28 U.S.C. § 1491(a) gives this Court ‘power to order the correction of military records only incident of and collateral to its award of a money judgment.’” Mot. to Dismiss at 24 (quoting *Voge v. United States*, 844 F.2d 776, 781 (Fed. Cir. 1988) (internal quotations omitted)). In other words, because this Court lacks jurisdiction over Mr. Hamilton's claims stemming from disability retirement and military backpay, the Court “therefore lacks jurisdiction over his remaining claims not ‘incident of and collateral to’ any award of a money judgment.” *Id.*; see also *Curtis v. United States*, 33 Fed. Cl. 586, 589 (1995), *aff'd*, 86 F.3d 1175 (Fed. Cir. 1996) (“A claim for a military decoration, however, is not a claim for money damages, and, accordingly, does not meet the standards of the Tucker Act.”).

iv. The Court lacks jurisdiction to review Department of Veterans Affairs' decisions.

Mr. Hamilton makes numerous references to decisions from the Department of Veterans Affairs regarding his eligibility for benefits. See Compl. at 10–12 (referencing VA decisions and suggesting that “the Department of Veterans Affairs Administration has denied [him] due process rights and Equal Protection of law”). To the extent Mr. Hamilton is challenging VA decisions or benefits programs administered by the VA, those too are outside the Court's jurisdiction. See *Carlisle v. United States*, 66 Fed. Cl. 627, 633 (2005); *Van Allen v. United States*, 66 Fed. Cl. 294, 295–96 (2005); see also *Sindram v. United States*, 130 Fed. App'x 456, 458 (Fed. Cir. 2005) (“[A]n appeal to the Veterans Court is the exclusive judicial remedy for the denial of a veteran's benefits, thereby preempting Tucker Act jurisdiction over [such] claims.”). Thus, the Court must dismiss Mr. Hamilton's claims regarding challenges to the VA.

v. Enlistment contracts are not reviewable under the Tucker Act.

Mr. Hamilton appears to argue the Army violated a contractual agreement. See Compl. at 1 (“dispute concerning termination of a contract”), 3, 7 (alluding to a breach of contract), 9, 13. However, it is well established that military enlistment contracts cannot form the basis of a claim under the Tucker Act. See *Sonnenfeld v. United States*, 62 Fed. Cl. 336, 338 (2004) (“It is settled law, however, that Tucker Act jurisdiction for cases involving military pay must be based solely upon statute and regulation, not upon contracts of enlistment or other documents relating to enlistment.”); *Anderson v. United States*, 111 Fed. Cl. 572, 580 (2013); see also *Bell v. United States*, 366 U.S. 393, 401 (1961) (“[C]ommon-law rules governing private contracts have no place in the area of military pay. A soldier’s entitlement to pay is dependent upon statutory right.”). Accordingly, to the extent Mr. Hamilton argues the Army violated an enlistment agreement, this Court lacks jurisdiction to review those claims.

vi. Upgrading Mr. Hamilton’s military records to reflect an honorable discharge is outside the Court’s jurisdiction.

Finally, Mr. Hamilton’s claim for the correction of his military records is improperly before this Court. The Tucker Act empowers the Court “to order the correction of military records *only incident of and collateral to* its award of a money judgment.” *Evans v. United States*, 748 F. App’x 979, 985 (Fed. Cir. 2018) (quoting *Voge*, 844 F.2d at 781). Because each of Mr. Hamilton’s claims for monetary relief are time-barred, Mr. Hamilton’s discharge upgrade claim similarly cannot be entertained. See *Evans*, 748 F. App’x at 985 (affirming dismissal of plaintiff’s discharge upgrade claim “because a discharge upgrade is not money-mandating” and the court lacked jurisdiction over plaintiff’s “other claims involving money-mandating statutes”); *Huskey v. United States*, No. 23-1194C, 2023 WL 8716535, at \*1 (Fed. Cl. Dec. 18, 2023) (finding that plaintiff could not pursue claims for correction of military records because he did not raise any claims for monetary relief that the court could address). Accordingly, the Court lacks jurisdiction over Mr. Hamilton’s request that his military records reflect an honorable discharge.

**IV. Conclusion**

For the reasons explained above, Defendant’s Motion to Dismiss is **GRANTED** and the case is **DISMISSED without prejudice** for lack of jurisdiction. Mr. Hamilton’s Application to Proceed *In Forma Pauperis* is **GRANTED** and his Motion to Appoint Counsel is **DISMISSED** as moot. The Court directs the Clerk of the Court to enter judgment accordingly.

**IT IS SO ORDERED.**

s/ Carolyn N. Lerner  
CAROLYN N. LERNER  
Judge

## In the United States Court of Federal Claims

JERNICE HAMILTON, a/k/a GARNARIS  
HAMILTON,

*Plaintiff,*

v.

THE UNITED STATES,

*Defendant.*

No. 23-2153

(Filed: July 18, 2024)

*Jernice Hamilton, pro se, Goose Creek, SC.*

*Joshua Moore, Civil Division, United States Department of Justice, Washington, DC, for  
Defendant.*

### ORDER

On June 24, 2024, pro se Plaintiff Jernice Hamilton moved to reconsider this Court's May 20, 2024, dismissal order. Pl.'s Mot. for Recon., ECF No. 23. For the following reasons, Plaintiff's motion is **DENIED**.

#### I. Background

Plaintiff Jernice Hamilton, also known as Garnaris Hamilton, filed a pro se Complaint in this Court on December 15, 2023. Compl., ECF No. 1. The Complaint set out a myriad of claims which, liberally construed, included the following: The United States Army ("Army") violated Mr. Hamilton's rights by inducing him without contract into service; he is entitled to compensation related to disability retirement and back pay, his court-martial proceeding lacked due process; the Army took his property in violation of the Fifth Amendment; and the Army Board for the Correction of Military Records and the Department of Veterans Affairs erred in denying him benefits. Compl. at 1-15. Mr. Hamilton also requested correction of his military records to reflect an honorable discharge, military back pay, and a Purple Heart award. *Id.* at 15.

On May 20, 2024, this Court dismissed the case because Plaintiff's claims were either barred by the statute of limitations or outside of this Court's jurisdiction. *See* Opinion and Order of Dismissal, ECF No. 18 ("Order of Dismissal"). Mr. Hamilton then filed a Motion for Reconsideration or Alternatively a New Trial, including a request to proceed in forma pauperis. *See* Pl.'s Mot. for Recon. 23 at 1. The Motion for Reconsideration largely rehashes Mr. Hamilton's original arguments. *See id.* 23-2 at 3-4. Plaintiff contends that the Court's statute of limitations analysis regarding his disability retirement claim was incorrect because the military board's final decision in his case was not until February 8, 2022. *Id.* 23-2 at 5. In addition, Plaintiff argues he was misdiagnosed by the military, and thus the accrual suspension rule tolls

1  
SCT. APP. 20 B

the statute of limitations for this claim. *Id.* Plaintiff also adds that he was prejudiced because he did not receive a copy of ECF No. 17, Defendant's Reply in Support of Its Motion to Dismiss, and by the Court not granting his subsequent Motion for Enlargement of Time. *See id.* 23 at 1-3; ECF No. 21.

## II. Legal Standards

### A. Reconsideration

Whether to grant reconsideration is a decision within the trial court's discretion. *Pac. Gas & Elec. Co. v. United States*, 74 Fed. Cl. 779, 781 (2006) (citing *Yuba Nat. Res., Inc. v. United States*, 904 F.2d 1577, 1583 (Fed. Cir. 1990)). To succeed on a motion for reconsideration, a plaintiff cannot "merely reassert arguments which were previously made and were carefully considered by the court." *Bannum, Inc. v. United States*, 59 Fed. Cl. 241, 243 (2003) (citations omitted). A motion for reconsideration "is not intended to give an unhappy litigant an additional chance to sway the court." *Fru-Con Constr. Corp. v. United States*, 44 Fed. Cl. 298, 300 (1999) (quoting *Bishop v. United States*, 26 Cl. Ct. 281, 286 (1992)). Rather, a plaintiff must show "extraordinary circumstances which justify relief." *Biery v. United States*, 818 F.3d 704, 711 (Fed. Cir. 2016) (quoting *Caldwell v. United States*, 391 F.3d 1226, 1235 (Fed. Cir. 2004)).

Under Rule 59(a)(1) of the Rules of the United States Court of Federal Claims, a motion for reconsideration may be granted in three narrow circumstances: "when there has been an intervening change in the controlling law, newly discovered evidence, or the need to correct clear factual or legal error or prevent manifest injustice." *Id.* at 711 (quoting *Young v. United States*, 94 Fed. Cl. 671, 674 (2010)). A motion for reconsideration "should not be based on evidence that was readily available at the time the motion was heard." *Seldovia Native Ass'n Inc. v. United States*, 36 Fed. Cl. 593, 594 (1996). In addition, where a party seeks reconsideration on the ground of manifest injustice, it cannot prevail unless it demonstrates that any injustice is "apparent to the point of being almost indisputable." *Pac. Gas & Elec. Co.*, 74 Fed. Cl. at 785. In a motion for reconsideration, "manifest" is understood as "clearly apparent or obvious." *Ammex, Inc. v. United States*, 52 Fed. Cl. 555, 557 (2002).

### B. Pro Se Litigants

The Court recognizes that pro se litigants are "not expected to frame issues with the precision of a common law pleading." *Roche v. U.S. Postal Serv.*, 828 F.2d 1555, 1558 (Fed. Cir. 1987). However, "the leniency afforded to a pro se litigant with respect to mere formalities does not relieve the burden to meet jurisdictional requirements." *Minehan v. United States*, 75 Fed. Cl. 249, 253 (2007). Further, even a pro se party may not "prevail on a motion for reconsideration by raising an issue for the first time on reconsideration when the issue was available to be litigated at the time the complaint was filed." *Matthews v. United States*, 73 Fed. Cl. 524, 525-26 (2006) (citing *Lamle v. Mattel, Inc.*, 394 F.3d 1355, 1359 n.1 (Fed. Cir. 2005)).

## III. Discussion

Mr. Hamilton does not meet the requirements to justify the Court granting his motion for reconsideration. *See Biery*, 818 F.3d at 711. In his Motion for Reconsideration, Mr. Hamilton fails to establish that (A) there has been a change in controlling law, (B) there is now previously unavailable evidence, or (C) denying the motion would result in manifest injustice. Thus, for the following reasons, the Court denies Plaintiff's Motion for Reconsideration.

**A. There Has Been No Change in Controlling Law**

First, Plaintiff does not argue there has been an intervening change in controlling law, nor is the Court aware of any such change. Thus, Plaintiff cannot be granted reconsideration on this ground.

**B. There is No Previously Unavailable Evidence**

Second, even considering the leniency afforded to Mr. Hamilton because of his pro se status, the Court can discern no new or previously unavailable evidence. *See, e.g., Matthews*, 73 Fed. Cl. at 525–27. Instead, Plaintiff largely reasserts the same statute of limitations arguments which were previously made and were carefully considered by this Court. *See* Pl.’s Mot. for Recon. at 14–15; *See Bannum, Inc.*, 59 Fed. Cl. at 243. In his instant motion, Mr. Hamilton appears to argue that he was misdiagnosed in 2018 and therefore the statute of limitations essentially resets. *See* Pl.’s Mot. for Recon. 23-2 at 5. But he failed to clearly allege misdiagnosis in his Complaint, ECF No. 1, in his Supplement to the Complaint, ECF No. 10, and in his Response to the Mot. to Dismiss, ECF No. 13. Because this is the first time Mr. Hamilton raises his alleged misdiagnosis, he cannot succeed here. *See Lamle*, 394 F.3d at 1359 n.1 (holding that pro se party waived issue where party had first raised issue on motion for reconsideration); *Seldovia Native*, 36 Fed. Cl. at 594 (“[A] motion for reconsideration . . . should not be based on evidence that was readily available at the time the motion was heard.” (citations omitted)). In short, the claim and related evidence of a 2018 misdiagnosis were available at the time Mr. Hamilton filed his Complaint. *See Matthews*, 73 Fed. Cl. at 526 (“These allegations, however, do not provide a basis for reconsideration of the court’s decision because they do not amount to previously unavailable evidence.”).

The Court notes that Mr. Hamilton made vague references to a misdiagnosis in his Memorandum in Support of Plaintiff’s Complaint, ECF No. 12 at 46 (“Hamilton’s condition was not properly diagnosed until years after issued DD-214. Sept 51980 [sic], Hamilton’s diagnosis in 2016 by His private physician.”). Again, this undercuts any claim that Mr. Hamilton’s apparent misdiagnosis is new evidence that was previously unavailable. If Mr. Hamilton was improperly diagnosed in 2016 (or 2018 as he appears to claim in his Motion for Reconsideration), he had the full opportunity to develop this argument. *See Hymas v. United States*, 141 Fed. Cl. 735, 738 (2019) (“Reconsideration of a judgment is not intended to permit a party to retry the allegations included in plaintiff’s complaint when it previously was afforded a full and fair opportunity to do so.”).

As for the remaining claims in his Motion for Reconsideration, Mr. Hamilton restates his previous arguments. *See* Mot. for Recon. 23-2 at 2 (suggesting illegal transfer from the United States Army Reserves); 7 (discussing his discharge and claiming that his court-martial lacked jurisdiction); at 3–5, 7 (disability retirement pay claim); 4 (Fifth Amendment takings claim); 4 (appearing to argue that his court-martial proceeding lacked due process); 2–3, 6 (alluding to retirement status and back pay claim). Various forms of these arguments were made in Mr. Hamilton’s Complaint, ECF No. 1, his Supplement to Complaint, ECF No. 10, his Memorandum in Support of the Complaint, ECF No. 12, and his Response to the Motion to Dismiss, ECF No. 13.

Indeed, in its previously issued Order of Dismissal, the Court explained its reasoning in denying Mr. Hamilton’s claims. *See* Order of Dismissal at 5 (explaining why Mr. Hamilton’s court-martial challenge is time-barred); 5–7 (explaining why his disability retirement claim is

time-barred); 7–8 (explaining why his claim for retired status and back pay is time-barred); and 8 (explaining why the Court lacks jurisdiction over Mr. Hamilton’s Fifth Amendment and other constitutional claims). These previously raised arguments are not grounds for reconsideration. Again, the Court “will not grant a motion for reconsideration if the movant merely reasserts . . . arguments previously made, . . . all of which were carefully considered by the court.” *Ammex, Inc.*, 52 Fed. Cl. at 557 (2002) (cleaned up). In sum, there is no previously unavailable evidence, and therefore reconsideration is inappropriate on this ground.

### C. Plaintiff is Unable to Demonstrate Manifest Injustice

Lastly, Mr. Hamilton fails to show there has been manifest injustice. He claims two circumstances warrant reconsideration. First, Mr. Hamilton alleges he never received a copy of ECF No. 17 (“Def.’s Reply in Supp. of Mot. to Dismiss”), and thus the Court’s Order of Dismissal was prejudicial. *See* Pl.’s Mot. for Recon. 23 at 2 (“Government’s ECF No 17 was not delivered to Plaintiff . . .”); *id.* (“Plaintiff has not as of this filing this motion received a copy of ECF No. 17 from the defendants . . .”). Second, Mr. Hamilton claims he was prejudiced by the previous denial of his motion for an enlargement of time. *Id.* (“The Court had Ordered April 16th granted the Defendant’s an Extension of time to responded ECF No 14 For good cause. To deny Plaintiffs Motion for Enlargement of time for Health reasons as it is less than good cause.”). However, these two alleged circumstances fail to establish manifest injustice with the nearly indisputable proof necessary to prevail on a motion for reconsideration. *See, e.g., Shirlington Limousine & Trans., Inc. v. United States*, 78 Fed. Cl. 27, 31 (2007) (“Where reconsideration is sought due to manifest injustice, the moving party can only prevail if it demonstrates that the injustice from the case is ‘apparent to the point of being almost indisputable.’”).

Here, there is nothing Mr. Hamilton points to, or that the Court can discern, approaching the requisite level of injustice needed to support reconsideration. *See Pac. Gas & Elec. Co.*, 74 Fed. Cl. at 785. Additionally, the Court notes that ECF No. 17 was Defendant’s Reply in Support of Its Motion to Dismiss. Because arguments not raised in Defendant’s initial brief were waived, *see, e.g., SmithKline Beecham Corp. v. Apotex Corp.*, 439 F.3d 1312, 1319 (Fed. Cir. 2006), the Court finds that Mr. Hamilton was not prejudiced if he did not receive Defendant’s reply. In other words, the Government’s arguments were all articulated and laid out in its opening Motion to Dismiss, ECF No. 8, which Mr. Hamilton did receive. Regardless, and as discussed below, Mr. Hamilton could not have filed a pleading in response to the Government’s Reply without leave of the Court, an added reason undermining a claim of prejudice.

Mr. Hamilton’s second claim is that he was prejudiced by the Court’s failure to grant his motion for an enlargement of time. Again, this claim fails to provide the level of indisputable proof necessary to show manifest injustice. To begin, Mr. Hamilton did respond to Defendant’s Motion to Dismiss. *See* Pl.’s Response to Def.’s Mot. to Dismiss, ECF No. 13. To file a further reply to Defendant’s motion, Mr. Hamilton would have had to request leave from the Court to file a sur-reply. Mr. Hamilton has not shown that a sur-reply was warranted, or likelihood that the Court would have granted such a request. *See Am. Safety Council, Inc. v. United States*, 122 Fed. Cl. 426, 431 (2015) (“It has been held that sur-replies are generally disfavored. . . . As a strategic move, a non-movant will attempt to file a sur-reply as an effort to get the last word.”).

Further weighing against a finding of manifest injustice is that the Court liberally granted Mr. Hamilton’s previous filings and construed those filings within the Court’s rules of

procedure. For example, on March 18, 2024, the Court recharacterized and accepted a set of documents Mr. Hamilton filed as a supplement to his Complaint and granted Mr. Hamilton two additional weeks to respond to Defendant's Motion to Dismiss. *See* Order Recharacterizing Pl.'s Mot., ECF No. 11. Roughly two weeks later, the Court accepted another set of documents which the Court recharacterized as a Memorandum in Support of Plaintiff's Complaint. *See* ECF No. 12. In short, the Court accepted each of Mr. Hamilton's previous filings and gave him additional time to respond to Defendant's motion. Finally, the Court notes that it received Mr. Hamilton's motion for an enlargement of time after judgment was entered. *See* Judgment, ECF No. 19 ("JUDGMENT entered pursuant to Rule 58, that plaintiff's complaint is dismissed, without prejudice, for lack of jurisdiction."). For these reasons, the Court finds that Mr. Hamilton has failed to demonstrate the requisite level of injustice needed to support reconsideration.

#### IV. Conclusion

For these reasons, Plaintiff's Motion for Reconsideration is **DENIED** and Plaintiff's Request to Proceed in Forma Pauperis is **DENIED as moot**.

