

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 January 2024

DOCKET NUMBER: AR20230002834

ON BEHALF OF THE APPLICANT, COUNSEL REQUESTS:

- Upgrade discharge from “general under honorable conditions” to “honorable”
- Change to the narrative reason to reflect “medical” discharge

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Legal brief with enclosures 1-20
- Enclosure 1: Letter from applicant
- Enclosure 2: VA determination and Physical Evaluation Board (PEB)
- Enclosure 3: Thrive Counseling Letter
- Enclosure 4: Twelve (12) Officer Evaluation Reports
- Enclosure 5: Six (6) Letters of Support
- Enclosure 6: Army medical record
- Enclosure 7: Employment termination letter
- Enclosure 8: First Health of the Carolinas letter
- Enclosure 9: State of North Carolina Conditional discharge
- Enclosure 10: Adams, Burge & Boughman Attorneys at Law letter
- Enclosure 11: Fayetteville Police Incident/Investigation Report
- Enclosure 12: Memorandum for Record
- Enclosure 13: 4th Psychological Operations Group (Airborne) memorandum
- Enclosure 14: DA Form 2823 (Sworn Statement)
- Enclosure 15: Email correspondence from the Assistant Chief of Staff (ACoS),
- Enclosure 16: Office of the Under Secretary of Defense Memorandum
- Enclosures 17 and 18: Consumer Background Report
- Enclosure 19: Military awards and military courses
- Enclosure 20: DD Form 214 (Certificate of Release or Discharge from Active Duty)

FACTS:

## 1. Counsel states, in effect:

a. The applicant served the United States Army for 15 years, 10 months, and 12 days, first as an enlisted Soldier for over two years, then as a commissioned officer for the remaining years. He was sent on four overseas deployments for a total deployed time of three years and four months. The applicant received positive evaluation reports in every rank and position he held, and when he was asked to show cause for retention, his peers and superiors praised his work, character, and dedication.

b. When the applicant faced civilian judicial action, he was quickly put out of the Army despite not having been found guilty of any specific conduct and despite the evidence not bearing out the Army's assertions about the misconduct. The Army's decision to end the applicant's career was also made in spite of a finding by a Physical Evaluation Board that he had been disabled by his service and should be medically retired.

c. Accordingly, we request that the Army change the applicant's separation from a discharge for misconduct with a general characterization to a medical retirement with a rating of 30 percent commensurate with that of the Physical Evaluation Board conducted in April 2019. In the alternative, we request that his characterization of discharge be upgrade from General to Honorable so that he may receive all the benefits available to him as he continues to struggle with his service-connected disabilities.

d. The applicant has sacrificed much and continues to sacrifice now in terms of his ability to work and engage in simple, everyday activities that the rest of us take for granted. A medical retirement is deserved compensation for the permanent impact that the applicant's Army service has incurred.

## 2. Counsel provides the following enclosures:

a. Enclosure 1: Letter from applicant that provides a summary of his military service, his struggles with post traumatic stress disorder (PTSD), his physical ailments, the events that led to his arrest, and his ability to work and live a normal life has been significantly impacted due to the permanent injuries he sustained during his service in the Army.

(1) Following his discharge, he was unsuccessful with receiving care through the Veterans Affairs (VA). He was told the VA clinic in Raeford, NC does not provide treatment for PTSD. He obtained a referral to an orthopedic surgeon to evaluate his back after an Emergency Room visit; however, the VA cancelled that appointment. He was not able to obtain treatment for his mental health nor his back through the VA in

North Carolina. Since he relocated to Virginia, he must start the process all over again by enrolling with a new primary care manager. Now that he is employed again and has health insurance, he is looking into his healthcare options for his back and mental health issues.