**IT IS SO ORDERED.**

s/ Carolyn N. Lerner  
CAROLYN N. LERNER  
Judge

5  
S.C.T. App. 24 B

In the United States Court of Federal Claims

No. 23-2153 C  
Filed: May 21, 2024

\*\*\*\*\*  
JERNICE HAMILTON, a/k/a/  
GARNARIS HAMILTON,  
Plaintiff,  
  
v.  
  
THE UNITED STATES,  
Defendant.  
\*\*\*\*\*

JUDGMENT

Pursuant to the court's Opinion and Order, filed May 20, 2024, granting defendant's motion to dismiss,

IT IS ORDERED AND ADJUDGED this date, pursuant to Rule 58, that plaintiff's complaint is dismissed, without prejudice, for lack of jurisdiction.

Lisa L. Reyes,  
Clerk of Court

By: s/ Ashley Reams  
Deputy Clerk

NOTE: As to appeal to the United States Court of Appeals for the Federal Circuit, 60 days from this date, see RCFC 58.1, re number of copies and listing of all plaintiffs. Effective December 1, 2023, the appeals fee is \$605.00.

S.Ct. App. 25 B

AO 450 (SCD 04/2010) Judgment in a Civil Action

UNITED STATES DISTRICT COURT
for the
District of South Carolina

Jernice Hamilton

Plaintiff

v.

Army Board for Corrections,
Dennis William Dingle, Charles M. Martin

Defendants

Civil Action No. 2:21-cv-00195-BHH

JUDGMENT IN A CIVIL ACTION

The court has ordered that (check one):

[ ] the plaintiff (name) recover from the defendant (name) the amount of dollars (\$), which includes prejudgment interest at the rate of %, plus postjudgment interest at the rate of %, along with costs.

[ ] the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (name) recover costs from the plaintiff (name).

[X] other: Plaintiff, Jernice Hamilton, shall take nothing of Defendants, as to the complaint filed pursuant to 42 U.S.C. § 1983 and this action is DISMISSED without prejudice.

This action was (check one):

[ ] tried by a jury, the Honorable presiding, and the jury has rendered a verdict.

[ ] tried by the Honorable presiding, without a jury and the above decision was reached.

Xdecided by the Honorable Bruce Howe Hendricks, United States District Judge, presiding. The Court having adopted the Report and Recommendation set forth by the Honorable Molly Hughes Cherry, United States Magistrate Judge.

ROBIN L. BLUME, CLERK OF COURT

Date: September 27, 2022

s/ A. Snipes

Signature of Clerk or Deputy Clerk

S. Ct App. 26C

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Jernice Hamilton, a/k/a Garnaris Hamilton,	)	Civil Action No. 2:21-195-BHH
	)	
Plaintiff,	)	
vs.	)	
	)	<b><u>OPINION AND ORDER</u></b>
Army Board for Corrections, Dennis	)	
William Dingle, Charles M. Martin,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the Court for review of the Report and Recommendation entered by United States Magistrate Judge Molly H. Cherry on December 7, 2021 ("Report"). (ECF No. 64.) In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) for the District of South Carolina, this case was referred to Magistrate Judge Cherry for pretrial handling. In her Report, the Magistrate Judge recommends that Defendants Army Board for Corrections, Dennis William Dingle, Charles M. Martin's ("Defendants") motion to dismiss (ECF No. 46) be granted and Plaintiff Jernice Hamilton's ("Plaintiff") motion to strike (ECF No. 62) be denied. (ECF No. 64 at 1, 18.) The Report sets forth in detail the relevant facts and standards of law, and the Court incorporates them here without recitation.<sup>1</sup>

**BACKGROUND**

The Magistrate Judge entered her Report on December 7, 2021, recommending

<sup>1</sup> As always, the Court says only what is necessary to address Defendant's objections against the already meaningful backdrop of a thorough Report and Recommendation by the Magistrate Judge; exhaustive recitation of law and fact exists there.

S.Ct. App. 27C

that Defendants' motion to dismiss be granted and Plaintiff's motion to strike be denied. (See ECF No. 64.) On December 19, 2021, Plaintiff filed objections challenging certain aspects of the Report. (ECF No. 71.) On December 28, 2021, Defendants filed a reply to Plaintiff's objections. (ECF No. 72.) Plaintiff later filed an "Affidavit in Support of Transferring to the Court of Federal Claims Amendment to Objection to Report and Recommendation" (ECF No. 73), to which Defendants replied (ECF No. 74). The matter is ripe for consideration and the Court now makes the following ruling.

#### STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). In the absence of a timely filed, specific objection, a district court need not conduct a *de novo* review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

#### DISCUSSION

The Court will confine its analysis to those portions of the Report to which Plaintiff raises a specific objection. Accordingly, having carefully reviewed all other portions of the Report in light of the record and applicable law, and finding no error therein, the Court

adopts all findings and recommendations of the Magistrate Judge to which there has been no specific objection.

#### A. Jurisdiction, Transfer, and the Statute of Limitations

Magistrate Judge Cherry first found that because Plaintiff is seeking monetary relief in the form of disability payments and back pay, as well as severance or retirement, this Court lacks subject matter jurisdiction pursuant to the Administrative Procedure Act, 5 U.S.C. §§ 701–706. (ECF No. 64 at 5–8.) However, because the Court of Federal Claims may provide an “adequate remedy” for Plaintiff’s claim pursuant to the Tucker Act, the Magistrate Judge next analyzed whether such a Tucker Act claim is viable under the circumstances. (See *id.* at 8–12.) Magistrate Judge Cherry concluded that transfer to the Court of Federal Claims is not in the interest of justice and is otherwise futile because Plaintiff’s claim for back pay based on wrongful discharge is barred by the Tucker Act’s six-year statute of limitations, and because Plaintiff has otherwise failed to state a plausible claim to relief pursuant to Federal Rule of Civil Procedure 12(b)(6). (*Id.* 13 at 9–17.)

Plaintiff’s objections are difficult to decipher. Construing the objections liberally, Plaintiff appears to be challenging the Magistrate Judge’s conclusions that the Tucker Act’s statute of limitations precludes his claim for back pay based on wrongful discharge, and that transfer to the Court of Federal Claims would be futile. (See ECF No. 71 at 2–6; ECF No. 73 at 2–3, 6–9, 12, 14–15.) After *de novo* review, the Court finds that Magistrate Judge Cherry correctly concluded that this Court does not have jurisdiction over the decision of the Army Board for Correction of Military Records (“ABCMR”) that Plaintiff challenges. See *United States v. Hohri*, 482 U.S. 64, 72 (1987) (stating Tucker Act claims

for more than \$10,000 may be brought only in the Court of Federal Claims, and decisions of the Claims Court are appealable only to the Federal Circuit). Moreover, Plaintiff's claims for back pay based on wrongful discharge and disability based on a back injury during service would have accrued at the time of his discharge, *Martinez v. United States*, 333 F.3d 1295, 1313–14 (Fed. Cir. 2003), *Chambers v. United States*, 417 F.3d 1218, 1226 (Fed. Cir. 2005), and are thus barred by the Tucker Act's six-year statute of limitations. 28 U.S.C. § 2501. The Court agrees with the Magistrate Judge's finding that transfer to the Court of Federal Claims is not in the interest of justice and Plaintiff's objections provide no basis on which to deviate from the sound reasoning and analysis in the Report. Accordingly, the objections are overruled.

#### **B. Motion to Strike**

Magistrate Judge Cherry next found that Plaintiff's motion to strike (ECF No. 62) is directed toward Defendants' motion to dismiss, which is not a pleading, and therefore the motion to strike should be denied. See, e.g., *Gordon v. TBC Retail Grp., Inc.*, No. 2:14-cv-3365-DCN, 2020 WL 1703912, at \*2 (D.S.C. April 8, 2020) (“[M]otions to strike pursuant to Rule 12(f) are directed only to pleadings.”). Furthermore, the Magistrate Judge noted that Plaintiff has not identified any grounds on which to strike the motion to dismiss or any pleadings by Defendants. (ECF No. 64 at 18.)

Construing Plaintiff's objections liberally, he appears to challenge Magistrate Judge Cherry's conclusions about the motion to strike on the basis that Defendants' motion to dismiss is “scandalous” because Plaintiff has suffered financial harm in the denial of benefits and reputational harm from his Bad Conduct Discharge, and because the motion to dismiss seeks to uphold the decisions giving rise to those harms. (See ECF

No. 73 at 12–13.) The objection is without merit and the motion to strike will be denied. The Court agrees with the Magistrate Judge's conclusions that Defendants' motion to dismiss: (1) is not the proper subject of a motion to strike, and (2) does not raise facts or issues that are outside the issues in this case, unfairly prejudicial to Plaintiff, or otherwise inappropriate. (See ECF No. 64 at 17–18); see also Fed. R. Civ. P. 12(f) ("The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter."). Accordingly, the objection is overruled.

### CONCLUSION

After *de novo* review of the Report, the record, and the applicable law, and for the reasons set forth above, the Court ADOPTS the Report (ECF No. 64) of the Magistrate Judge and incorporates it herein. Accordingly, Plaintiff's objections (ECF Nos. 71 & 73) are OVERRULED, Defendants' motion to dismiss (ECF No. 46) is GRANTED, and Plaintiff's motion to strike (ECF No. 62) is DENIED. This result renders moot Plaintiff's additional motion to strike (ECF No. 75) and motion to stay (ECF No. 78); accordingly, those motions are both DENIED as moot.

**IT IS SO ORDERED.**

/s/ Bruce Howe Hendricks  
United States District Judge

September 26, 2022  
Charleston, South Carolina

enlisted in the USAR.” *Id.* While the basis of and for Plaintiff’s claim against Defendants is somewhat unclear, he appears to be challenging a decision by the ABCMR.<sup>5</sup>

Generally, plaintiffs challenging a decision of a board for the correction of military records have used one of two avenues to establish federal jurisdiction: the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706; and the Tucker Act, 28 U.S.C. §§ 1346(a)(2), 1491. *Randall v. United States*, 95 F.3d 339, 345 (4th Cir. 1996). Both statutes operate as waivers of sovereign immunity by the United States.<sup>6</sup> *Id.* Plaintiff’s allegations in the Amended Complaint are insufficient to establish jurisdiction of this Court under the APA or the Tucker Act,<sup>7</sup> and Plaintiff has not met his burden of proving otherwise.

---

<sup>5</sup> The undersigned notes that, in his Amended Complaint, Plaintiff also asserts he was denied due process before a disability board and that he “never received a fair hearing from the Boards of the Department of Veterans Affairs Administration or ABCMR.” ECF No. 17-1 at 4. He also alleges he was “denied due Proce [sic] hearing before Board of disability 5th 14 Amend Rights before discharge.” ECF No. 17 at 4, ¶ III. Plaintiff has not named the Veterans Affairs Administration as a defendant. Nevertheless, to the extent Plaintiff may be asserting a claim for VA disability retirement benefits, this Court lacks subject matter jurisdiction over a claim for review of veteran disability benefits or review of the VA’s administrative decision on benefits. *Weaver v. United States*, 98 F.3d 518, 519 (10th Cir. 1996) (“A federal district court lacks subject matter jurisdiction over a claim for veteran’s disability benefits or for review of an administrative decision of the Veterans Administration in an individual case.”); *see also Corson v. Secretary of Veterans Affairs*, C.A. No. 1:09CV49, 2010 WL 532382 (N.D. W.Va. Feb. 8, 2010) (adopting recommendation and report in its entirety, where magistrate judge concluded that despite constitutional language, plaintiff’s claims were nothing more than a challenge to the underlying benefits decision, and that therefore the court had no basis for subject matter jurisdiction); *Cooper v. Dept. of Veterans Affairs*, No. 3:08-cv-394-RJC, 2009 WL 2020794 (W.D.N.C. July 6, 2009) (adopting report and recommendation wherein magistrate judge stated that district court review of VA benefit determinations was precluded by 38 U.S.C. § 511).

<sup>6</sup> Under the doctrine of sovereign immunity, the United States, its agencies and its employees acting in their official capacities can only be sued for damages if the United States has explicitly waived its sovereign immunity. *See United States v. Bormes*, 568 U.S. 6, 9 (2012) (internal citations and quotation marks omitted); *United States v. Mitchell*, 463 U.S. 206, 212 (1983).

<sup>7</sup> Although Plaintiff did not assert the Tucker Act as a basis for this Court’s jurisdiction, “federal jurisdiction may be sustained on the basis of a statute not relied on or alleged in the pleadings.” *Randall*, 95 F.3d 346 (quoting *Celli v. Shoell*, 40 F.3d 324, 328 (10th Cir. 1994)). Accordingly, the undersigned has analyzed potential jurisdictional arguments under the Tucker Act.

S.Ct. App. 32 C

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

JERNICE HAMILTON,  
AKA GARNARIS HAMILTON

Plaintiff-Appellant,

v.

2024-2200

UNITED STATES,

Defendant-Appellee.

**DEFENDANT-APPELLEE'S CORRECTED INFORMAL BRIEF**

Pursuant to Federal Circuit Rule 28(g) defendant-appellee, the United States, respectfully submits this informal brief in response to the informal brief filed pro se by plaintiff-appellant, Jernice Hamilton. This Court should affirm the Court of Federal Claims' judgment dismissing Mr. Hamilton's complaint and order denying reconsideration because Mr. Hamilton failed to allege a claim within the trial court's limited jurisdiction. Although Mr. Hamilton appears to allege many complaints regarding his medical treatment, court martial conviction, and denial of benefits, the facts surrounding these claims all occurred between 1977 and 1980, well outside the trial court's statute of limitations.

**STATEMENT OF THE CASE**

In preparation to enlist with the Army, Mr. Hamilton underwent an initial physical examination in 1977. SAppx4. After, Mr. Hamilton injured his left eye while

S.Ct. App. 33 D

playing basketball with other recruits, which a physician successfully treated.

<sup>POPI 1328.</sup>  
SAppx34, SAppx45-46. Once healed, Mr. Hamilton was cleared for service, and he formally enlisted in the United States Army Reserve (USAR) on October 25, 1977.

<sup>CO-9 M P</sup>  
SAppx47, SAppx51. On October 28, 1977, he signed a change of status form which required active-duty service for three years and three years of reserve duty. SAppx61.

Mr. Hamilton then began basic training, where he sustained a hand injury. SAppx62.

After a successful operation, the Army cleared him for duty with limitations.

SAppx86.

*Docum  
POPI*

Mr. Hamilton continued to serve in active-duty status until he was court-martialed in January 1980. SAppx34, SAppx41-43. Ultimately, Mr. Hamilton received a bad conduct discharge for convictions related to indecent exposure, assault and battery, and the possession, sale, and transfer of a controlled substance. SAppx42.

After appellate review, his sentence was affirmed, and Mr. Hamilton was officially discharged on September 5, 1980. SAppx35, SAppx91. In August 1981,

Mr. Hamilton filed a claim with the Department of Veterans Affairs (VA) for

disability benefits, but the VA denied the application due to the bad conduct discharge. SAppx36. Nearly 37 years later, in 2018, Mr. Hamilton filed a second

*actual summary*

application, which was denied because Mr. Hamilton's military service

characterization was dishonorable. SAppx87-90.

On June 26, 2018, nearly 40 years after his court martial and bad conduct discharge, Mr. Hamilton filed an application for the correction of his military records

*S.P.T. App. 34 D*

with the Army Board for the Correction of Military Records (ABCMR or board). SAppx73-85. He requested an “upgrade of his bad conduct discharge to honorable,” a discharge from the USAR, a “reenlistment code upgrade on his DD form 214,” and a review of his DD Form 4 (Enlistment or Reenlistment Agreement – Armed Forces of the United States) for alleged breach of contract. SAppx73.

The board denied Mr. Hamilton’s request for relief in August 2019. SAppx73-85. Notwithstanding Mr. Hamilton’s failure to file within three years of his discharge, the board concluded that the evidence demonstrated relief was unwarranted because Mr. Hamilton did not provide evidence showing remorse or acceptance of responsibility. SAppx237, SAppx245. In November 2019, Mr. Hamilton petitioned for reconsideration, which the board denied in June 2020. SAppx64-72. In 2021, Mr. Hamilton filed another reconsideration petition, which the board denied in February 2022. SAppx33-40.

Meanwhile, in January 2021, Mr. Hamilton filed a complaint against the board in the U.S. District Court for the District of South Carolina. *Hamilton v. Army Bd. for Corr.*, No. CV 2:21-195-BHH-MHC, 2021 WL 9553007, at \*1 (D.S.C. Dec. 7, 2021), *report and recommendation adopted*, No. CV 2:21-195- BHH, 2022 WL 4481468 (D.S.C. Sept. 27, 2022), *aff’d*, No. 22-2121, 2023 WL 3581703 (4th Cir. May 22, 2023). The South Carolina District Court dismissed Mr. Hamilton’s complaint for lack of jurisdiction and declined to transfer it to the Court of Federal Claims because it would be futile under the statute of limitations. *Id.* at \*5.

In December 2023, Mr. Hamilton filed a complaint in the Court of Federal Claims. SAppx18-32. The trial court liberally construed his complaint to raise claims for back pay, disability retirement, that his court-martial proceedings lacked due process, that the Army violated the Takings Clause related to his pay, and various other requests. SAppx7.

The trial court dismissed Mr. Hamilton's complaint for lack of jurisdiction. SAppx4-12. First, the trial court concluded that many of Mr. Hamilton's claims, including his attacks on his court-martial conviction; his entitlement to disability retirement; and request for retired status and back pay, were time-barred because these claims accrued in 1980 at the latest, well outside of the six-year statute of limitations. SAppx8-10. Then, the trial court found that it could not exercise jurisdiction over Mr. Hamilton's Takings Clause claim because there is not a Fifth Amendment property interest in disability and retirement pay. SAppx10-11. Finally, the trial court concluded it lacked jurisdiction over Fifth and Fourteenth Amendment Due Process claims, a request for a Purple Heart award, to review VA decisions or Mr. Hamilton's enlistment contract, or change his discharge to honorable without any money judgment. SAppx11-12. Thus, the trial court dismissed the complaint. Following the dismissal, Mr. Hamilton moved for reconsideration, which the trial court denied. SAppx13-17.

This appeal followed.

## JURISDICTIONAL STATEMENT

The Court has jurisdiction to review the final judgment of the Court of Federal Claims under 28 U.S.C. § 1295(a)(3).

## STANDARD OF REVIEW

This Court reviews the trial court's dismissal of a complaint for lack of subject matter jurisdiction *de novo*. *Res. Conservation Grp., LLC v. United States*, 597 F.3d 1238, 1242 (Fed. Cir. 2010).

Although *pro se* plaintiffs are given more latitude in their pleadings and are not held to rigid standards or formalities imposed upon parties represented by counsel, *Estelle v. Gamble*, 429 U.S. 97, 106 (1976), a *pro se* plaintiff must still "comply with the applicable rules of procedural and substantive law." *Walsh v. United States*, 3 Cl. Ct. 539, 541 (1983) (citing *Faretta v. California*, 422 U.S. 806, 835 n. 46 (1975)). Thus, the "leniency afforded *pro se* litigants with respect to mere formalities does not relieve them of jurisdictional requirements." *Johnson v. United States*, 124 Fed. Cl. 655, 658 (2016) (citation omitted); *see also Kelley v. Sec., United States Dep't of Labor*, 812 F.2d 1378, 1380 (Fed. Cir. 1987).

## QUESTIONS AND ANSWERS

1. **Has the appellant ever had another case in this Court?**

No. We are not aware of any prior appeals by Mr. Hamilton to this Court.

2. **Did the trial court incorrectly decide or fail to take into account any facts? If yes, what facts?**

No, the trial court correctly accounted for all of the facts as alleged and in the

administrative record, most importantly the September 5, 1980 date Mr. Hamilton was discharged, when dismissing Mr. Hamilton's complaint. *See* SAppx8, SAppx35, SAppx91.

Mr. Hamilton appears to assert that the trial court failed to consider his 1977 enlistment contract, 1977 assignment to the USAR, or the "undelivered DD Form 214." Pl. Br. at 1. Mr. Hamilton appears to contend that the trial court erred by not considering his arguments regarding his discharge on the merits. Pl. Br. at 5-7. He is incorrect. The trial court properly considered the entire record, and clearly relied upon his 1977 enlistment. *See* SAppx5-7, 10-11. Further, the trial court discussed the DD Form 214 and the board's finding that it had no error. *See* SAppx5. The trial court did not need to discuss these documents further because Mr. Hamilton was discharged in 1980, well outside the six-year statute of limitations under the Tucker Act. *See* 28 U.S.C. § 2501.

**3. Did the trial court apply the wrong law? If yes, what law should be applied?**

No, the Court of Federal Claims applied the correct law in dismissing Mr. Hamilton's claims for lack of subject matter jurisdiction. Claims in the Court of Federal Claims must adhere to the Tucker Act's six-year statute of limitations. 28 U.S.C. § 2501; *see also John R. Sand & Gravel Co. v. United States*, 552 U.S. 130, 132 (2008) (holding that § 2501 is a jurisdictional bar). Mr. Hamilton was discharged with a bad conduct discharge on September 5, 1980, and his claims accrued by that date.

See SAppx25. His December 2023 complaint is well outside of the statute of limitations.

Underlying much of Mr. Hamilton's case appears to be attempts to collaterally attack his court martial conviction, which is the predicate of his bad conduct discharge. For example, he appears to repeatedly argue that his enlistment contracts were defective or improper, and, as a result, his conviction is null and void. See Pl. Br. at 2, 5-9. He also appears to assert that he should have been medically retired prior to his court martial, rendering it null and void. See Pl. Br. at 11-13.

For claims collaterally attacking, directly or indirectly, a court-martial conviction, claim accrual begins on the date of final decision. See *Piotrowski v. United States*, 722 F. App'x 982, 985 (Fed. Cir. 2018). Any claim related to his court martial accrued no later than September 5, 1980, the day Mr. Hamilton was discharged, and the December 2023 complain falls well outside the Court of Federal Claim's six-year statute of limitations. The trial court properly concluded that it lacked jurisdiction over any of Mr. Hamilton's attacks on his court martial.

Additionally, the trial court properly dismissed Mr. Hamilton's disability retirement claims as time barred. "Unlike claims for unlawful discharge, claims of entitlement to disability retirement pay generally do not accrue until an appropriate military board either finally denies such a claim or refuses to hear it." *Chambers v. United States*, 417 F.3d 1218, 1224 (Fed. Cir. 2005) (citations omitted). However, a service member's failure to request a disability board prior to discharge "can invoke

the statute of limitations when the service member has sufficient actual or constructive notice of his disability, and hence, of his entitlement to disability retirement pay, at the time of discharge.” *Chambers*, 417 F.3d at 1226; *see also Real v. United States*, 906 F.2d 1557, 1560 (Fed. Cir. 1990).

Mr. Hamilton had actual notice of his alleged disabilities at the time of discharge because he sought medical treatment for his identified, physical injuries: his eye and hand injuries. SAppx34, SAppx45-46, SAppx86. Thus, he had actual knowledge of the claimed injuries upon his discharge, causing his claim to accrue and beginning the statute of limitations. *See Ingram v. United States*, 560 F.3d 1311, 1314 (Fed. Cir. 2009). And because he had actual knowledge, and sought treatment, of these injuries, his claim for disability retirement cannot be “inherently unknowable” sufficient for accrual suspension. *See Martinez v. United States*, 333 F.3d 1295, 1319 (Fed. Cir. 2003). Accordingly, Mr. Hamilton’s claims for disability retirement are time-barred because they accrued in 1980. *See Chambers*, 417 F.3d at 1226.

Further, although he does not appear to raise these claims on appeal, the trial court also correctly dismissed Mr. Hamilton’s other claims. Mr. Hamilton failed to allege a Takings Clause claim within the Court of Federal Claim’s jurisdiction because benefit entitlement statutes are not a property interest. *See Adams v. United States*, 391 F.3d 1212, 1225 (Fed. Cir. 2004). The Court of Federal Claims has no jurisdiction to consider claims under the Due Process clauses of the Fifth and Fourteenth Amendments. *See LeBlanc v. United States*, 50 F.3d 1025, 1028 (Fed. Cir. 1995); *see also*

*Smith v. United States*, 709 F.3d 1114, 1116 (Fed. Cir. 2013). And the Court of Federal Claims cannot review VA benefits decisions. See *Sindram v. United States*, 130 Fed. App'x 456, 458 (Fed. Cir. 2005) (“[A]n appeal to the Veterans Court is the exclusive judicial remedy for the denial of a veteran’s benefits, thereby preempting Tucker Act jurisdiction over [such] claims.”).

In total, Mr. Hamilton appears to raise a variety of concerns about his enlistment paperwork, transfer to the USAR, and discharge from the Army. See Pl. Br. at 2, 13-16. However, Mr. Hamilton cannot show error in the trial court’s dismissal because all of his claims accrued at the time of his discharge. See *Martinez*, 333 F.3d at 1303. Thus, the trial court correctly applied the Court of Federal Claim’s statutory time bar to dismiss his complaint. See 28 U.S.C. § 2501.

**4. Did the trial court fail to consider important grounds for relief? If yes, what grounds?**

No, the Court of Federal Claims did not fail to consider important grounds for relief. In his answer to this section, Mr. Hamilton cites 10 U.S.C. §§ 1201, 1202, and 1203, and asserts that he already met the requirements of these statutes. Pl. Br. at 2. These statutes detail requirements for physical disability retirement and separation in the Army. Mr. Hamilton appears to assert that he was qualified for some sort of medical or disability retirement, which the trial court failed to consider. See Pl Br. at 2. However, as explained above, the trial court properly considered Mr. Hamilton’s requests for disability retirement and benefits, and concluded that it lacked

jurisdiction. See SAppx8-10. He has not shown anything to suggest that the trial court's application of the statute of limitations was unlawful.

**5. Are there other reasons why the trial court's decision was wrong?  
If yes, what reasons?**

No, as explained above in response to question three, the Court of Federal Claims correctly dismissed Mr. Hamilton's claims for lack of subject-matter jurisdiction. In this section, Mr. Hamilton refers to 5 U.S.C. § 706, the jurisdictional section of the Administrative Procedure Act, and discusses the board's decisions in his case. Pl. Br. at 2. He appears to assert that the trial court erred because it "never address[ed] the nucleus of Hamilton's claim." Pl. Br. at 2.

While Mr. Hamilton is correct that the trial court did not address the actual merits of Mr. Hamilton's claims regarding his entitlement to disability retirement and his court martial, it was not error. As explained above, the trial court properly dismissed Mr. Hamilton's complaint as time-barred and for lack of subject matter jurisdiction. Further, to the extent that Mr. Hamilton is arguing that his board proceedings restart the statute of limitations, he is wrong. This Court has "rejected the argument that [a] cause of action for unlawful discharge does not accrue until the service member seeks relief from a correction board and the correction board enters a final decision denying relief." *Martinez*, 333 F.3d at 1304 (explaining that participation in a permissive administrative review process does not toll or renew the statute of limitations in a Tucker Act suit); see *Chambers*, 417 F.3d at 1224.

6. What action do you want this court to take in this case?

We respectfully request that the Court affirm the decision of the Court of Federal Claims.

Respectfully submitted,

BRIAN M. BOYNTON  
*Principal Deputy Assistant Attorney General*

PATRICIA M. McCARTHY  
*Director*

/s/ William J. Grimaldi  
WILLIAM J. GRIMALDI  
*Assistant Director*

/s/ Collin T. Mathias  
COLLIN T. MATHIAS  
*Trial Attorney*  
*United States Department of Justice*  
*Civil Division, Commercial Litigation Branch*  
*P.O. Box 480 | Ben Franklin Station*  
*Washington, DC 20044*  
*(202) 307-0315*  
*Collin.t.mathias@usdoj.gov*

January 24, 2025

**CERTIFICATE OF SERVICE**

I hereby certify that on January 24, 2025, I caused the foregoing document to be electronically filed with the Clerk of the Court using CM/ECF. The filing will also be served by U.S. Mail at the following address:

JERNICE HAMILTON  
202 St. James Ave  
Apt. 16-E  
Goose Creek, SC 29445

/s/ Collin T. Mathias  
Collin T. Mathias

S.Ct. App. 44 D

DEPARTMENT OF THE ARMY  
Army Board For Correction  
Of Military Records  
251 18th STREET SOUTH ,Suite 385  
Arlington,VA 22202-3531  
AR 20190014603  
ATT: Dennis Dingle  
DIRECTOR 1073592077  
Charles M Martin.  
Chair Person 1074067022

FRCP RULE 52(a)1

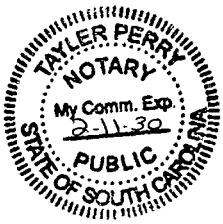
Dear Mr.Martin

The applicant received the decision of the Board on December 19 2020.  
The applicant is asking for a more complete order with in the requirements of FRCP Rule 52(a) 1  
The Boards findings of facts conclusions of law,under the policy and procedures of the US Army  
// NOTHING FOLLOWS //  
Is not an appeal order under Federal RULES OF PROCEDURE.  
The applicant is asking for a timely response , as the case was heard on June 16, 2020 and dated September 29 2020 and mailed December 14 2020

Respectfully Submitted  
Jernice Hamilton  
4453 Jenwood Street

*Jernice Hamilton* 12:21-20  
AR 20190014603

Sworn and Subscribed before me  
On this 21<sup>st</sup> day of December, 2020



*[Signature]*  
Notary Public for South Carolina

Commission Expires: 2-11-2030

2-11-30

S.Gt. App. 45 D



DEPARTMENT OF THE ARMY  
ARMY BOARD FOR CORRECTION OF MILITARY RECORDS  
251 18TH STREET SOUTH, SUITE 385  
ARLINGTON, VA 22202-3531

September 29, 2022

AR20210013782, Hamilton, Jernice

Ms. Jernice Hamilton  
[REDACTED]

Dear Ms. Hamilton:

Pursuant to your request for reconsideration of ABCMR Docket Number AR20190014603, the Army Board for Correction of Military Records (ABCMR) reconsidered your case on 8 February 2022. I regret to inform you that the Board denied your request for relief. A copy of the Board's Record of Proceedings which explains the Board's reasons for denying your request is enclosed.

The decision in your case is final and final action has been directed in this matter under the provisions of Section 1552 of Title 10, United States Code and Army Regulation 15-185. Since your application has now been reconsidered, the Board will not again consider this same matter unless your request is supported by relevant materials not previously presented to or considered by the Board.

Sincerely,

9/29/2022

X / 115

Joseph P. Lister  
Director  
[REDACTED]

Enclosure



S. P. T. ADD 46 D

000001



DEPARTMENT OF THE ARMY  
ARMY BOARD FOR CORRECTION OF MILITARY RECORDS  
251 18TH STREET SOUTH, SUITE 385  
ARLINGTON, VA 22202-3531

SAMR-RBA

29 September 2022

MEMORANDUM FOR Army Review Boards Agency, Case Management Division,  
251 18th Street South, Suite 385, Arlington, VA 22202-3531

SUBJECT: Army Board for Correction of Military Records Record of Proceedings  
for Hamilton, Jernice, SSN [REDACTED] AR20210013782

The application submitted by the individual concerned has been denied by the Army  
Board for Correction of Military Records.

BY ORDER OF THE SECRETARY OF THE ARMY:

9/29/2022

X JPL

JOSEPH P. LISTER  
Director

Encl

CF:  
(1) OMPF



S.C.T. APP 47 D

000002

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: Hamilton, Jernice

BOARD DATE: 8 February 2022

DOCKET NUMBER: AR20210013782

APPLICANT REQUESTS: Reconsideration of the previous Army Board for Correction of Military Records (ABCMR) decisions as promulgated in Dockets Number AR20180013641 and AR20190014603 on 26 August 2019 and 16 June 2020, respectively. In effect, the applicant requests his bad conduct discharge (BCD) be upgraded, and referral to the Army Disability Evaluation System (DES) for review and possible disability separation or retirement.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- Request for reconsideration, labelled as Notice of Appeal and Complaint, dated 6 March 2021
- ABCMR Dockets AR20180013641 and AR20190014603, with supporting documents previously considered on 26 August 2019 and 16 June 2020

FACTS:

1. Incorporated herein by reference are military records that were summarized in the previous considerations of the applicant's case by the ABCMR in Dockets Number AR20180013641 and AR20190014603 on 26 August 2019 and 16 June 2020, respectively.

2. As a new argument, the applicant states:

a. The Board would not hear his appeal of the Department of Veterans Affairs (VA) finding that he never enlisted in the U.S. Army Reserve (USAR). Thus the corrections Board arbitrarily and capriciously abused its discretion, without statutory and contractual policy and procedures of law, by stating "the Board did not have jurisdiction to hear cases involving Veterans Administration/Affairs (VA) decisions."

b. The VA Schedule for Rating Disabilities (VASRD) and Beneficiary Identification and Records Locator Subsystem (BIRLS) database maintained by the VA shows disability from the USAR. The USAR discharged him without notification or presenting him to a disability board for a physical examination. They violated his due process by

denying him a timely notice of hearing of his discharge and denied his equal protection of law, by not reexamining him by a medical evaluation board (MEB).

3. The authority granted by Title 10, U.S. Code, Section 1552 (Correction of Military or Naval Records) is not unlimited. The ABCMR has the authority to correct only Army records. The Board has no authority to correct records created by the Department of Defense, other branches of the Services, the VA, or any other governmental agency.

4. The applicant's service record shows:

a. In preparation for enlistment in the Regular Army, he underwent an initial entry/enlistment physical examination on 5 August 1977. The relevant Standard Form (SF) 88 (Report of Medical Examination) show he has pes planus but no other medical issues at that time. A civilian physician noted on 18 October 1977 that he was seen on 14 September 1977 for a left eye scleral laceration that occurred while playing basketball on 13 September 1977, when he was struck in the eye with a fingernail. When he returned to complete his examination, the physician noted on 25 October 1977 that his scleral laceration had healed. The physician further determined on 28 October 1977 that he was qualified for service in the Regular Army.

b. A DD Form 4 (Enlistment or Reenlistment Agreement – Armed Forces of the United States) shows he enlisted in the USAR on 25 October 1977. He voluntarily amended his enlistment contract on 27 October 1977, for the purpose of enlisting in the Regular Army and he entered active duty on 28 October 1977.

5. The applicant accepted non-judicial punishment (NJP), under the provisions of Article 15 of the Uniform Code of Military Justice (UCMJ), on the following dates for the indicated offenses:

- on 15 May 1979, for willfully disobeying a lawful order from a noncommissioned officer, on or about 12 April 1979
- on 22 August 1979, for being absent without leave (AWOL), from on or about 25 July 1979 through on or about 29 July 1979

6. Before a general court-martial on or about 31 January 1980, at Headquarters, V Corps, Frankfurt, Germany, the applicant was found guilty of the following offenses:

- one specification of willfully and wrongfully exposing himself in an indecent manner to public view, on or about 21 August 1979
- four specifications of unlawfully striking four different individuals with his hands and fists, on or about 17 August 1979
- three specifications of wrongfully possessing, transferring, and selling methaqualone, a schedule 1 controlled substance, on or about 1 September 1979

- one specification of assaulting another Soldier by hitting him on the head with a full beer bottle, on or about 19 November 1979

7. The applicant's sentence included confinement at hard labor for nine months, and separation from service with a BCD. The convening authority approved the findings and sentence on 4 March 1980, and directed his punishment duly executed, except for the portion extending to the BCD. The record of trial was forwarded to the U.S. Army Court of Military Review for appellate review.

8. The U.S. Army Court of Military Review reviewed the applicant's case and affirmed the findings and sentence on 24 April 1980. The applicant filed an intent to appeal to the U.S. Court of Military Appeals on 8 May 1980; however, the outcome of this action is not available for review.

9. General Court-Martial Order Number 457, issued by Headquarters, U.S. Disciplinary Barracks, Fort Leavenworth, Kansas on 31 July 1980, noted the applicant's sentence had finally been affirmed and ordered his BCD duly executed.

10. The applicant was discharged on 5 September 1980, under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), paragraph 11-2, as then in effect, by reason of his sentence of a court-martial. The DD Form 214 (Certificate of Release of Discharge from Active Duty) confirms his service was characterized as bad conduct, and further shows the following in:

- Item 4 – he was discharged in the lowest enlisted grade
- Item 9 – he was not transferred to any other command at discharge
- Item 12a – he entered active duty for this period on 28 October 1977
- Item 12c – he had two years and 23 days of creditable active duty service
- Item 12e – he had two days of prior inactive service
- Item 12i – he had no Reserve obligation

11. Court-martial convictions stand as adjudged or modified by appeal through the judicial process. In accordance with Title 10, U.S. Code, Section 1552, the authority under which this Board acts, the ABCMR is not empowered to set aside a conviction. Rather, it is only empowered to change the severity of the sentence imposed in the court-martial process and then only if clemency is determined to be appropriate. Clemency is an act of mercy or instance of leniency to moderate the severity of the punishment imposed.

12. The applicant twice applied to the ABCMR for an upgrade of his BCD; however, the Board denied his request on 26 August 2019 and 16 June 2020.

13. The Board should consider the applicant's request in accordance with the published equity, injustice, or clemency determination.