(2) He acknowledges he was separated for misconduct but believes the merits of the civilian court case serving as the sole basis for that separation were not thoroughly evaluated by the separation. It is his greatest regret that any of this took place and he would give anything to go back and handle the situation differently. He deeply regret the failure of his marriage and has committed himself to handle any future similar situations with humility and professionalism.

b. Enclosure 2: VA determination and Physical Evaluation Board (PEB), dated 4 April 2019 and 12 April 2019, reflect the PEB found the applicant physically unfit and recommended a rating of 30 percent and that the applicant's disposition be permanent disability retirement. On the other hand, the VA's proposed combined rating for service connected disabilities is 100 percent.

c. Enclosure 3: Thrive Counseling Letter, dated 20 December 2019, verifies that the applicant was seen at Thrive Counseling & Consulting PLLC (██████████) for a mental status evaluation relative to the military administrative proceedings. This memorandum and mental health status evaluation confirms the previously diagnosed conditions of F43.12 Post-traumatic Stress Disorder- Chronic and F33.1 Major Depressive Disorder, Recurrent, Moderate.

d. Enclosure 4: Officer Evaluation Reports for the following rated periods:

2 June 2018 thru 30 April 2019	25 August 2009 thru 5 June 2010
*30 March 2016 thru 29 March 2017	26 August 2008 thru 25 August 2009
1 February 2015 thru 29 March 2016	15 February 2008 thru 25 August
1 February 2014 thru 31 January	2008
2015	1 October 2007 thru 14 February
3 May 2013 thru 31 January 2014	2008
6 June 2012 thru 2 May 2013	
6 June 2011 thru 5 June 2012	* gap between rated periods
6 June 2010 thru 5 June 2011	

e. Enclosure 5: Six (6) Letters of Support submitted on behalf of the applicant in 2018.

f. Enclosure 6: Army medical record covering the period between 20 December 2017 and 15 August 2018 (80 pages).

g. Enclosure 7: Employment termination letter, dated 13 April 2022, reflects Illuminate Accelerating Informed Decisions formally confirmed the applicant's termination of employment effective March 23, 2022.

h. Enclosure 8: First Health of the Carolinas letter, dated 6 October 2021, reflects the applicant's follow up with Orthopedics had been placed; however, the office was unable to make the appointment since the referral must come from the VACCN at the VA Medical Center.

i. Enclosure 9: State of North Carolina Conditional discharge, dated 1 May 2018, reflects further proceedings regarding the applicant's offenses, assault on a female (19 November 2017) and Domestic Violence Protection Order violation (26 February 2018), were deferred and placed on unsupervised probation for 12 months. It further states under "Special Conditions of Probation," item 21 (other), "defendant will complete "March to Change" program through Family Advocacy. Upon graduation from this program, probation may be modified to unsupervised. This is a domestic violence case."

j. Enclosure 10: Adams, Burge & Boughman Attorneys at Law letter, dated 19 October 2020, informs the applicant his request for expungement had been completed, the charges will no longer appear on his records in Cumberland County, and that there may be a slight delay in removal of the charges from the state records due to a backlog at the state level.

k. Enclosure 11: Fayetteville Police Incident/Investigation Report reflect the case status as "closed/cleared" and the case disposition as "prosecution declined."

l. Enclosure 12: Memorandum for Record, dated 12 April 2018, serves as a record of the interview between the author of the letter and the witness E.S.C., Small Group Advisor for the applicant during his period of instruction at Fort Lee, VA.

m. Enclosure 13: 4th Psychological Operations Group (Airborne) memorandum, dated 8 July 2018, reflects the applicant's commander recommended the applicant be issued a General Officer Memorandum of Reprimand (GOMOR) for his misconduct.

n. Enclosure 14: DA Form 2823 (Sworn Statement), dated April 2018, written by staff sergeant (SSG) A.C.S., who took the call from the applicant's mother. The applicant's mother called to inform the leadership that the applicant had been incarcerated and wrongfully charged due to a domestic dispute.

o. Enclosure 15: Email correspondence from the Assistant Chief of Staff (ACoS), G2 to the Chief of Staff (COS), 3rd Expeditionary Sustainment Command, dated