14. MEDICAL REVIEW:

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:

a. The applicant is applying to the ABCMR requesting reconsideration of their previous denials of a discharge upgrade of his 5 September 1980 bad conduct discharge. The applicant claims through counsel:

{Applicant} was in Basic training was injured and denied treatment for 2 months, there was an ordered review of the LOD. have not heard anything about the results.

{Applicant} had surgery on the right hand, went to AIT failed transfer out AIT in Ft Gordon Ga. After AIT

{Applicant} was sent overseas to Frankfurt, Germany, was court-martial on several charges given 9 months confinement.

August of 1981 {Applicant} filed a claim with the Veterans Administration, the Administration said that Hamilton received a BCD and could not receive any benefits.

b. The Record of Proceedings outlines the applicant's military service and the circumstances of the case. The applicant's DD 214 shows he entered the regular Army on 28 October 1977 and was discharged on 5 September 1980 under the provisions provided 11--2 of AR 635-200, Personnel Management – Enlisted Personnel (1 May 1980): Bad Conduct Discharge.

c. This request was previously denied on 26 August 2019 (AR20180013641) and as a reconsideration on 16 June 2020 (AR20190014603). Rather than repeat their findings here, the board is referred to the record of proceedings for those case. This review will concentrate on the new evidence submitted by the applicant.

d. Because of the period of service under consideration, there are no electronic medical or personnel records.

e. No new evidence was submitted with the request for reconsideration. Medical documentation continues to show the applicant was treated for eye injury he sustained

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.

4/29/2022

X Michael Butler

CHAIRPERSON

Signed by: BUTLER.MICHAEL.WAYNE. [REDACTED]

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 601-210 (Personnel Procurement – Regular Army Enlistment Program) sets forth the policies and procedures for enlistment and processing of persons into the Regular Army, the USAR, and Army National Guard for enlistment. It provides that a DD Form 4, together with appropriate annexes, is the only valid agreement that exists between the enlistee and Department of the Army for enlistment in the Regular Army or the USAR.
2. Army Regulation 635-5 (Separation Documents), as then in effect, prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214 and states for entries at the following items, the preparer should:
  - Item 2 (Component) – compare the enlisted record brief to the enlistment contract, and enter the appropriate abbreviation, for officers and enlisted Soldiers who are in the Regular Army at the time of discharge enter "RA"
  - Item 9 (Command to Which Transferred) – for a Soldier discharged, dismissed, or dropped from the Army rolls, enter "N/A"
  - Item 12a (Date Entered Active Duty (AD) This Period) – enter the beginning date of the continuous period of AD for issuance of this DD Form 214
  - Item 12i (Reserve Obligation Termination Date) – for a Soldier discharged, dismissed, or dropped from the Army rolls enter "00 00 00"
3. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, provided that a member who was charged with an

SC + ADD 530

while playing basketball in September 1977, and had a foreign body removed from the soft tissues at the base of his right thumb in January 1978.

f. There are no records in JLV.

g. No evidence of a significant mental health condition was identified.

h. There is no evidence the applicant had a mental health or other medical condition which would have then contributed to or would now mitigate his multiple UCMJ violations; or that would have failed the medical retention standards of chapter 3, AR 40-501, Standards of Medical Fitness, and been a cause for referral to the DES prior to his discharge. Furthermore, there is no evidence that any medical condition prevented the applicant from being able to reasonably perform the duties of her office, grade, rank, or rating prior to his discharge.

i. It is the opinion of the ARBA medical advisor that a discharge upgrade remains unwarranted.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was not warranted. Based upon the criminal and violent nature of the pattern of misconduct leading to the applicant's separation, as well as the findings of the medical advisor, the Board concluded there was insufficient evidence of an error or injustice which would warrant a change to the applicant's characterization of service and/or the narrative reason for separation.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:MWB	:RB	:kac	DENY APPLICATION

offense for which he could be dismissed or given a punitive discharge, or who was under sentence of dismissal or punitive discharge, could not be referred for disability processing unless:

- the investigation ended without charges
- the officer exercising proper court-martial jurisdiction dismissed the charge
- the officer exercising proper court-martial jurisdiction referred the charge for trial to a court-martial that could not adjudge such a sentence
- the sentence was suspended (in the case of a Soldier already sentenced)

4. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel. The regulation in effect at the time provided that:

a. 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.

b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A characterization of under honorable conditions may be issued only when the reason for the Soldier's separation specifically allows such characterization.

c. A Soldier would be given a BCD or Dishonorable Discharge only pursuant to an approved sentence of a general or special court-martial. The appellate review must have been completed and the affirmed sentence ordered duly executed.

5. Court-martial convictions stand as adjudged or modified by appeal through the judicial process. In accordance with Title 10, U.S. Code, Section 1552, the authority under which this Board acts, the ABCMR is not empowered to set aside a conviction. Rather, it is only empowered to change the severity of the sentence imposed in the court-martial process and then only if clemency is determined to be appropriate. Clemency is an act of mercy or instance of leniency to moderate the severity of the punishment imposed.

6. The Under Secretary of Defense (Personnel and Readiness) issued guidance to Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) on 25 July 2018 [Wilkie Memorandum], regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections,

including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//

NATIONAL PERSONNEL RECORDS CENTER

1 ARCHIVES DRIVE ST LOUIS, MO 63138-1002

www.archives.gov



NATIONAL  
ARCHIVES

November 10, 2016

GARNARIS HAMILTON  
[REDACTED]

RE: **Veteran's Name: HAMILTON, JERNICE**  
**SSN/SN: [REDACTED]**  
**Request Number: 2-20183807342**

Dear Recipient:

Thank you for contacting the National Personnel Records Center. We are pleased to respond to your request for Separation Documents by providing the enclosed document(s).

Separation documents may include the following information: the type and character of discharge, authority and narrative reason for separation, reenlistment eligibility code, and separation program designator/number. If you require a copy of the separation document that does not contain this information, a "deleted" copy must be requested from this Center. A seal has been affixed to the separation document to attest to its authenticity.

A DD Form 214, *Report of Separation*, was not issued for Reserve service because the veteran had no active service or less than 90 consecutive days of active duty for training. The enclosed documents show verification of reserve service. [REDACTED]

The original medical record needed to answer your inquiry is not in our files; that medical record is with the Department of Veterans Affairs (VA). We suggest that you contact the nearest VA Regional Office to obtain copies of the records. If you have filed a claim with the VA it would be helpful to include your VA claim number when contacting them. You may call 1-800-827-1000 to locate a VA office near you.

The Privacy Act of 1974 does not permit the release of personal information without the authorization of the individual concerned; therefore, if present in the record, personal data pertaining to other individuals have been blacked out in the enclosed documents.

If you have questions or comments regarding this response, you may contact us at 314-801-0800 or by mail at the address shown in the letterhead above. If you contact us, please reference the Request Number listed above. If you are a veteran, or a deceased veteran's next of kin, please consider submitting your future requests online by visiting us at <http://vetrecs.archives.gov>.

Sincerely,

  
STEVEN WEBER  
Archives Technician (AFN-MCID)

Enclosure(s)



**We Value Our  
Veterans' Privacy**

*Let us know if we have  
failed to protect it.*

S.Ct. App 56 E

000017

NATIONAL PERSONNEL RECORDS CENTER

1 ARCHIVES DRIVE ST LOUIS, MO 63138-1002

www.archives.gov



September 14, 2018

JERNICE HAMILTON  
[REDACTED]

RE: Veteran's Name: HAMILTON, Jernice  
SSN/SN: [REDACTED]  
Request Number: 2-21777988951

Dear Recipient:

Thank you for contacting the National Personnel Records Center. Enclosed is a copy of the information you requested. Some of these documents were extracted from a microfiche that is in poor condition, and we are unable to supply a more legible copy. If you feel these copies are not sufficient for your needs, please write to the address below and include a copy of this letter;

Department of the Army  
Army Human Resources Command  
Attn: AHRC-PDR-H  
1600 Spearhead Division Avenue Dept 420  
Fort Knox, KY 40122-5402

A copy of the requested separation document is enclosed. Separation documents may include the following information: the type and character of discharge, authority and narrative reason for separation, reenlistment eligibility code, and separation program designator/number. If you require a copy of the separation document that does not contain this information, a "deleted" copy must be requested from this Center. A seal has been affixed to the separation document to attest to its authenticity.

**There were no documents in record verifying service performed prior to October 1977.**

We are pleased to respond to your request for Medical Records by providing the enclosed documents. This is a copy of **ALL AVAILABLE MEDICAL DOCUMENTS FROM THE RECORD AND MICROFICHE.**

**The original medical record needed to answer your inquiry is not in our files; that medical record is with the Department of Veterans Affairs (VA).** We suggest that you contact the nearest **VA Regional Office** to obtain copies of the records. If a claim has been filed with the VA it would be helpful to include the VA claim number when contacting them. You may call 1-800-827-1000 to locate a VA Regional office near you.

*White Lake 49 2 Aug 77*

Standard Form 86  
Revised April 1964  
Federal Services Administration  
Department of Defense  
PHR (10/11) ADP-1

### REPORT OF MEDICAL EXAMINATION

1. LAST NAME - FIRST NAME - MIDDLE NAME: HAMILTON, Gerald

2. GRADE AND COMPONENT OR POSITION: CIVILIAN

3. PURPOSE OF EXAMINATION: RA

4. DATE OF EXAMINATION: 5 Aug 77

5. SEX: Male RACE: Negro

6. TOTAL YEARS GOVERNMENT SERVICE: 10

7. ORGANIZATION UNIT: NOAC

8. DATE OF BIRTH: 10/11/66 9. PLACE OF BIRTH: INDIANOLA, OHIO

10. EXAMINING FACILITY OR LOCATION: 2133 Indianola Avenue Columbus, Ohio 43214

11. RATING OR SPECIALTY: NOAC

12. TYPE & THIS CAPACITY (Type) Full: No Phone

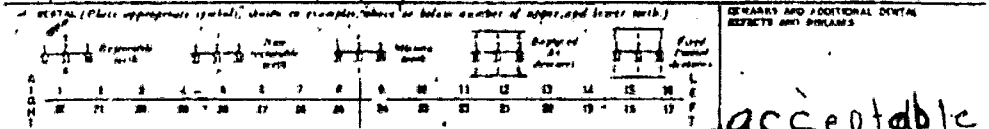
13. LAST SIX MONTHS

CLINICAL EVALUATION	THRESHOLD
1. HEAD (EYES, EARS, NOSE, THROAT)	
2. MOUTH AND THROAT	
3. LARS (GENERAL)	
4. HEENT (ENTRANCE)	
5. EYES (GENERAL)	
6. EYELIDS (GENERAL)	
7. EYEBALLS (GENERAL)	
8. EYEBALLS (DETAILED)	
9. EYEBALLS (DETAILED)	
10. EYEBALLS (DETAILED)	
11. EYEBALLS (DETAILED)	
12. EYEBALLS (DETAILED)	
13. EYEBALLS (DETAILED)	
14. EYEBALLS (DETAILED)	
15. EYEBALLS (DETAILED)	
16. EYEBALLS (DETAILED)	
17. EYEBALLS (DETAILED)	
18. EYEBALLS (DETAILED)	
19. EYEBALLS (DETAILED)	
20. EYEBALLS (DETAILED)	
21. EYEBALLS (DETAILED)	
22. EYEBALLS (DETAILED)	
23. EYEBALLS (DETAILED)	
24. EYEBALLS (DETAILED)	
25. EYEBALLS (DETAILED)	
26. EYEBALLS (DETAILED)	
27. EYEBALLS (DETAILED)	
28. EYEBALLS (DETAILED)	
29. EYEBALLS (DETAILED)	
30. EYEBALLS (DETAILED)	
31. EYEBALLS (DETAILED)	
32. EYEBALLS (DETAILED)	
33. EYEBALLS (DETAILED)	
34. EYEBALLS (DETAILED)	
35. EYEBALLS (DETAILED)	
36. EYEBALLS (DETAILED)	
37. EYEBALLS (DETAILED)	
38. EYEBALLS (DETAILED)	
39. EYEBALLS (DETAILED)	
40. EYEBALLS (DETAILED)	
41. EYEBALLS (DETAILED)	
42. EYEBALLS (DETAILED)	
43. EYEBALLS (DETAILED)	
44. EYEBALLS (DETAILED)	
45. EYEBALLS (DETAILED)	

NOTES (Describe any abnormality in detail. Enter pertinent item number before each abnormality. Continue to item 11 and use additional sheets if necessary.)

*#36 Proplemia med*

*Am it caly*



LABORATORY FINDINGS

1. URINALYSIS & SPECIFIC GRAVITY

2. ALBUMIN

3. SUGAR

4. MICROLOGY (Specify and quant. and qual.)

5. URIC ACID

6. BLOOD TYPE AND RH FACTOR

7. OTHER TESTS

8. ECG

9. X-RAY

10. OTHER TESTS

11. OTHER TESTS

12. OTHER TESTS

13. OTHER TESTS

14. OTHER TESTS

15. OTHER TESTS

16. OTHER TESTS

17. OTHER TESTS

18. OTHER TESTS

19. OTHER TESTS

20. OTHER TESTS

21. OTHER TESTS

22. OTHER TESTS

23. OTHER TESTS

24. OTHER TESTS

25. OTHER TESTS

26. OTHER TESTS

27. OTHER TESTS

28. OTHER TESTS

29. OTHER TESTS

30. OTHER TESTS

31. OTHER TESTS

32. OTHER TESTS

33. OTHER TESTS

34. OTHER TESTS

35. OTHER TESTS

36. OTHER TESTS

37. OTHER TESTS

38. OTHER TESTS

39. OTHER TESTS

40. OTHER TESTS

41. OTHER TESTS

42. OTHER TESTS

43. OTHER TESTS

44. OTHER TESTS

45. OTHER TESTS

46. OTHER TESTS

47. OTHER TESTS

48. OTHER TESTS

49. OTHER TESTS

50. OTHER TESTS

51. OTHER TESTS

52. OTHER TESTS

53. OTHER TESTS

54. OTHER TESTS

55. OTHER TESTS

56. OTHER TESTS

57. OTHER TESTS

58. OTHER TESTS

59. OTHER TESTS

60. OTHER TESTS

61. OTHER TESTS

62. OTHER TESTS

63. OTHER TESTS

64. OTHER TESTS

65. OTHER TESTS

66. OTHER TESTS

67. OTHER TESTS

68. OTHER TESTS

69. OTHER TESTS

70. OTHER TESTS

71. OTHER TESTS

72. OTHER TESTS

73. OTHER TESTS

74. OTHER TESTS

75. OTHER TESTS

76. OTHER TESTS

77. OTHER TESTS

78. OTHER TESTS

79. OTHER TESTS

80. OTHER TESTS

81. OTHER TESTS

82. OTHER TESTS

83. OTHER TESTS

84. OTHER TESTS

85. OTHER TESTS

86. OTHER TESTS

87. OTHER TESTS

88. OTHER TESTS

89. OTHER TESTS

90. OTHER TESTS

91. OTHER TESTS

92. OTHER TESTS

93. OTHER TESTS

94. OTHER TESTS

95. OTHER TESTS

96. OTHER TESTS

97. OTHER TESTS

98. OTHER TESTS

99. OTHER TESTS

100. OTHER TESTS

S.C.T. App 58 E

000023

EVAN D. JONES, M.D.  
219 CALHOUN STREET  
CHARLESTON, SOUTH CAROLINA 29401  
TELEPHONE 577-7001



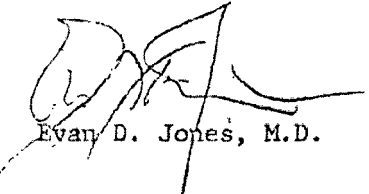
RE: Garanris Hamilton

To Whom It May Concern:

The above patient was first seen in my office on 9/14/77. He had been ~~struck in the left eye with a basketball~~ while playing basketball on 9/13/77. After a complete eye examination, I found him to have a scleral laceration to the left eye. He was admitted to St. Francis Hospital on 9/14/77 for emergency surgery, consisting of ~~repair of the scleral laceration~~ to the left eye. Please see attached Operative note, enclosed. He was seen again in my office on ~~9/20/77~~. He returned for a post-operative follow up appointment. At the time, the ~~laceration was healing well~~ and there was no irritation at the area of surgical repair. The retina was in good condition and his pressure was at 14 mmHg OU. He was told to return in three to four months for a follow up appointment as he was leaving for Boot Camp in Columbus, Ohio.

Duration of Hospitalization - 9/14/77-9/16/77

Diagnosis at time of hospitalization- ~~Scleral laceration of the left eye~~  
The patient has ~~not been seen since 9/20/77~~, and as of this time there is no current status of condition, and no prognosis. If he is currently under observation, I have no knowledge of it. He was not given an appointment to return for follow up as he was to call as soon as he returned to Charleston for a follow up appointment. There is no way to tell how much more treatment is needed at this time, as he has not been seen as of 9/20/77.

  
Evan D. Jones, M.D.

REVIEWED AND CONSIDERED  
APPLICANT IS/IS NOT QUALIFIED  
DATE: 21 Oct 77 INITIALS: SA  
AFES, COLUMBUS, OHIO 43214

*Return here for re-exam  
25 Oct. 77 - Laceration OS Healed - NCD*

S. Ct. App 59 E

OPERATING RECORD

5 E

518

070539 HAMILTON PARANRIS 16  
2064 ARBUTUS AV CHAS. ITS SC  
EJONES 19431 3/11/77

Rm # 4

Operation: Repair Scleral Laceration

Eye: (L) EYE

Surgeon: Dr. JONES      Operation Started: 9:00 PM

Assistant: LOCAL      Operation Closed: 9:20 PM

Operating Room Nurse: I. BOOTH      Anesthesia Started: 8:40 PM

Nurse: E. WEISS RN      Anesthesia Stopped: \_\_\_\_\_

Equipment and Supplies Used: \_\_\_\_\_

Special Instructions: \_\_\_\_\_

Special Fluids Given: \_\_\_\_\_

Major     Minor

Surgeon: E. JONES

Assistants: \_\_\_\_\_

This Record Completed By E. WEISS RN

Preoperative Diagnosis: Lacerated sclera (L) Eye

Diagnosis: Scleral laceration left eye.

Postoperative Diagnosis: same

Final Diagnosis: same

OPERATION: Repair scleral laceration. OS.