28 February 2018, regarding the inaccurate information passed from the outgoing commander to the incoming commander in regards to the applicant's arrest.

p. Enclosure 16: Office of the Under Secretary of Defense Memorandum for Secretaries of the Military Departments, dated 25 August 2017, Subject: Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment.

q. Enclosures 17 and 18: Consumer Background Report was conducted on the applicant on 21 October 2022. Email serves as notification of investigation adjudication on 22 July 2020 and closed on 11 January 2021.

r. Enclosure 19: Contains military awards received and military courses successfully completed as an enlisted soldier and as a commissioned officer.

s. Enclosure 20: DD Form 214 (Certificate of Release or Discharge from Active Duty).

3. A review of the applicant's service record shows:

a. He took the oath of office on 25 January 2007 and was appointed as a Military Intelligence Commissioned Officer.

b. On 2 August 2018, the applicant was reprimanded for assaulting his spouse, violating a civilian protective order, and failing to keep his chain of command informed about the status of his criminal case. On 19 November 2017, he was arrested and transported to the Cumberland County Detention Center for pushing, grabbing, and choking his spouse, which caused her to fall and injure herself. Then, on 26 February 2018, he violated a protective order that prohibited him from having contact with his spouse. In addition to this misconduct, he also failed to provide his chain of command with accurate information about the status of his pending civilian criminal charges and scheduled court dates. His failure to do so resulted in his erroneous promotion and transfer to a new unit. After his new unit learned that the criminal charges against him were still pending resolution in civilian court, he was transferred back to his previous unit and his promotion was revoked.

c. Headquarters, 1st Special Forces Command (Airborne) memorandum, dated 25 October 2018, Subject: GOMOR filing determination, reflects the Commanding General directed the GOMOR pertaining to the applicant be filed in his Army Military Human Resource Record.

d. Headquarters, 1st Special Forces Command (Airborne) memorandum, dated 8 February 2019, Subject: Initiation of Elimination, informs the applicant that he is required to Show Cause for Retention on Active Duty under the provisions of AR 600-8-24, paragraph 4-2b and c, because of misconduct, moral or professional dereliction, and derogatory information filed in his Army Human Resource Record. The applicant acknowledged receipt of notification of initiation of elimination on 11 February 2019.

e. DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), dated 12 April 2019, reflects the Board found the Soldier is physically unfit and recommends a rating of 30 percent and that the Soldier's disposition be permanent disability retirement. Section III (Medical Conditions Determined to be Unfitting) lists the following disabilities:

- Intervertebral Disc Syndrome, Lumber Spine, rated 20 percent
- Sciatica, Right Lower Extremity, rated 10 percent

f. Headquarters, 95th Civil Affairs Brigade (Special Operations) (Airborne) memorandum, dated 24 July 2019, Subject: Notification to Appear Before a Standing Board of Inquiry under the provisions of AR 600-8-24, notifies the applicant that a Standing Board of Inquiry, will hold a hearing on 15 August 2019 to determine whether he should be retained in the U.S. Army.

g. Headquarters, 1st Special Forces Command (Airborne) memorandum, dated 7 November 2019, Subject: Board of Inquiry Report of Proceedings, states, on 25 September 2019, a Board of Inquiry, after carefully considering the evidence before it, found the allegations were supported by a preponderance of evidence and therefore, recommended that the applicant be separated with an under other than Honorable conditions discharge

h. Secretary of the Army memorandum, dated 21 November 2019, Subject: Promotion Review Board AP1904-55, Fiscal Year 2016 (FY16), Major (MAJ), Army Operations

i. Headquarters, 1st Special Forces Command (Airborne) memorandum, dated 13 January 2020, Subject: Board of Inquiry Final Action, reflects the following:

(1) On 8 February 2019, elimination action was initiated against the applicant for misconduct, moral, or professional dereliction and derogatory information filed in his Army Military Human Resource Record.