Operating Procedures: After satisfactory preanesthetic medication patient was taken to operating room where field block was administered to the left eye using 2% cocaine with epinephrine, wydase and modified vanLindt, Atkinson and retrobulbar techniques. Following this the eye was prepped and draped in the usual sterile manner and upper and lower lid retraction suture of 4-0 silk were placed. Lateral canthotomy was made and the superior rectus bridle suture inserted into the tendon of the muscle. Under the Zeiss operating microscope, the scleral laceration extending from a point approximately 5 mm. from the limbus at the 9 o'clock position and curving inferiorly and posteriorly to a point approximately 8 mm. from the limbus at the 5 o'clock position. The laceration was explored and no foreign material found. Irrigation was carried out with balanced salt solution and the laceration was closed with interrupted sutures of 6-0 vicryl. The overlying tenoconjunctival tissue was then closed with a horizontal interrupted suture of 7-0 vicryl. No loss of intraocular contents was encountered throughout the procedure. Cautery was used to control bleeding. 0.5 cc. of Garamycin was injected subconjunctivally. Maxitrol ointment was instilled into the conjunctival sac and the eye was covered with soft bandage.

Postoperative Condition: \_\_\_\_\_

COPY MADE BY VARMC, ST. LOUIS FROM A RECORD IN VA'S POSSESSION

000025

S.Ct. App (L) E

*Alvin Luke 63*

**MEASUREMENTS AND OTHER FINDINGS**

1. HEIGHT: 71 1/4 | 2. WEIGHT: 182 | 3. COLOR HAIR: Black | 4. COLOR EYES: Brown | 5. BUILD:  SLIM  MEDIUM  HEAVY  OBFUSE

6. BLOOD PRESSURE (Arts of hand base):  
 SITTING: 138/88 | 7. PULSE (Arts of hand base): 72  
 STANDING: | 8. AFTER EXERCISE: | 9. 1 HOUR AFTER: | 10. RECOVERY: | 11. AFTER STANDING 1 MIN:

12. REFRACTION:  
 RIGHT EYE: CORN. TO IN: | 13. REFRACTION: | 14. BEST VISION: | 15. CORN. TO BY: | 16. REFRACTION: | 17. BEST VISION: | 18. LEFT EYE: CORN. TO IN: | 19. REFRACTION: | 20. CORN. TO BY: | 21. REFRACTION: | 22. BEST VISION:

12. METEOROPHOBIA (Arts of hand base):

13. FIELD OF VISION:  
 M. COLOR VISION (Tan and red) | 14. DEPTH PERCEPTION (Tan and red) | 15. UNCORRECTED COMPLETED | 16. METEOROPHOBIA TEST

ANSI 1969

RIGHT EYE	LEFT EYE	SN	SP	SPH	CYL	AX	ADD	PRN	ADD	PRN
		5	5	5	5	5				

17. NOTES CONCERNING THIS SIGNIFICANT OF OPTICAL HISTORY: 15 5 5

No Disqualifying Changes Noted

DATE	RET.	ST.	Dr. Signature
26 OCT 1977	71 1/4	180	<i>[Signature]</i>
25 OCT 1977	71 1/4	180	<i>[Signature]</i>
26 OCT 1977	71 1/4	181	<i>[Signature]</i>

(Use additional sheets if necessary)

17. SIGNATURE OF SUBJECT AND SIGNATURES (Use separate sheet for necessary)

*#36 per planus not significant*

*25 Oct 77: Several Corneal OS leaked - NCD*

18. RECOMMENDATIONS: FURTHER SPECIALIST EVALUATION INDICATED (Arts of hand base):

19. PHYSICAL PROFILES:  
 A.  IS QUALIFIED FOR: *RA*  
 B.  IS NOT QUALIFIED FOR: *RA*

20. PHYSICAL CATEGORY:

21. TYPE OF SERVICE: NAME OF PHYSICIAN: SIGNATURE: *[Signature]*

22. TYPE OF SERVICE: NAME OF PHYSICIAN: SIGNATURE: *[Signature]*

23. TYPE OF SERVICE: NAME OF PHYSICIAN: SIGNATURE: *[Signature]*

24. TYPE OF SERVICE: NAME OF PHYSICIAN: SIGNATURE: *[Signature]*

103

S. Ct. APP 601 E

000026

HEALTH RECORD | CHRONOLOGICAL RECORD OF MEDICAL CARE

DATE | SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)

28 NOV 1973 | PHYSICAL COMPLETED *[Signature]*

10 JAN 1980 | OPTOMETRY CLINIC: PROTECTIVE (MASK, GOGGLES)  
 546th GEN DISP: (ARE NOT REQUIRED UP AR 40-8)  
 840 APO 09086

Review of record indicates <sup>25/20</sup> unaided  
 Punched in OS mid Nov 79. Following  
 when sudden exposure to left-hand light  
 flashes - Also HA over OS. Used HA  
 at all times - but left flashes diminished  
 (part of record treated - surgery - Oct 79)

✓ A unaided <sup>20/30</sup> <sub>20/15</sub>  
 OS

Left - unaided (no trace of several wounds OS -  
 healed) PERLA OS  
 but - disc, lens, fundus & media - nl  
 slit lamp Cornea sclera - nl  
 Refraction +75 sph  
 +50 cyl

As indicated - Also circled about status HA  
*[Signature]*

PATIENT'S IDENTIFICATION (NAME, GRADE, BRANCH, FOR MEDICAL USE ONLY)

HAMILTON, JENNIFER

PATIENT'S NAME (Last, First, Middle Initial)

BRANCH OF SERVICE | RELATIONSHIP TO SPONSOR | COMPONENTS/STATION/DEPT/SERVICE

SPONSOR'S NAME

UNIT/GRADE

ARMY OR IDENTIFICATION NO.

ORGANIZATION

CHRONOLOGICAL RECORD OF MEDICAL CARE

COPY MADE BY AFMCO, ST. LOUIS FROM A RECORD IN VA'S POSSESSION

Standard Form 500  
 101-11.302-3

S. Ct. App 62 E

000027

101

GIRLS DATA  
END PRODUCT

81121  
NAME

FILE NUMBER  
VETERAN NAME HAMILTON, JERNICE  
SOC SEC NUMBER  
SERVICE NUMBER  
DATE OF BIRTH  
DATE OF DEATH  
SEX  
FOLDER LOC  
TRANS FROM  
TRANS DATE  
REQUEST TRANS  
CR&E PAYEE

EOD 10-28-77  
RAD 07-03-80  
CHAR DISCHG OTH  
BRANCH SERV ARMY  
TOTL ACTIVE 02-00-23  
READJ PAY Art 2 602  
SEVER PAY  
NONPAY DAYS 255  
PAY GRADE E-1  
SEP REASON UNK  
ACDUTRA  
DISABILITY

TRFD TO RESRV  
VIET SERVICE  
REENLISTMENT  
PURPLE HEART  
ADJ SVC CERT  
INSUR NUMBER  
INSUR TYPE  
INSUR PAYEE  
INSUR LAPSE DT

RECORD SHOWS HAMILTON, JERNICE VET ARMY SH [REDACTED] SVC DATES ENL 10/28/77 DT  
8/9/80 OTHER THAN HON DISCH DOB [REDACTED] SS [REDACTED] NO RECORD OF CLAIM C OR SS  
NON PAY DAYS 255 TOT ACT SVC 02/08/23 PAY GRADE E1 SEP REAS UNK CHAP 92 ACT.

DSA 101

*Was Record*

101

GIRLS DATA  
END PRODUCT 190

81121  
NAME J HAMIL

FILE NUMBER [REDACTED]  
VETERAN NAME HAMILTON, JERNICE  
SOC SEC NUMBER [REDACTED]  
SERVICE NUMBER [REDACTED]  
DATE OF BIRTH [REDACTED]  
DATE OF DEATH  
SEX  
FOLDER LOC 019  
TRANS FROM 019  
TRANS DATE 05-01-81  
REQUEST TRANS  
CR&E PAYEE

EOD 10-28-77  
RAD 07-03-80  
CHAR DISCHG OTH  
BRANCH SERV ARMY  
TOTL ACTIVE 02-00-23  
READJ PAY  
SEVER PAY  
NONPAY DAYS 255  
PAY GRADE E-1  
SEP REASON UNK  
ACDUTRA  
DISABILITY

TRFD TO RESRV  
VIET SERVICE  
REENLISTMENT  
PURPLE HEART  
ADJ SVC CERT  
INSUR NUMBER  
INSUR TYPE  
INSUR PAYEE  
INSUR LAPSE DT

REPLY ORGANIZATION UNDER FILE NO. 88 [REDACTED] TYPE OF DISCHG OTHER THAN HON CHAP 92 ACT.

*S. Ct. App 43 E*

000028

S.C.T. App 64 E

09-18-81

HAMIL

EXP DISALLOWANCE BY 221  
END PRODUCT 120

NAME

FILE NUMBER

- 1 NO MILITARY SERVICE
- 2 NO QUALIFYING SERVICE
- 3 INEFFECTIVE QUALIFYING SERVICE
- 4 CHARACTER OF DISCHARGE
- 5 ENTITLEMENT FORFEITED
- 6 0% SVC-CORRECTED DISABILITY
- 7 DEATH NOT DUE TO SERVICE
- 8 NOT SHOWN LAST EXAM RATING
- 9 NOT SHOWN LAST EXAM NO RATING
- 10 NOT SHOWN EVIDENCE RATING
- 11 NOT SHOWN EVIDENCE NO RATING
- 12 NO ACTIVE NO POST DISCHARGE
- 13 DILIGENT MISC/NOT LINE OF DUTY
- 14 DISABILITY NOT PERMANENT
- 15 DISABILITY NOT TOTAL
- 16 EXCESS INCOME DEPENDENTS
- 17 EXCESS INCOME NO DEPENDENTS
- 18 EXCESS INCOME PARENTS
- 19 EXCESS NET WORTH
- 20 CONST/DEVELOPMNTL ABNORMALITY
- 21 RELATIONSHIP NOT ESTABLISHED
- 22 NON-COURTIOUS COHABITATION
- 23 WIDOW REARRIED (INTERFERENCE)
- 24 CHILD MARRIED
- 25 FAILURE TO PROSECUTE
- 26 FAILURE TO REPORT FOR EXAM
- 27 ON ACTV DUTY OR RETIRED
- 28 CLAIM WITHDRAWN
- 29 WHEREABOUTS UNKNOWN
- 30 DEATH OF CLAIMANT
- 31 CHILD OVER 18 NOT SCH OR HLP
- 32 CLAIMANT INCARCERATED
- 33 OTHER
- 34 ELECTED OTHER BENEFIT

FILED

DATE

AUTHORIZED BY

JEROME HAMILTON  
ENTERED 07 10 29

*[Signature]*

COPY MADE BY VARMC, ST. LOUIS FROM A RECORD IN HIS POSSESSION

**ENLISTMENT OR REENLISTMENT AGREEMENT - ARMED FORCES OF THE UNITED STATES**

**I. IDENTIFICATION DATA**

1. NAME (Last, First, Middle Initial) <b>HAMILTON JEROME</b>		2. SSN [REDACTED]	3. DATE OF ENLISTMENT <b>25 OCTOBER 1977</b>	4. GRADE <b>PVT E-1</b>	
5. HOME OF RECORD (City and State) [REDACTED]		6. PLACE OF ENLISTMENT (City and State) <b>COLUMBUS OHIO</b>			
7. DATE OF BIRTH [REDACTED]	8. SELECTIVE SERVICE NO. <b>NOT REGISTERED</b>		9. PREVIOUS MILITARY SERVICE		
			YEARS	MONTHS	DAYS
			00	00	00
			00	00	00

**II. AGREEMENTS:**

10. I am enlisting/reenlisting this 25TH day of OCTOBER, 1977 in the US ARMY RESERVE for a period of 6 years. Initial Service is to be in the pay grade of E-1. I understand that each male person who becomes a member of an Armed Force before his twenty-sixth birthday incurs a statutory obligation to serve in the Armed Forces for a total of six years, unless sooner discharged, and that any part of such service that is not active duty or active duty for training shall be performed in the Reserve component.

a. Enlistment or reenlistment in a Regular Component: The additional details of my obligations under this agreement, if any, are as provided in Annex A attached hereto.

b. Enlistment or reenlistment in a Reserve Component: Upon enlistment or reenlistment in the Reserve component shown above, I am obligated -

- (i) To serve at least:
  - (a) \_\_\_\_\_ (month) (year) on (active duty) (active duty for training)
  - (b) \_\_\_\_\_ (month) (year) in the Ready Reserve. While in this status, I am obligated -
    - (i) as a member of the National Guard, to attend at least 48 drills per year and serve on active duty for training at least 15 days per year; OR
    - (ii) as a member of any Reserve component except the National Guard, to attend at least 48 drills per year and serve on active duty for training at least 14 days per year; or, serve on active duty for training not more than 90 days per year, unless excused therefrom by competent authority; and
    - (iii) to report in the Ready Reserve, if required, in accordance with applicable law.
- (c) To serve as provided in Annex \_\_\_\_\_ attached hereto.

**III. BENEFITS:**

- 11. I will receive the pay and allowances and other benefits as provided by law and regulation.
- 12. With respect to any other benefits, I understand that any such benefits, if any, recorded herein or on Annex \_\_\_\_\_ attached hereto will be honored and that any other benefits not contained therein made by any service are not effective and will not be honored.

DD FORM 1300, 1-77

REPLACES DD FORM 1300, 1-77, WHICH MAY BE USED UNTIL EXHAUSTED

*Sgt. App 45 E*

000030

STATEMENTS FOR ENLISTMENT  
DELAYED ENTRY PROGRAM

For use of this form, see AR 601-210. The proponent agency is the Office of the Deputy Chief of Staff for Personnel.

TO BE COMPLETED BY ALL APPLICANTS ENLISTING FOR THIS ENLISTMENT OPTION

1. ACKNOWLEDGMENT: In connection with my enlistment in the United States Army Reserve, I hereby acknowledge that:
- a. My enlistment in the US Army Reserve obligates me to a total of 6 years service in the Armed Forces of the United States, including service in the Reserve components, unless sooner discharged by proper authority.
  - b. I will be assigned to the US Army Reserve Control Group (Delayed Entry), during which time I will be in a nonpay status, and will not be authorized to participate in any Reserve training.
  - c. My time served in the Reserve will be creditable for pay purposes when I enlist in the Regular Army or enter on active duty.
  - d. The combined time served in the Reserve prior to entry on active duty and on active duty will be creditable to my 6-year obligation.
  - e. I volunteer to serve on active duty for 3 years in any job assignment specified by the Army, such period to begin within 180 days (270 days if applicant is qualified) unless I enlist in the Regular Army, or I am granted further delay by proper authority.
  - f. This enlistment in no way releases me from my obligation to register with the Selective Service System; however, by fulfilling the terms of this agreement, I will be deferred from induction or involuntary order to active duty except in the event of war or national emergency declared by Congress, or national emergency declared after 1 Jan 53 by the President of the United States or, as otherwise provided by law presently in force or hereafter enacted. (This paragraph applies to male applicants only.)
  - g. In lieu of performing the active duty specified in e above, I may enlist in the Regular Army for not less than 3 years with the following understanding:
    - (1) Upon enlistment in the Regular Army, I will be enlisted under the provisions of AR 601-210.  
H-3 TRAINING OF CHOICE FOR  
(Enter the appropriate table number and title of the enlistment option(s) for which enlisting. Only tables for which a "yes" entry is included in Column 7, Table H-1, may be entered here.)
    - (2) If enlisting for an Army school course, I am assured of attending school course.  
MOS 67X10 HEAVY LIFT HELICOPTER REPAIRER  
(Enter school course title and course number)
    - (3) If I subsequently enlist in the Regular Army for an option for which an enlistment bonus is authorized, has been authorized in the past, or may be authorized in the future, I will be entitled to the bonus only if it is authorized at the time of my enlistment in the Regular Army.
    - (4) In the event the enlistment option, school course, or training for which I am enlisting is not available before I enlist in the Regular Army through no fault of my own, I will select one of the following alternatives:
      - (a) I will enlist for another option, school course, or training of my choice for which I am qualified and for which there is a vacancy.
      - (b) I will serve on active duty for 3 years in my Reserve status.
      - (c) I will be discharged from the Delayed Entry Program.
    - (5) The date of my enlistment in the Regular Army is scheduled for 28 OCT 77  
(Day, Month, Year)
    - (6) Should I disqualify myself before I enlist in the Regular Army, initiate action designed to obtain my release from the Delayed Entry Program, fail to enlist in the Regular Army, or willfully fail to report for active duty on the date specified in my enlistment orders, I forfeit my entitlement to this enlistment option and may be required to serve on active duty for 3 years in my Reserve status.
  - h. If for any reason I am discharged from the Army Reserve other than for immediate enlistment for not less than 3 years in the Regular Army, my draft-deferred status is terminated, and the circumstances will be reported to my local Selective Service Board. (This paragraph applies to male applicants only.)
  - i. Upon completion of my active duty, I will serve in the Ready Reserve in accordance with laws and regulations then in effect or thereafter put into effect. (This paragraph applies to male applicants only.)
  - j. In the event I willfully fail to report on the date specified in my active duty orders to the Armed Forces Examining and Entrance Station designated therein, I will be in an absent without leave (AWOL) status and subject to apprehension and disciplinary action under Article 85 (desertion) or Article 86 (AWOL) of the Uniform Code of Military Justice (Title 10, US Code, Sections 885 and 886).

16. I hereby certify that I have read this agreement carefully; it has been fully explained to me, and I understand it and the conditions under which I am enlisting. I understand that ONLY those promises concerning assignment to duty, geographical area, training, or a particular school or special program; Government quarters; physical and other qualifications for assignment to a particular school, rating, or specialty; bonuses or other compensation; promotions; or transportation of and support to dependants contained herein or recorded on the Annex(es) attached hereto, if any, will be honored and that any other promises not contained therein made by any person are not effective and will not be honored. I further understand that my acceptance for enlistment (reenlistment) is based on the information provided by me in my application for enlistment (reenlistment) and if any of that information is knowingly false or incorrect, this agreement may be terminated by the Government; and I may be prosecuted under federal civilian or military law or subject to administrative separation proceedings and, in either instance, I may receive a less than honorable discharge which could affect my future employment opportunities.

17. NAME OF APPLICANT (Type)  
JERNICE HAMILTON

18. SIGNATURE OF APPLICANT AND DATE  
*Jernice Hamilton* 10/25-77

V. CERTIFICATION AND ACCEPTANCE BY SERVICE REPRESENTATIVE

On behalf of my service, I accept this applicant for enlistment (reenlistment) and I hereby witness his/her signature to this agreement. I further certify that I have explained that only those promises set forth herein and in the attached Annex(es), if any, will be honored and any other promises not contained therein made by any person are not effective and will not be honored.

19. NAME, GRADE, SIN AND ORGANIZATION OF SERVICE REPRESENTATIVE (Type or Print)  
SFC TRAC T. HANKINS

20. SIGNATURE OF SERVICE REPRESENTATIVE AND DATE  
*Trac T. Hankins* 10/25/77

VI. CONFIRMATION OF ENLISTMENT OR REENLISTMENT

21. For Males in a Regular or Reserve Component of the Armed Forces except the Army National Guard or Air National Guard

I do hereby acknowledge to be voluntarily enlisting or reenlisting under the conditions prescribed by law, this 25TH day of OCTOBER, 19 77 in the US ARMY RESERVE for a period of SIX years unless sooner discharged by proper authority. Initial Service is to be in the pay grade of E-1.  
I, JERNICE HAMILTON, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God.  
I acknowledge the above oath has been administered to me and that I have sworn (or affirmed) to the same.

22. SIGNATURE OF ENLISTEE (REENLISTEE)  
*Jernice Hamilton*

23. The above oath, as filled in, was administered, subscribed, and duly sworn to (or affirmed) before me this 25TH day of OCTOBER, 19 77.

24. NAME, GRADE AND ORGANIZATION OF ENLISTING OFFICER (Type)  
NEAL A. HUBBARD, 1LT  
AFES, Columbus, OH

25. SIGNATURE OF ENLISTING OFFICER  
*Neal A. Hubbard*

26. For enlistment or reenlistment in the Army National Guard or Air National Guard

I do hereby acknowledge (I have voluntarily enlisted (reenlisted) this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ in the \_\_\_\_\_ National Guard of the State of \_\_\_\_\_ and as a Reserve of the \_\_\_\_\_ with membership in the \_\_\_\_\_ National Guard of the United States for a period of \_\_\_\_\_ (years) (months) (days) under the conditions prescribed by law, unless sooner discharged by proper authority.  
I, \_\_\_\_\_ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and of the State of \_\_\_\_\_ against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the Governor of \_\_\_\_\_ and the orders of the officers appointed over me, according to law and regulations. So help me God.  
I acknowledge the above oath has been administered to me and that I have sworn (or affirmed) to the same.

27. SIGNATURE OF ENLISTEE (REENLISTEE)

28. The above oath, as filled in, was administered, subscribed, and duly sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

29. NAME, GRADE, AND ORGANIZATION OF ENLISTING OFFICER (Type)

30. SIGNATURE OF ENLISTING OFFICER

21  
S Appx 53  
S.C.T. APP 47 E

DEPARTMENT OF DEFENSE  
 ARMED FORCES EXAMINING AND ENTRY STATION, COLUMBUS  
 3333 Indiana Avenue  
 Columbus, Ohio 43214

CO

10-25-  
 USAR  
 AR602

Enlistment/Travel Order No. 212-12 25 October 1977

Authority: AR 601-210

1. Having enlisted this date in the US ARMY RESERVE under the authority shown above, you are hereby assigned to inactive duty. Comply with the instructions contained in paragraph 3 below and if applicable, other supplemental instructions attached to these orders.
2. Government transportation is authorized in connection with these orders and is chargeable to 2182020 38-8305 P871711.14 2197 S11203 STA #10 Auth: AR 601-210. Movement of dependents and household goods in connection with these orders is not authorized.
3. You will proceed to your current home address, as indicated below, and return to this AFEEES for additional enlistment processing at the time and date shown. At that time you are ordered to commence extended active duty (voluntary) for "period shown below" under Section 672, Title 10, United States Code, or report for the purpose of discharge from the US ARMY RESERVE and enlistment in the US ARMY.

Name/ Social Security No.	Return by	Home address/ Special Instructions
[Redacted]	0645 hours 27 October 1977	[Redacted]
[Redacted]	0645 hours 4 November 1977	[Redacted]
[Redacted]	0645 hours 1 November 1977	[Redacted]
[Redacted]	0645 hours 4 November 1977	[Redacted]
[Redacted]	0645 hours 16 June 1978	[Redacted]
[Redacted]	0645 hours 28 October 1977	[Redacted]

25  
 Sappx57  
 S.C.T. App 68 E

000036

AFZES COLUMBUS  
Enlistment/Travel Order No. 212-12  
25 October 1977

FOR THE COMMANDER:

*Mal M. Wilson*  
MAL M. WILSON  
Asst Adjutant

**DISTRIBUTION:**  
1-Each individual  
1-Each individual's service record  
1-AFZES file  
1-Cdr, USACMC, Columbus, OH 43215

5

25  
SAppx58

S.Ct. App 69 E

000037

DEPARTMENT OF DEFENSE  
 ARMED FORCES EXAMINING AND ENTRANCE STATION, COLUMBUS  
 3333 Indianola Avenue  
 Columbus, Ohio 43214

Enlistment/Travel Order No. 215-3

28 October 1977

Authority: AR 601-210

1. Having enlisted this date in the US ARMY under the authority shown above, you are hereby assigned to active duty. Comply with the instructions contained in paragraph 3 below and if applicable, other supplemental instruction attached to these orders.
2. Government transportation is authorized in connection with these orders and is chargeable to PCS MDC 1AE8. Movement of dependents and household goods in connection with these orders is not authorized. Use of Transportation Request and Meal Ticket directed.
3. Enlistees concerned are transferred to US Army Reception Station at locations shown below effective this date. You will proceed from this AFEES and report to proper station not later than 2400 on date indicated below. \* indicates individual discharged from USAR 27 Oct 77 UP AR 135-178.

<u>Name/ Social Security No.</u>	<u>Location/ Report by</u>	<u>Remarks/ Special Instructions</u>
[REDACTED]	Ft McClellan, AL 28 October 1977	BCT 4 Nov 77 OST 95B McClellan
[REDACTED]	Ft Knox, KY 28 October 1977	BCT 4 Nov 77
[REDACTED]	Ft Sill, OK 28 October 1977	"Same as above" OST 13B Sill
Hamilton, Jernice *	Ft Jackson, SC 28 October 1977	BCT 4 Nov 77
[REDACTED]	"Same as above"	"Same as above"
[REDACTED]	Ft Leonard Wood, MO 28 October 1977	"Same as above" OST 12C Wood
[REDACTED]	"Same as above"	"Same as above"

S. Ct. APP 70 E

AFES COLUMBUS  
Enlistment/Travel Order No. 215-3  
28 October 1977

Name/  
Social Security No.

Location/  
Report by

Remarks/  
Special Instructions

[REDACTED]  
Ft Knox, KY  
28 October 1977

BCT 4 Nov 77

FOR THE COMMANDER:

*Mae M. Wilson*  
MAE M. WILSON  
Asst Adjutant

DISTRIBUTION:

- 1-Each individual
- 5-Each individual's service record
- 1-AFES TR file
- 1-Cdr, USARECSTA, Ft McClellan, AL 36201, Ft Knox, KY 40121, Ft Sill, OK 73503,  
Ft Jackson, SC 29207 & Ft Leonard Wood, MO 65473
- 1-AFES file

VII. CHANGE OF STATUS *Fdr participant in Delayed Enlistment Program*

31. In connection with my enlistment (date) 25TH OCTOBER 1977 in the US ARMY Reserve, I request to be discharged therefrom and enlisted in the Regular component of the ARMY effective this date for a period of 3 years. I acknowledge that:

a. I have reviewed the information provided by me in my Application for Enlistment - Armed Forces of the United States, DD Form 1966. That information is completely accurate as of this date.

b. No changes have been made in my enlistment options; OR if changes were made, the changes are recorded in Annex B which supersedes Annex A.

c. I have re-read and understand the provisions of Parts III and IV above.

32. SIGNATURE OF APPLICANT AND DATE  
*Jernice Hamilton 28 oct 77*

33. On behalf of my service, I accept this applicant for enlistment in the REGULAR ARMY for a period of 3 years. Initial Service is to be in the pay grade of PVT E-1. Contingent on enlistment this date in the Regular component, and in accordance with service regulations, applicant is discharged from the Reserve component shown in item 31 above effective 27 OCTOBER 1977. I certify that I have witnessed his/her signature in item 32. I further certify that I have explained that only those promises set forth herein or in attached Annex(es), if any, will be honored and any other promises not contained there made by any person are not effective and will not be honored.

34. NAME, GRADE, SSN AND ORGANIZATION OF SERVICE REPRESENTATIVE (Type)

*Sgt Isaac B. Hankins*

35. SIGNATURE OF SERVICE REPRESENTATIVE AND DATE  
*Isaac B. Hankins 28 Oct 77*

36. Confirmation of Enlistment

I do hereby acknowledge to be voluntarily enlisting under the conditions prescribed by law, this 28TH day of OCTOBER 19 77, in the US ARMY for a period of THREE years unless sooner discharged by proper authority. Initial Service is to be in the pay grade of E-1. I, JERNICE HAMILTON, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God.

I acknowledge the above oath has been administered to me and that I have sworn (or affirmed) to the same.

*67X*

37. SIGNATURE OF ENLISTEE

*Jernice Hamilton*

38. The above oath, as filled in, was administered, subscribed, and duly sworn (or affirmed) to before me this day of 28TH OCTOBER 19 77.

39. NAME, GRADE, AND ORGANIZATION OF ENLISTING OFFICER (Type)  
 STEPHEN A. SUTO, CAPT  
 AFCEES, Columbus, OH

40. SIGNATURE OF ENLISTING OFFICER  
*Stephen A. Suto*

NAME (Last, First, Middle, Jr., Sr., etc.)  
 HAMILTON JERNICE

SSN  
 [Redacted]

DATE OF BIRTH  
 29 SEPTEMBER 1957

*Mr. [unclear]*

TITLES (Include ZIP Code) <b>COMMANDER</b> <b>USATFE, ACPA</b> <b>FORTEUSTIS, VIRGINIA 23604</b>		TO (Include ZIP Code) <b>COMMANDER</b> <b>CO B 1ST BN</b> <b>FORT EUSTIS, VIRGINIA 23604</b>		FROM (Include ZIP Code) <b>COMMANDER</b> <b>MCDONALD ARMY HOSPITAL</b> <b>FORT EUSTIS, VIRGINIA 23604</b>	
1. NAME OF INDIVIDUAL EXAMINED (Last, First, and Middle Initial) <b>HAMILTON, JEROME H.</b>		3. GRADE <b>PVT</b>		6. GRADE <b>PVT</b>	
2. ADDRESS AND CITY <b>CO B1ST BN</b> <b>FORTEUSTIS, VIRGINIA 23604</b>		4. DATE <b>NOV 77</b>		5. PLACE (City and State) <b>FORT JACKSON, SOUTH CAROLINA</b>	
SECTION I - TO BE COMPLETED BY ATTENDING PHYSICIAN OR HOSPITAL PATIENT ADMINISTRATOR					
8. INDIVIDUAL WAS <input type="checkbox"/> PATIENT <input type="checkbox"/> OUTPATIENT		7. NAME OF HOSPITAL OR TREATMENT FACILITY <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/>			
9. HOUR AND DATE ADMITTED <b>091224 JAN 78</b>		10. HOUR AND DATE EXAMINED <b>0912 24 JAN 78</b>			
11. NATURE AND EXTENT OF: <input type="checkbox"/> INJURY <input type="checkbox"/> DISEASE <input type="checkbox"/> RESULTING IN DEATH (Explain) <b>FOREIGN BODY IN RIGHT HAND</b>					
12. MEDICAL OPINION: a. INDIVIDUAL <input type="checkbox"/> WAS <input type="checkbox"/> WAS NOT UNDER THE INFLUENCE OF <input type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUGS (Specify) b. INDIVIDUAL <input type="checkbox"/> WAS <input type="checkbox"/> WAS NOT MENTALLY SOUND (Attach Psychiatric evaluation if appropriate) c. INJURY <input type="checkbox"/> IS <input type="checkbox"/> IS NOT LIKELY TO RESULT IN A CLAIM AGAINST THE GOVERNMENT FOR FUTURE MEDICAL CARE d. INJURY <input type="checkbox"/> WAS <input type="checkbox"/> WAS NOT INCURRED IN LINE OF DUTY. BASIS FOR OPINION:					
<b>UNKNOWN</b>					
13. THE FOLLOWING DISABILITY MAY RESULT <b>UNKNOWN</b>		14. BLOOD ALCOHOL TEST MADE <input type="checkbox"/> YES <input type="checkbox"/> NO		15. NO. OF MG ALCOHOL/100 ML BLOOD	
16. TEMPORARY <input type="checkbox"/> PERMANENT PARTIAL <input type="checkbox"/> PERMANENT TOTAL		17. DETAILS OF ACCIDENT OR HISTORY OF DISEASE (Date, place, when)			
<b>PATIENT INJURED HAND WHILE AT BASIC TRAINING IN NOVEMBER 1977 AT FORT JACKSON SOUTH CAROLINA</b>					
18. DATE <b>24 JAN 78</b>		19. TYPED OR PRINTED NAME OF ATTENDING PHYSICIAN OR PATIENT ADMINISTRATOR <b>HECTOR NEW, CPT, MSC, CHIEF, PATIENT ADMIN</b>		20. SIGNATURE	
SECTION II - TO BE COMPLETED BY UNIT COMMANDER OR UNIT ADVISER					
21. DUTY STATUS <input checked="" type="checkbox"/> PRESENT FOR DUTY <input type="checkbox"/> ABSENT WITHOUT AUTHORITY		22. HOUR AND DATE OF ABSENCE			
<input type="checkbox"/> ABSENT WITH AUTHORITY <input type="checkbox"/> ON PASS <input type="checkbox"/> ON LEAVE		23. FROM <b>N/A</b>		24. TO <b>N/A</b>	
25. SERVICE WITHOUT AUTHORITY MATERIALLY INTERFERED WITH THE PERFORMANCE OF MILITARY DUTY (Specify in Item 26) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
26. INDIVIDUAL WAS ON <input checked="" type="checkbox"/> ACTIVE DUTY <input type="checkbox"/> ACTIVE DUTY FOR TRAINING <input type="checkbox"/> INACTIVE DUTY TRAINING		27. HOUR AND DATE TRAINING			
		28. BEGAN <b>3 NOV 77</b>		29. ENDED <b>20 DEC 77</b>	
30. RECEIVED DIRECT OF INJURIES RECEIVED PROCEEDINGS <input type="checkbox"/> DIRECTLY TO TRAINING <input checked="" type="checkbox"/> DIRECTLY FROM TRAINING <b>N/A</b>					
31. MODE OF TRANSPORTATION <b>N/A</b>		32. HOUR BEGINNING TRAVEL <b>N/A</b>		33. DISTANCE TRAVELED <b>N/A</b>	
		34. MODE OF TRANSPORTATION <b>N/A</b>		35. MONTHLY TIME FOR TRAVEL <b>N/A</b>	
36. DUTY STATUS AT TIME OF DEATH IF DIFFERENT FROM TIME OF INJURY OR CONTRACTION OF DISEASE					
<input checked="" type="checkbox"/> PRESENT FOR DUTY <input type="checkbox"/> ABSENT WITH AUTHORITY <input type="checkbox"/> ABSENT WITHOUT AUTHORITY		<b>N/A</b>			
37. DETAILS OF ACCIDENT - NARRATIVE (If a Military space is needed, continue on reverse) (Attach description of equipment)					
PVT Hamilton was attending BCT at Fort Jackson, SC (3 Nov - 20 Dec 77) at the time of accident (3d or 4th week of BCT). SM was double timing on rifle range while carrying his weapon. He tripped and fell and as a result a piece of foreign matter became lodged in the palm of his right hand. Due to tight training schedule SM was not afforded the opportunity to go on sick call until he arrived at USATFE. He went on sick call on 18 Dec 77 and was operated on 24 Jan 78.					
38. MEDICAL CODE OF DUTY INVESTIGATION/ACQUIRED		39. INDICATE IF CONTRIBUTED TO DEATH (All applicable in death)			
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
40. DATE <b>31 JAN 78</b>		41. TYPE MARK AND GRADE OF UNIT COMMANDER OR UNIT ADVISER <b>REYNOLDS PENNELHUR, CPT, TC, SER</b>		42. SIGNATURE	
		<b>2173</b>			

2

30

Sappx62

S.G. App 73 E

000041

Standard Form 502

General Services Administration and  
Interagency Committee on Medical Records  
FPMR 101-11.609-3 Rev October 1974

CLINICAL RECORD		NARRATIVE SUMMARY	
DATE OF ADMISSION	DATE OF DISCHARGE	NUMBER OF DAYS HOSPITALIZED	
24 Jan 78	26 Jan 78	2	

(Sign and date at end of narrative)

**HISTORY:** This is a 20 y.o. male who was admitted to the hospital because of a foreign body in his right hand hypothenar region, quite swollen and tender of two months duration. On physical exam the neurovascular status was otherwise normal.

**LABORATORY STUDIES:** Laboratory studies while in the hospital included urinalysis, CBC normal, RPR negative. B+ blood.

**HOSPITAL COURSE:** Patient was taken to the OR on 25 Jan. and the foreign body was removed from the right hand, hypothenar region, appeared to be metal and there was enough purulent material, therefore the incision was dressed open. Postop compression bandage applied. Patient did well until his discharge.

**FINAL DIAGNOSIS:** Foreign body perhaps glass, right hand palm with abscess.

**SPECIAL PROCEDURE 25 Jan 78:** Removal of foreign body from right hand palm.

**DISPOSITION:** Duty with limitation.

*Use additional sheets of this form (Standard Form 502) if more space is required*

SIGNATURE OF PHYSICIAN	DATE	IDENTIFICATION NO.	ORGANIZATION
<i>Roberto H. Barja</i>	9 Mar 78	20/	Co B 1st Bn
PATIENT'S IDENTIFICATION (For typed or written entries give Name—last, first, middle, grade, date, hospital or medical facility)		REGISTER NO.	WARD NO.
HAMILTON, JERNICE H.		194434	Ortho

HAMILTON, JERNICE H. PVT  
McDonald Army Hospital, Ft. Eustis, Va.

T: 9 Mar 78 jm

NARRATIVE SUMMARY  
Standard Form 502  
502-108-01

COPY MADE BY VARMC, ST.

1 A RECORD IN VA'S POSSESSION

*S.Ct. App 74 E*

000319

DEPARTMENT OF VETERANS AFFAIRS



*Federal  
Regulations*

August 1, 2018

JERNICE HAMILTON



In reply, refer to:

319/KD

File Number:

JERNICE HAMILTON

Dear Mr. HAMILTON:

We made a decision regarding your discharge from military service. Every effort was made to see that your claim received complete consideration.

This letter tells you what we decided, how we reached our decision and what evidence we used to reach our decision. We have also included information on what you can do if you don't agree with our decision, and who to contact if you have questions or need assistance.

**What We Decided**

We decided that your military service for the period of October 28, 1977, through September 5, 1980, is dishonorable for VA purposes. You and your dependents aren't eligible for any VA benefits for this period of military service. Only Veterans with honorable service are eligible for VA benefits.

You are not entitled to health care benefits under Chapter 17, Title 38 U.S. Code and 38 Code of Federal Regulations 3.360(a) for any disability determined to be service-connected for active service from October 28, 1977, to September 5, 1980.

**How Did We Make Our Decision?**

The claimant enlisted in the United States Army on October 28, 1977, for a period of three years. On September 5, 1980, he was discharged by conviction of court-martial with a bad conduct discharge.