(2) On 25 September 2019, a Board of Inquiry (801) convened and after carefully considering the evidence before it, found that:

- The allegation that the applicant, on or about 19 November 2017, assaulted his spouse is supported by a preponderance of the evidence;
- The allegation that the applicant, on or about 26 February 2018, violated a protective order that prohibited him from having contact with his spouse is supported by a preponderance of the evidence;
- The allegation that the applicant, on or about 12 April 2018, during the course of an investigation into the allegations of his misconduct, provided a false official statement to MAJ J.A.R., with intent to deceive, to wit; "I informed my chain of command of my pending criminal charges," or words to that effect is supported by a preponderance of the evidence; and
- The allegation that the applicant, on 25 October 2018, received a General Officer Memorandum of Reprimand that was filed in his Army Military Human Resource Record is supported by the preponderance of the evidence

(3) In view of these findings and after careful consideration of the evidence, the Board recommended that the applicant be separated with an under other than Honorable conditions discharge.

(4) On 6 December 2019, the applicant acknowledged receipt of the BOI Report of Proceedings and submitted rebuttal matters 27 December 2019.

(5) After careful consideration of the applicant's case and the board's recommendation, the commanding general recommended the applicant be eliminated from the U.S. Army with an under other than honorable conditions characterization of service.

j. The applicant's DD Form 214 shows the applicant was discharged on 15 June 2020, under the provisions of Army Regulation (AR) 600-8-24 (Officer Transfers and Discharges), unacceptable conduct, with a character of service of general under honorable conditions. He served 13 years, 4 months, and 21 days of net active service this period and 2 years, 5 months, and 21 days of total prior active service, with no lost time. He was awarded or authorized the Bronze Star Medal, Meritorious Service Medal, Joint Service Commendation Medal, Army Commendation Medal (6th Award), Army Achievement Medal, Meritorious Unit Commendation, Army Good Conduct Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Iraq Campaign Medal w/Campaign Star, Noncommissioned Officer Professional Development Ribbon, Army Service Ribbon, Overseas Service Ribbon (2d Award), and Parachutist Badge. Item 18 (remarks) reflects he served in a designated imminent danger pay area, Iraq (16 August 2009 to 15 August 2010).

4. AR 600-8-24 (Officer Transfers and Discharges) prescribes the policy for processing involuntary release from active duty and termination of Reserve appointments of student officers and warrant officers attending branch orientation, familiarization courses, or warrant officer basic course.

5. In reaching its determination, the Board can consider the applicant's petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

6. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the prior ABCMR denial (2 September 2014, AR20140000761), 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, the Army Aeromedical Resource Office (AERO), and the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting reversal of the DASA-RB's decision to terminate his disability processing in the Integrated Disability Evaluation System (IDES) and a medical retirement claiming his PTSD was the cause of his misconduct. He states through counsel :

"Mr. [Applicant]'s application is based on injustice arising from the severity of his service-connected medical condition combined with the fact that the misconduct which led to his separation was poorly supported by evidence and has since been expunged by the civilian court. In the alternative, [REDACTED] requests that his characterization of service be changed from "general under honorable conditions" to "honorable" ...

Mr. [Applicant] was separated from the Army for misconduct stemming from a single, mutually aggressive altercation with his ex-wife which the weight of evidence shows was verbal and not even physical. While his behavior during a heated argument may not have been admirable, it was an isolated incident - likely exacerbated by Post-Traumatic Stress Disorder from combat experience - that should never have prevented [REDACTED] from receiving compensation for his debilitating, life-long injuries."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His DD 214 for the period of Service under consideration



shows the former Officer entered the regular Army on 25 January 2007 and received an under honorable conditions (general) discharge 15 June 2020 under the provision provided in paragraph 4-2b of AR 600-8-24, Officer Transfers and Discharges (8 February 2020: Misconduct, moral or professional dereliction, or in the interests of national security.

d. On 2 August 2018, the applicant received a General Officer Memorandum of Reprimand (GOMOR) from the Commanding General of the 1st Special Forces Command (Airborne) for spousal abuse and failure to obey a protective order:

“You are hereby reprimanded for assaulting your spouse, violating a civilian protective order, and failing to keep your chain of command informed about the status of your criminal case.

On 19 November 2017, you were arrested and transported to the Cumberland County Detention Center for pushing, grabbing, and choking your spouse, which caused her to fall and injure herself. Then, on 26 February 2018, you violated a protective order that prohibited you from having contact with your spouse.

In addition to this misconduct, you also failed to provide your chain of command with accurate information about the status of your pending civilian criminal charges and scheduled court dates. Your failure to do so resulted in your erroneous promotion and transfer to a new unit.

After your new unit learned that the criminal charges against you were still pending resolution in civilian court, you were transferred back to your previous unit and your promotion was revoked.”

e. On 8 February 2019, Commanding General of the 1st Special Forces Command (Airborne) informed the applicant he was “required to Show Cause for retention on Active Duty under the provisions of AR 600-8-24, paragraph 4-2b and c, because of misconduct, moral or professional dereliction, and derogatory information filed in your Army Human Resource Record.” He stated:

“My actions are based upon the following specific reasons for elimination:

Misconduct (AR 600-8-24, para 4-2b):

(1) On or about 19 November 2017, you assaulted your spouse.

(2) On or about 26 February 2018, you violated a protective order that prohibited

you from having contact with your spouse.

On or about 12 April 2018, during the course of an investigation into the allegations of your misconduct, you provided a false official statement to MAJ J.A.R., with an intent to deceive, to wit: "I informed my chain of command of my pending criminal charges," or words to that effect, and that said conduct was conduct unbecoming an officer."

f. On 12 April 2019, an Informal Physical Evaluation Board (PEB) determined the applicant's "Intervertebral Disc Syndrome, Lumbar Spine" and Sciatica, Right Lower Extremity" were unfitting conditions for continued military service. They applied the VA derived ratings of 20% and 10% respectively and recommended the applicant be permanently retired for physical disability. On 30 April 2019, after being counseled on the Board's findings and recommendation by his PEB liaison officer, the applicant concurred with the PEB, waived his right to a formal hearing, and declined to request a VA reconsideration of his ratings.

g. On 3 July 2019, the Commanding General referred his case to a board of inquiry. The board was held on 7 November 2019, substantiated the Commanding General's three reasons for consideration of the applicant's discharge from the Army, and recommended the applicant be separated from the Army with an Under Other Than Honorable Conditions characterization of Service.

h. On 21 November 2019, the Secretary of the Army removed the then Captain from the Majors' Promotion List.

i. On 13 January 2020, the Commanding General recommended the applicant be eliminated from the United States Army with a General (under Honorable conditions) characterization of service.

j. Paragraph 4-3g of AR 635-40, Disability Evaluation for Retention, Retirement, or Separation (19 January 2017) states:

"Officers pending administrative elimination.

(1) Generally, officers approved to resign for the good of the Service in lieu of trial by court-martial are ineligible for referral to the MEB and PEB. However, if the officer was referred to the MEB prior to approval of the resignation, the MEB and/or PEB must be completed and the case dual processed as described in paragraph 4-3g(2).

(2) Officers pending administrative elimination under AR 600–8–24 are normally dual processed for the elimination action and completion of the DES. For dual processing to occur, referral to the MEB must occur before the date the Deputy Assistant Secretary of the Army (Review Boards) approves the officer's elimination."

k. The DASA-RB determined that his two physical disabilities were not the cause of or significant contributors to the applicant's misconduct for which his involuntary separation had been recommended. On 26 May 2020, he directed the applicant "be involuntarily eliminated from the United States Army with a General (Under Honorable Conditions) Conditions characterization of service. This elimination is based on misconduct and moral or professional dereliction (Army Regulation 600-8-24, paragraph 4-2b), and derogatory information (Army Regulation 600-8-24, paragraph 4-2c)."