*AR 635-5 AR 135-178*

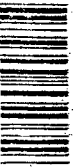
The facts and circumstances show that the claimant was found guilty by general court-martial of Violation of Article 134 for, on or about August 21, 1979, willfully and wrongfully exposing himself in an indecent manner. *Jurisdiction?*

The claimant was also found guilty of Violation of Article 128 for, on or about August 17, 1979, unlawfully striking four individuals in the face with his fists.

*S. Ct. App 75E*

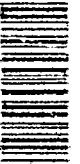
000349

2.160 oz 188298-001-0/0374990 0000048 0000943 1-01010000





DEPARTMENT OF VETERANS AFFAIRS



Federal  
Regulations

August 1, 2018

JERNICE HAMILTON



In reply, refer to:

319/KD

File Number:



JERNICE HAMILTON

Dear Mr. HAMILTON:

We made a decision regarding your discharge from military service. Every effort was made to see that your claim received complete consideration.

This letter tells you what we decided, how we reached our decision and what evidence we used to reach our decision. We have also included information on what you can do if you don't agree with our decision, and who to contact if you have questions or need assistance.

**What We Decided**

We decided that your military service for the period of October 28, 1977, through September 5, 1980, is dishonorable for VA purposes. You and your dependents aren't eligible for any VA benefits for this period of military service. Only Veterans with honorable service are eligible for VA benefits.

You are not entitled to health care benefits under Chapter 17, Title 38 U.S. Code and 38 Code of Federal Regulations 3.360(a) for any disability determined to be service-connected for active service from October 28, 1977, to September 5, 1980.

**How Did We Make Our Decision?**

The claimant enlisted in the United States Army on October 28, 1977, for a period of three years. On September 5, 1980, he was discharged by conviction of court-martial with a bad conduct discharge. AR 635-5 AR 135-178

The facts and circumstances show that the claimant was found guilty by general court-martial of Violation of Article 134 for, on or about August 21, 1979, willfully and wrongfully exposing himself in an indecent manner. Jurisdiction?

The claimant was also found guilty of Violation of Article 128 for, on or about August 17, 1979, unlawfully striking four individuals in the face with his fists.

SAppx87

S.Ct. App 76 E

000349

File Number: [REDACTED]  
HAMILTON, JERNICE

The claimant was also found guilty of Violation of Article 92 for, on or about September 1, 1979, wrongfully possessing, transferring, and selling methaqualone.

The claimant was also found guilty of Violation of Article 128 for, on or about November 19, 1979, committing assault on a Private First Class.

In response to the due process letter, the claimant requested a hearing. The claimant attended a hearing on February 20, 2018. During this hearing, the claimant stated that he was ashamed of what he had done, and that he is a different person now. The claimant mentioned that the heroin charge was thrown out, and the court-martial order shows that the claimant was not found guilty of that charge. The claimant also mentioned clemency, but the personnel records do not show an upgraded discharge.

While the charges on the general court-martial only took place over a relatively short amount of time, the claimant only served one enlistment. There is no evidence to dispute the validity of the court-martial order. The general court-martial is a bar to VA benefits for the entire enlistment.

**What Evidence Did We Use To Decide Your Claim?**

In making our decision, we used the following evidence:

- VA Administrative Decision dated August 19, 1981 → 38 CFR 3.7 (i) (iv) 2
- VA Notification Letter dated August 21, 1981 38 CFR 3.12 A
- VA Notification Letter dated August 16, 2011 38 CFR 3.14 d governed.
- VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received November 6, 2017
- Due Process Letter, dated November 9, 2017
- DA 3349 → for 25 October 1979  
Military Personnel Records and Service Treatment Records received from the National Personnel Records Center (NPRC) on November 17, 2017 Mil. Enlistment Record of USA R (135-178)
- VA Form 21-4138, Statement in Support of Claim, received November 27, 2017 Eyewitness August 15, 1979 at Examination Station
- VA Form 27-0820, Report of General Information, reporting the predetermination hearing on February 20, 2018
- Hearing Transcript for hearing conducted on February 20, 2018
- Copies of Military Personnel Records received July 20, 2018

38 CFR 3.12 (3.14) (3.7) i ii (iv) 2

S.Ct. Appx88  
App 17 E

DEPARTMENT OF VETERANS AFFAIRS



October 30, 2018

JERNICE HAMILTON  
[REDACTED]

In reply, refer to:

327/VDL

File Number: [REDACTED]

JERNICE HAMILTON

Dear Mr. HAMILTON:

We made a decision regarding your request for reconsideration on the administrative decision for the character of discharge determination. Every effort was made to see that your claim received complete consideration.

This letter tells you what we decided, how we reached our decision and what evidence we used to reach our decision. We have also included information on what you can do if you don't agree with our decision, and who to contact if you have questions or need assistance.

### What We Decided

We decided that your military service for the period of October 28, 1977, through September 5, 1980, does not meet the criteria for a conditional discharge. Therefore, your request for a reconsideration is denied.

### How Did We Make Our Decision?

A review of your military personnel file shows that you only have one period of military service. To qualify for a conditional discharge, a former service member must have completed a period of service under honorable conditions. Your period of service is October 28, 1977 through September 5, 1980. The offenses you were charged with under a General Court Martial were committed during that period of service. You stated that you enlisted in the Army Reserves on October 25, 1977 and then transferred to the Regular Army on August 28, 1977. Your DD 214 does not show any prior service.

10-28-77

### What Evidence Did We Use to Decide Your Claim?

In making our decision, we used the following evidence:

- DD 214 received November 17, 2017
- Military Personnel Record received November 17, 2017

S.Ct. App 78 E SAppx89



File Number: [REDACTED]  
HAMILTON, JERNICE

- VA Form 21-4138 Statement in Support of Claim received September 10, 2018

### What You Should Do If You Disagree With Our Decision

If you do not agree with our decision, you must complete and return to us the enclosed VA Form 21-0958, *Notice of Disagreement*, in order to initiate your appeal. You have *one year from the date of this letter to appeal the decision*. The enclosed VA Form 4107, *Your Rights to Appeal Our Decision*, explains your right to appeal.

You can also ask the Service Department to change the character of discharge or you can apply for a correction of military records. To request a change, use the enclosed DD Form 293, *Application for the Review of Discharge or Dismissal from the Armed Forces of the United States*. To apply for correction, use the enclosed DD Form 149, *Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, and Section 1552*. Send the completed form to the proper address on the back of the form.

### What is eBenefits?

eBenefits provides electronic resources in a self-service environment to Service members, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Request a Veterans Service Officer to represent you
- Track the status of your claim or appeal
- Obtain verification of military service, civil service preference, or VA benefits
- And much more!

Enrolling in eBenefits is easy. Just visit [www.eBenefits.va.gov](http://www.eBenefits.va.gov) for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

### If You Have Questions or Need Assistance

If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter:

If you have questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.

S.G. App 79 E

SAppx90

000250



**MEDICAL CONDITION - PHYSICAL PROFILE RECORD**

For use of this form, see AR 40-501; the proponent agency is The Surgeon General's Office

DATE  
4 Dec. 1978

TO: (Include Zip Code)  
 Commander  
 HHC 32nd Sig. Bn.  
 APO, N.Y. 09757

FROM: (Include Zip Code)  
 Battalion Surgeon  
 317th Engr. Bn.  
 APO, N. Y. 09757

LAST NAME - FIRST NAME - MIDDLE INITIAL, GRADE,  
 SOCIAL SECURITY ACCOUNT NUMBER AND ORGANIZATION

Hamilton, Jernice  
 HHC 32nd Sig. Bn.  
 ██████████  
 APO, NY. 09757

**INSTRUCTIONS**

Complete Section D of this form in lieu of DA Form 8-118, whenever a medical board is held for the sole purpose of permanently revising physical profile to or from a numerical designator "3".

**PREPARE COPIES AS INDICATED BELOW:**

Unit Commander/Personnel Officer - 1 copy when Item 1 or 2 is checked.  
 Appropriate Commander or HQ - 1 copy when Item 3 is checked.  
 Health Record Jacket (DD Form 722) - 1 copy.  
 Clinical Record - 1 copy when appropriate.

**SECTION A - DUTY STATUS** (Check Applicable Item(s))

1	INDIVIDUAL IS RETURNED TO YOUR UNIT FOR DUTY (AR 40-3, AR 635-40)
2	INDIVIDUAL IS RETURNED TO YOUR UNIT FOR SEPARATION PROCESSING (AR 40-3, AR 635-40)
3	INDIVIDUAL (IS) <u>IS/NOT</u> MEDICALLY QUALIFIED FOR <u>DUTY WITH LIMITATIONS.</u> AS EVIDENCED BY A MEDICAL EXAMINATION AND A REVIEW OF HIS HEALTH RECORD THIS DATE _____

**SECTION B - PHYSICAL PROFILE**

(Complete all items. When applicable "R", "S" or "T" will be entered with numerical designator under appropriate factor)

	P	U	L	H	E	S	PREVIOUS
4 PREVIOUS	1	1	1	1	1	1	PREVIOUS
5 PRESENT	1	1	T-3	1	1	1	PRESENT

6 INDIVIDUAL HAS THE DEFECT(S) LISTED BELOW. (All defects requiring a 3 or 4 in any PULHES factor will be reported in non-technical language)

DX: Low back strain.

Continued under remarks

**SECTION C - ASSIGNMENT RESTRICTIONS, OR GEOGRAPHICAL, OR CLIMATIC AREA LIMITATIONS** (Check Applicable Item(s))

7	INDIVIDUAL REQUIRES NO MAJOR ASSIGNMENT, GEOGRAPHICAL, OR CLIMATIC AREA LIMITATIONS
8	MAJOR ASSIGNMENT, GEOGRAPHICAL, CLIMATIC AREA LIMITATIONS ARE ESTABLISHED BELOW (AR 40-3, AR 40-501, AR 635-40). Describe specific assignment limitations or restrictions as outlined in Chapter 9, AR 40-501.

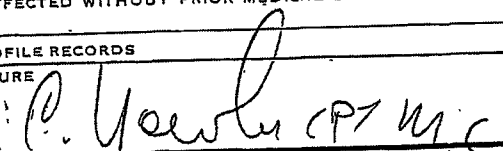
Note: No lifting over 20 pounds for 30 days.

Continued under remarks

9	THE ABOVE CONDITIONS ARE PERMANENT
10	THE ABOVE CONDITIONS ARE TEMPORARY, BUT EXPECTED TO CONTINUE IN EXCESS OF NINETY DAYS, INDIVIDUAL IS TO REPORT FOR FURTHER PHYSICAL PROFILE EVALUATION, MEDICAL TREATMENT OR DISPOSITION, AS DIRECTED (AR 40-3, AR 40-501)
11	THE ABOVE CONDITIONS ARE TEMPORARY AND ARE NOT EXPECTED TO EXCEED NINETY DAYS. LIMITATIONS NOTED ABOVE ARE FOR <u>30</u> DAYS AND ARE AUTOMATICALLY CANCELLED ON (date) <u>4 January, 1979</u> UNLESS OTHERWISE DIRECTED (AR 40-501).
12	SEPARATION OR RETIREMENT OF THIS INDIVIDUAL WILL NOT BE EFFECTED WITHOUT PRIOR MEDICAL EVALUATION (AR 40-3, AR 40-501, AR 635-40).

13 THIS SUPERSEDES PREVIOUS MEDICAL CONDITION - PHYSICAL PROFILE RECORDS

14. TYPED NAME & GRADE OF AUTHORIZED OFFICER AT MEDICAL FACILITY  
 Charles Yowler, Cpt. MC

SIGNATURE  


19  
 S.C.T. APP 81 E

DATE	SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)
4 DEC 1978	<p><b>ESCHBORN DISP</b>  <b>APO 09757</b></p> <p>(S) C/o <del>back</del> pain hBP in ligular paravertebral area. No numbness, paresthesias or weakness in legs.</p> <p>(O) Minimal spasm of paravertebral muscles. Neurophysiologic exam WNL.</p> <p>(A) <del>L-5 strain</del></p> <p>(P) 1) Analgesic balm  2) Paracetamol Forte 7 q 4 hrs x 400  3) <del>BP file</del>: No lifting over 20 lbs for 30 days. P. Yearwood M.D.</p>
4 JAN 1979	<p><b>ESCHBORN DISP</b>  <b>APO 09757</b></p> <p>(S) Still has some problems w/ LBP but has improved</p> <p>(O) No spasm. No tenderness or palpation</p> <p>(A) Resolving L-5 strain</p> <p>(P) 1) Paracetamol Forte #20 7 q 4 hrs  2) Analgesic balm  P. Yearwood M.D.</p>

GPO : 1976 O - 209-538

COPY MADE BY VARMC, ST. LOUIS FROM A RECORD IN VA'S POSSESSION

20

S.C. App 82 E

HEALTH RECORD	CHRONOLOGICAL RECORD OF MEDICAL CARE
DATE	SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)
26 MAR 1979	ESCHBORN DISP
	APO 09757
	<p>S - C/O lower back pain x 7 wks          O - no spasms; good R/R          A - mild muscle strain          P - hand x 7 wks 20 dln          Next visit #1          J. M. [Signature]</p>
	<p>2 April 79 (5) Seen for PFB          (6) Much improved          (A) PFB - resolved          (P) No profile          (5) Stryker          (3) Hydrocortisone lotion          (4) Test          C. [Signature]</p>

PATIENT'S IDENTIFICATION (Use this Space for Mechanical Imprint)			PATIENT'S NAME (Last, First, Middle initial) L: Hamilton, George		SEX M
YEAR OF BIRTH 57	RELATIONSHIP TO SPONSOR -	COMPONENT/STATUS APO	DEPART/SERVICE Army		
SPONSOR'S NAME -			RANK/GRADE E-2		
SSAN OR IDENTIFICATION NO. [Redacted]		ORGANIZATION HHC/32			

COPY MADE BY VARMC, ST. LOUIS FROM A RECORD IN VA'S POSSESSION  
 Standard Form 600  
 600-106-01

S.Ct. App 83<sup>21</sup> E

HEALTH RECORD	CHRONOLOGICAL RECORD OF MEDICAL CARE
DATE	SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)
24 APR 1979	ESCHBORN DISP
	APO 09757
	S. 2 1/2 @ foot hunting & 1/2 back pain x 1 wk. State joint can feel on foot 3 days ago. Also state he has been doing alot of lifting, O @ imitatoral (big toe) swollen & discolored, tender to touch @ shoulder blade tender to touch, ROM good
	A. 1. Warm Soaks. BID
	O. Bruised foot, back strain
	P. 1. Warm socks bid
	2. PARAFON Forte <sup>ii</sup> @ 8 hr # 18
	3. No boots x 4 days
	4. No lifting over 20 #s x 3 days.
	5. RTD <span style="float: right;">SP4 Thomas &amp; Lorraine</span>
<del> <div data-bbox="772 1149 865 1202" data-label="Text">9M203</div> <div data-bbox="974 1212 1100 1266" data-label="Text">7 MAY 79</div> </del>	

PATIENT'S IDENTIFICATION (Use this Space for Mechanical Imprint)			PATIENT'S NAME (Last, First, Middle initial)		SEX
			HAMILTON, JERNICE		M
YEAR OF BIRTH	RELATIONSHIP TO SPONSOR	COMPONENT/STATUS	DEPART/SERVICE		
1957		AD	ARMY		
SPONSOR'S NAME				RANK/GRADE	
				E-3	
SSAN OR IDENTIFICATION NO.			ORGANIZATION		
[REDACTED]			HHC, 32nd SIG		

CHRONOLOGICAL RECORD OF MEDICAL CARE

COPY MADE BY VARMC, ST. LOUIS FROM A RECORD IN VA'S POSSESSION

19  
 23 S.G. APP 84 E

HEALTH RECORD

CHRONOLOGICAL RECORD OF MEDICAL CARE

SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)

MAY 6 1980

S. I. DEPLM. SKI DISPENSARY  
 22 LEAVENWORTH, KANSAS

NO entry DWT.

MAY 15 1980

S.P.H. 90 & BP x 3 days  
 O.P.H. doesn't seem to be in much  
 pain if any EXAMED the back  
 A. Back strain  
 DOASA II P. O. acid for pain  
 (2) Not sleep 3 x a day  
 (3) USE BACK EXERCISES  
 No analgesic given  
 P.T. had N/C.

MAY 23 1980

S. I. DEPLM. SKI DISPENSARY  
 22 LEAVENWORTH, KANSAS

C/O blisters on right foot  
 7th digit. X 24°  
 CW not open

*[Handwritten signature]*  
 J. M. [unclear] MD

PATIENT'S IDENTIFICATION (Use this Space for Mechanical Imprint)

PATIENT'S NAME (Last, First, Middle initial)			SEX
HAMILTON, J. E.			M
YEAR OF BIRTH	RELATIONSHIP TO SPONSOR	COMPONENT / STATUS	DEPART / SERVICE
SPONSOR'S NAME		RANK / GRADE	
SSAN OR IDENTIFICATION NO.		ORGANIZATION	

COPY MADE BY VARMC, ST. LOUIS FROM A RECORD IN VA'S POSSESSION  
 CHRONOLOGICAL RECORD OF MEDICAL CARE  
 Standard Form 600  
 600-106-01

S. Ct. App 85 E

CSN  
1020750985

**Progress Notes by Margaret U Gee, MSPT at 8/27/2015 4:56 PM**

Author: Margaret U Gee, MSPT      Service: (none)      Author Type: Physical Therapist  
Filed: 8/27/2015 4:58 PM      Creation Time: 8/27/2015 4:56 PM      Note Type: Progress Notes  
Status: Signed      Editor: Margaret U Gee, MSPT (Physical Therapist)

**Physical Therapy Outpatient Evaluation**  
**Medical University of South Carolina**

**Patient Name:** Garnaris Hamilton  
**Age:** 57 y.o.  
**Sex:** male  
**MRN:** 000435579  
**Visit #:** 1

**Date of Service:** 08/27/15  
**Funding:** Payor: MEDICAID MOLINA HEALTHCARE / / /  
**Primary Diagnosis:** chronic low back pain  
**Treatment Diagnosis:** low back pain

**Referring Provider:** Pach, Frances Suzanne  
**Location of Treatment:** PT- West Ashley  
**Date Patient First Became Aware of Symptoms:** 11/01/14  
**Date Service Initiated by Billing Provider:** 08/27/15

**Certification Dates:** 08/27/15 to 11/27/15

**History of Present Illness**

**History of Present Illness:** Patient stated that he had both knees replaced, one in March 2013 and the other in October 2013. He stated that since that time he was doing pretty well until about November of last year. Then he began having pain in bilateral thighs that is worse with sitting and with mowing his yard and doing yard work/bending. He stated pain is better walking. His is stiff in his back and thighs in the morning and his leg feels worse as the day goes on. He rides his bike about 6-8miles a day and walks about a mile daily. His pain at its worst is 10 and best is 0 in his thighs. His low back mostly just bothers him when he is getting up.