l. Review of his records in JLV shows he has been awarded a 30% VA service-connected disability rating for PTSD. It is the opinion of the ARBA Medical Advisor that neither a referral of this case to the DES nor a discharge upgrade is warranted. Kurta Questions:

- Did the applicant have a condition or experience that may excuse or mitigate the discharge? YES: PTSD
- Did the condition exist or experience occur during military service? YES
- Does the condition or experience actually excuse or mitigate the discharge? NO: PTSD does not interfere with one's capacity to differentiate right from wrong and adhere to the right. Therefore, it cannot mitigate the multiple UCMJ violations, violence against his spouse, and other actions which led to his involuntary administrative separation.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of his misconduct and the reason for separation.

a. The evidence shows the applicant was discharged from active duty on 15 June 2020, under the provisions of AR 600-8-24 for unacceptable conduct (assault), with a character of service of general under honorable conditions. He served 13 years, 4 months, and 21 days of net active service. Although a PEB found the applicant unfit for certain conditions, the DASA-RB determined that his two physical disabilities were not

the cause of or significant contributors to the applicant's misconduct for which his involuntary separation had been recommended.

b. The Board considered the medical records, any VA documents provided by the applicant and the review and conclusions of the advising official. The Board concurred with the medical advisory opinion finding insufficient evidence of in-service mitigating factors to overcome the misconduct. The Board also agreed that in the applicant's case, PTSD does not interfere with one's capacity to differentiate right from wrong and adhere to the right. Therefore, the Board determined it cannot mitigate the multiple violations, violence against his spouse, and other actions which led to his involuntary administrative separation. Based on the totality of the applicant's case, the Board determined that neither a referral of this case to the DES nor a discharge upgrade is warranted. Also based on the evidence, the Board determined that the character of service and narrative reason for separation the applicant received upon separation were not in error or unjust.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. AR 600-8-24 (Officer Transfers and Discharges) prescribes the policy for processing involuntary release from active duty and termination of Reserve appointments of student officers and warrant officers attending branch orientation, familiarization courses, or warrant officer basic course.

a. Paragraph 4-2 (Reasons for elimination) states, while not all inclusive, when one of the following or similar conditions exist, elimination action may be or will be initiated as indicated in subparagraphs 4-2a (Substandard performance of duty), 4-2b (Misconduct, moral or professional dereliction, or in the interests of national security), and 4-2c (Derogatory information).

b. Paragraph 4-2c states, the following reasons (or ones similar) require an officer's record to be reviewed for consideration of terminating appointment. Standing alone, one of these conditions may not support elimination, however, this derogatory information combined with other known deficiencies form a pattern that, when reviewed in conjunction with the officer's overall record, requires elimination.

(1) Punishment under UCMJ, article 15.

(2) Conviction by court-martial.

(3) The final denial or revocation of an officer's Secret security clearance by appropriate authorities acting pursuant to DODD 5200.2-R and AR 380-67.

(4) A relief for cause officer evaluation report (OER) (DA Form 67-9, (Officer Evaluation Report)) under AR 623-105, paragraph 3-32.

(5) Adverse information filed in the OMPF in accordance with AR 600-37.

(6) Failure of a course at a service school.

3. Title 38 (Veterans' Benefits), U.S. Code, § 1110 and 1131 (Basic entitlement), permit the Veterans Affairs to award compensation for disabilities that were incurred in or aggravated by active military service. (However, an award of a higher VA rating does not establish error or injustice on the part of the Army. The Army rates only conditions determined to be physically unfitting at the time of discharge which disqualify the Soldier from further military service. The VA does not have the authority or responsibility for determining physical fitness for military service. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge, to compensate the individual for loss of civilian employability. These two government agencies operate under different policies. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.)

4. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of

Military/Naval Records (BCM/NRs) 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 type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice. 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 based on equity, injustice, or clemency grounds, BCM/NRs 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. 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//