**Precautions:** none

**Past Medical History:** has a past medical history of Hypertension and Acid reflux.

**Past Surgical History:** has past surgical history that includes Knee surgery.

**Prior Level of Function:** patient was able to do yard work and sit and sleep without burning/tingling in thighs and without low back pain

**Occupation/ Work Status:** not working; disability for knees

**Living Situation:** not discussed

**Allergies:** Review of patient's allergies indicates no known allergies.

**Medications:** Current outpatient prescriptions: meloxicam (MOBIC) 15 MG tablet, Take 1 tablet by mouth daily., Disp: 30 tablet, Rfi: 2

**Subjective**

**Subjective:** Patient stated that he is on disability secondary to his knees. They do not hurt since his knee surgeries, but now his thighs hurt.

010

S.Ct. App. 80 E

---

**Patient Name: Hamilton, Garnaris**  
**Patient ID: 000849602 (RSFH)**

Date of Birth: **Sep-29-1957**  
Age: **63 years**  
Gender: **male**  
Accession Number: **MR210019480**  
Location: **James Island Imaging**  
Referring Physician: **James Junius Dove**

Study Date: **Aug-06-2021 07:21**  
Procedure Types: **MRI Spine Lumbar w/o Contrast**

**Verified**

---

## **MR MRI Spine Lumbar w/o Contrast**

MRI lumbar spine without contrast: 08/06/21

COMPARISON: 4/13/2018

INDICATION: Lumbago with sciatica, right side,

TECHNIQUE: Noncontrast sagittal and axial, T1 and T2-weighted sequences with sagittal STIR of the lumbar spine.

FINDINGS: Lumbar vertebral body heights are maintained and I see no concerning marrow signal. Vertebral alignment is normal. The conus medullaris is normal terminating at L1. The cauda equina and filum terminale are unremarkable. Congenitally short pedicles again noted.

L1-L2: The spinal canal is patent. No foraminal stenosis.

L2-L3: Disc desiccation at this level similar to prior with moderate facet arthropathy and ligamentous hypertrophy. Mild bilateral foraminal encroachment similar to prior left slightly greater than right. Central canal patent.

L3-L4: Moderate facet arthropathy and ligamentous hypertrophy. Shallow concentric disc bulge. Triangulation of the theca without overt central stenosis. There is moderate bilateral foraminal narrowing at this level similar to prior.

L4-L5: Disc desiccation with concentric and prominent posterior disc bulge

S.Ct. App 87 E

Fetter Health Care Network  
51 Nassau St  
Charleston, SC  
Phone: (843)722-4112  
Fax: (843)577-9550

Referral Communication Form

Patient Information

GARNARIS HAMILTON  
4453 JENWOOD ST  
Ladson, SC 29456-

DOB: 09/29/1957

Phone: [REDACTED]

# C48494-01

Order

Date ordered: 10/17/2016

~~Referrals: Orthopedic Surgery, VA Dorn in Columbia. Evaluate and treat.~~

Insurance/Authorization Information

Insurance: Molina Healthcare Of South Carolina  
Policy#: [REDACTED]

Ordering Provider:  
Shantae Jenkins MD  
51 Nassau St  
340B00937300FF  
Charleston, SC 29403  
Phone: (843)722-4112  
Fax: (843)722-4802

PCP: William Baly MD

Referral Information

~~Primary / Billing Diagnosis: Low back pain (M54.5)~~

Current Medications:

Medication	Dose	Sig/Desc
CIALIS	20 mg	take 1 tablet by oral-route every day as needed
RANITIDINE HCL	150 mg	TAKE 1 TABLET BY MOUTH TWICE A DAY
MELOXICAM	15 mg	TAKE 1 TABLET BY MOUTH EVERY DAY

HAMILTON, GARNARIS 00000000025 09/29/1957 10/17/2016 08:15 AM Page: 1/2

S.Ct. App 88 E 30 5

01

Roper Hospital Diagnostics James Island

Patient Name: HAMILTON, GARNARIS

MRN: 849602

Admit: 4/13/2018

DOB: 1810300422

Disch: 4/13/2018

DOB/Age/Sex: 9/29/1957 68 years Male

Admitting: KEFFER,JAMES R-DO

Magnetic Resonance Imaging

Report

\*\*\*\* Final \*\*\*\*

Releasing Radiologist: CRYMES-MD, WILLIAM B

Released Date and Time: 04/13/18 16:26

Accession	Exam Date/Time	Exam	Ordering Physician
MR-18-0007657	4/13/2018 11:55 EDT	MRI Spine Cervical w/o Contrast	KEFFER-DO,JAMES REILLY

Reason for Exam

MRI Spine Cervical w/o Contrast) Z78.9;Z78.9

Report

MRI Cervical Spine Without Contrast: 04/13/18

COMPARISON: None

INDICATION: Z78.9;Z78.9, back and neck pain. Headache.

TECHNIQUE: Sagittal and axial fast spin-echo T2-weighted, sagittal spin-echo T1-weighted, sagittal STIR, and axial gradient echo imaging.

FINDINGS:

2-C3,Disc maintained, no canal stenosis. No significant foraminal stenosis.

3-C4, mild annular bulge. Mild canal stenosis, minimal cord contact but no significant deformity. No significant foraminal stenosis.

4-C5, small central disc herniation, at least moderate central cord deformity. No significant foraminal stenosis.

5-C6, annular bulge/spondylosis. Canal stenosis with mild cord deformity. Intervertebral joint hypertrophy with severe bilateral foraminal narrowing.

6-C7, mild annular bulge/spondylosis. Mild canal stenosis, minimal cord contact. No significant deformity. Severe bilateral foraminal narrowing.

7-T1,Disc maintained, no canal stenosis. No significant foraminal stenosis.

Absence of normal cervical lordosis. Vertebral bodies maintain normal height and marrow signal. Alignment maintained. Extensive motion artifact limits evaluation of cord signal, no obvious signal identified. Craniocervical junction unremarkable.

IMPRESSION: Images limited by extensive motion artifact

S. Ct. App 89 E

Roper Hospital Diagnostics James Island

atient Name: HAMILTON, GARNARIS

RN: 849602

N: 1810300422

OB/Age/Sex: 9/29/1957 68 years Male

Admit: 4/13/2018

Disch: 4/13/2018

Admitting: KEFFER,JAMES R-DO

**Magnetic Resonance Imaging**

ccession  
R-18-0007658

Exam Date/Time  
4/13/2018 11:55 EDT

Exam  
MRI Spine Lumbar w/o  
Contrast

Ordering Physician  
KEFFER-DO,JAMES REILLY

**Reason for Exam**

(MRI Spine Lumbar w/o Contrast) M54.5;M54.5

**Report**

MRI OF THE LUMBAR SPINE WITHOUT CONTRAST: 04/13/18

CLINICAL INDICATION: "M54.5;M54.5." Lower back pain.

TECHNIQUE: Sagittal and axial, T1 and T2-weighted sequences with sagittal STIR of the lumbar spine.

COMPARISON: CT, 12 January 2018.

FINDINGS: Lumbar vertebral body heights are maintained and I see no concerning narrow signal. Vertebral body alignment is normal. The conus medullaris is normal terminating at superior L1. The cauda equina and filum terminale are unremarkable. Shortened pedicles throughout.

L1-L2: No disc herniation, canal stenosis or foraminal compromise.

L2-L3: Desiccation and bulge with ligamentous hypertrophy contouring the thecal sac. No disc herniation or canal stenosis. Mild bilateral foraminal narrowing.

L3-L4: Desiccation and bulge with facet-ligamentous hypertrophy also contouring the thecal sac without disc herniation or canal stenosis. Moderate bilateral foraminal stenosis.

L4-L5: Desiccation with prominent central bulge and facet-ligamentous hypertrophy resulting in severe canal stenosis. Moderate right and mild left foraminal stenosis.

L5-S1: Slight bulge with ligamentous hypertrophy. No disc herniation or canal stenosis. Mild medial bilateral foraminal narrowing.

**IMPRESSION:**

1. At L4-L5, central bulge with severe canal stenosis. Moderate right foraminal stenosis.

2. At L3-L4, moderate bilateral foraminal stenosis. Remaining foraminal narrowing is mild and detailed above.

S.Ct. App 90 E

EHL Bilateral, NT today.

Neurological:

SENSORY: pinprick sensation intact .  
STRAIGHT LEG RAISE negative seated bilaterally .  
LOWER EXTREMITY TONE normal .  
HOFFMAN'S SIGN Absent, Bilateral.

Cervical Spine/Neck:

PALPATION: paraspinal tenderness.  
REFLEXES: DTRs in the arms are 1+ to 2+ throughout and equal bilaterally.  
SENSATIONS: normal bilaterally.  
MOTOR STRENGTH: strength, bulk and tone are normal in the arms bilaterally.

**Assessments**

1. Low back pain - M54.5 (Primary)
2. Exercise counseling - Z71.89
3. History of motor vehicle traffic accident - Z78.9
4. Headache in back of head - R51
5. Cervicalgia - M54.2
6. Spinal stenosis of lumbar region, unspecified whether neurogenic claudication present - M48.061, on a previous CT scan lumbar

**Treatment**

**1. Low back pain**

Stop Ibuprofen Tablet, 800 MG, 1 tablet, Orally, Twice a day  
Start Naprosyn Tablet, 500 MG, 1 tablet, Orally, QD or BID with food, 30 day(s), 60, Refills 0

IMAGING: MRI Spine Lumbar w/o Contrast

Notes: Patient comes in today and reports continuing neck and low back pain that is often in the moderate or sometimes moderately severe range. He is currently participating in physical therapy and is status post 4 weeks of physical therapy so far.

Patient will continue physical therapy at this time for the neck and back pain.

He recently got a "FLEX 10 TENS Unit" which seems to be helping his symptoms to some degree.

He reports the ibuprofen 800 mg is not working very well and was interested in an alternate NSAID. He will discontinue the Ibuprofen and avoid any other oral NSAIDs.

Patient is prescribed Naprosyn 500 mg 1 tablet twice a day with food. He knows to stop it if it upsets his stomach. I discussed potential renal and GI side effects/complications of NSAID medications.

**2. Exercise counseling**

Notes: Discussed aerobic exercise and the positive impact it has been shown to reduce the incidence of low back pain. We discussed that exercise activity is one way to benefit from regular exercise while not aggravating the structures in the lower back, as well as helping to maintain a healthy body weight.

**3. History of motor vehicle traffic accident**

IMAGING: MRI Spine Cervical w/o Contrast

IMAGING: MRI Spine Lumbar w/o Contrast

Notes: We'll resubmit order for MRI of the cervical and lumbar spine to further evaluate the anatomy.

Patient has continuing neck and back pain with history of motor vehicle accident in January. He status post more than 4 weeks of physical therapy. He's been pursuing a home exercise program as well.

---

Patient: HAMILTON, GARANRIS DOB: 09/29/1957 Progress Note: JAMES R. KEFFER, DO 03/26/2018

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

S.C.T. APP 9 | E

**4. Headache in back of head**

IMAGING: MRI Spine Cervical w/o Contrast

Notes: Patient may be experiencing cervicogenic headaches. It would be appropriate to obtain C-Spine imaging in light of his MVA to review the soft tissue anatomy.

Patient has some history of seasonal allergies. He recently started Flonase and we discussed the fact that some of these headaches in the frontal region of his head may be from his sinuses and etiologies etc. Hopefully Flonase will help this. Have also discussed cervicogenic headaches as well.

**5. Cervicalgia**

IMAGING: MRI Spine Cervical w/o Contrast

**6. Spinal stenosis of lumbar region, unspecified whether neurogenic claudication present**

IMAGING: MRI Spine Lumbar w/o Contrast

Notes: Of note, patient had spinal stenosis noted on a previous CT scan of the lumbar spine.

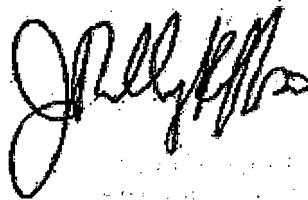
**7. Others**

Notes: SCRIPTS database was checked today.

I spent at least 30 minutes with patient with greater than 50 percent of time spent in counseling and coordination of care.

**Follow Up**

4 Weeks



Electronically signed by JAMES KEFFER DO on 03/26/2018 at 11:10 AM EDT

Sign off status: Completed

---

RSFPP Neurosurgery & Spine PMAR  
2145 HENRY TECKLENBURG DR  
CHARLESTON, SC 29414-5894  
Tel: 843-723-8823  
Fax: 843-606-8059

---

Patient: HAMILTON, GARANRIS DOB: 09/29/1957 Progress Note: JAMES R. KEFFER, DO 03/26/2018

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

S. Ct. App 92 E



DEPARTMENT OF THE ARMY  
UNITED STATES DISCIPLINARY BARRACKS  
US ARMY COMBINED ARMS CENTER  
FORT LEAVENWORTH, KANSAS 66027

ATZL-DB-CL-PP

5 September 1980

Mrs. Annette Hamilton  
22F Magazine Street  
Charleston, South Carolina 29401

Dear Mrs. Hamilton,

Your husband, JERNICE HAMILTON, 249-13-3499 was discharged from the military service effective 5 Sep 80 but will remain in confinement until his release date. Consequently your entitlement and that of your dependents to all benefits terminated on 5 Sep 80.


In view of the above, it is requested that you forward your Uniformed Services Identification and Privilege Card, DD Form 1173, to this Headquarters. A pre-addressed envelope, which requires no postage, is inclosed for your convenience.

Your cooperation is appreciated.

FOR THE COMMANDANT:

Sincerely yours,

1 Incl  
Envelope

  
for LEONARD A. BERGLUND  
CPT, MPC  
Assistant Adjutant

USDB FL 257  
1 May 75 - CL

S.C.T. App 93 F

101

BIRLS DATA  
END PRODUCT

81121  
NAME

FILE NUMBER  
VETERAN NAME HAMILTON, JERNICE  
SOC SEC NUMBER  
SERVICE NUMBER  
DATE OF BIRTH  
DATE OF DEATH  
SEX  
FOLDER LOC  
TRANS FROM  
TRANS DATE  
REQUEST TRANS  
CR&E PAYEE

EOD 10-28-77  
RAD 07-05-60  
CHAR DISCHG OTH  
BRANCH SERV ARMY  
TOTL ACTIVE 02-00-23  
READJ PAY Art 2 602  
SEVER PAY  
NONPAY DAYS 255  
PAY GRADE E-1  
SEP REASON UNK  
ADUTRA  
DISABILITY

TRFD TO RESRV  
VIET SERVICE  
REENLISTMENT  
PURPLE HEART  
ADJ SVC CERT  
INSUR NUMBER  
INSUR TYPE  
INSUR PAYEE  
INSUR LAPSE DT

RECORD SHOWS HAMILTON, JERNICE VET ARMY SN [REDACTED] SVC DATES ENL 10/28/77 DTG 9/5/80 OTHER THAN HON DISCH DOB [REDACTED] SS [REDACTED] NO RECORD OF CLAIM C OR SS NON PAY DAYS 255 TOT ACT SVC 02/08/23 PAY GRADE E1 SEP REAS UNK CHAP 32 ACT.

DSA, 101

*Was Record*

101

BIRLS DATA  
END PRODUCT 190

81121  
NAME J HAMIL

FILE NUMBER [REDACTED]  
VETERAN NAME HAMILTON, JERNICE  
SOC SEC NUMBER [REDACTED]  
SERVICE NUMBER [REDACTED]  
DATE OF BIRTH [REDACTED]  
DATE OF DEATH  
SEX  
FOLDER LOC 817  
TRANS FROM 819  
TRANS DATE 05-01-81  
REQUEST TRANS  
CR&E PAYEE

EOD 10-28-77  
RAD 07-05-80  
CHAR DISCHG OTH  
BRANCH SERV ARMY  
TOTL ACTIVE 02-00-23  
READJ PAY  
SEVER PAY  
NONPAY DAYS 255  
PAY GRADE E-1  
SEP REASON UNK  
ADUTRA  
DISABILITY

TRFD TO RESRV  
VIET SERVICE  
REENLISTMENT  
PURPLE HEART  
ADJ SVC CERT  
INSUR NUMBER  
INSUR TYPE  
INSUR PAYEE  
INSUR LAPSE DT

REPLY: ENTRY FILED UNDER FILE NO. [REDACTED] TYPE OF DISCH OTHER THAN HON CHAR 32 ACT.

*S. Lt. App 43 F*

000028

S.C.T. App 64 F

DATE NUMBER [REDACTED] DATE OF DISALLOWANCE BY 27L [REDACTED] END PRODUCT 120 NAME J HOMIL 07-18-84

- 1 NO MILITARY SERVICE
- 2 NO QUALIFYING SERVICE
- 3 INSUFFICIENT QUALIFYING SERVICE
- 4 CHARACTER OF DISCHARGE
- 5 CERTIFICATION FORFEITED
- 6 DEATH NOT DUE TO SERVICE
- 7 NOT SHOWN LAST EXAM & NO RATING
- 8 NOT SHOWN LAST EXAM & NO RATING
- 9 NOT SHOWN EVIDENCE & NO RATING
- 10 NOT SHOWN EVIDENCE & NO RATING
- 11 NO ACTIVE OR POST DISCHARGE
- 12 WILLFUL MISC/NOT PERMANENT
- 13 DISABILITY NOT TOTAL
- 14 DISABILITY NOT TOTAL
- 15 EXCESS INCOME & DEPENDENTS
- 16 EXCESS INCOME & NO DEPENDENTS
- 17 EXCESS INCOME - PARENTS
- 18 EXCESS NET WORTH
- 19 CONSTD/DEVELOPMNT ABNORMALITY
- 20 RELATIONSHIP NOT ESTABLISHED
- 21 NON-CONTINUOUS COHABITATION
- 22 WIDOW REHARRIED (INFERENCE)
- 23 CHILD MARRIED
- 24 FAILURE TO PROSECUTE
- 25 FAILURE TO REPORT FOR EXAM
- 26 ON ACTV DUTY (OR RETIRED PENDING CLAIM WITHDRAWN)
- 27 WHEREABOUTS UNKNOWN
- 28 DEATH OF CLAIMANT
- 29 CHILD OVER 18 (NOT SUC OR HELP)
- 30 CLAIMANT INCARCERATED
- 31 OTHER
- 32 ELECTED OTHER BENEFIT

SERVICE INSTALLATION [REDACTED] AUTHORIZED BY [REDACTED] DATE [REDACTED]

*[Handwritten Signature]*

COPY MADE BY VARMC, ST. LOUIS FROM A RECORD IN VA'S POSSESSION

0000029