

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 February 2024

DOCKET NUMBER: AR20230004532

APPLICANT REQUESTS: completion and approval of a formal line of duty (LOD) investigation for injuries incurred while on active duty training (ADT) orders in the U.S. Army Reserve (USAR).

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

- DD Form 149 (Application for Correction of Military Record)
- Headquarters, 88th Readiness Division Order Number 069359, 9 June 2022
- Ohio Department of Public Safety Unit, Motorist/Non-Motorist, and Occupant/Witness Addendum reports, undated
- KLG Mobile Intensive Co, LLC bill, 14 July 2022
- Defense Finance and Accounting Service (DFAS) Military Leave and Earning Statement (LES), 5 August 2022
- DA Form 2173 (Statement of Medical Examination and Duty Status), 16 August 2022
- 2nd Battalion, 312th Training Support (TS) (Combat Support/Combat Service Support (CS/CSS)) Regiment memorandum, 24 February 2023

FACTS:

1. The applicant states:

a. On 10 July 2022, while serving in the USAR, he was on active duty orders to go to Camp Perry, Port Clinton, OH. While enroute to Camp Perry, he was in a car accident and his personal vehicle was totaled. He was evaluated by the paramedics on site and then released to his brother who drove him back home to Weirton. He then went to Weirton Medical Center Emergency Department where he was evaluated by the physician and discharged with follow up care instructions for his neck and back.

b. He turned in all medical documentation to his unit and initiated his LOD, but his unit did not complete his LOD prior to his retirement on 11 November 2022. He then applied and was denied Department of Veterans Affairs (VA) benefits because his unit did not complete his LOD investigation. His LOD investigation needs to be completed, uploaded into his military records, and copies should be sent to him.

c. His unit failed him. They did not complete the LOD investigation for injuries he sustained while on active duty orders. His injury occurred on 10 July 2022, and he retired on 11 November 2022. He submitted all the documentation and requested reimbursement in July, August, and September 2022, receiving nothing in return. He applied for VA disability and was denied because his LOD was not completed prior to his retirement. This has caused a mental and financial burden on him and his family.

2. The applicant enlisted in the Regular Army on 19 February 1998. He was honorably released from active duty after 3 years on 18 February 2001, due to completion of Required active service and transferred to a unit in the USAR.

3. While in the USAR, the applicant was ordered to active duty on 21 September 2013, in support of Operation Enduring Freedom with duty in Afghanistan from 18 November 2013 through 12 August 2014. He was honorably released from active duty after 1 year and 2 days on 22 September 2014, due to the completion of required active service and transferred back to his USAR unit.

4. A U.S. Army Human Resources Command (AHRC) memorandum, dated 24 February 2022, notified the applicant he completed the required years of qualifying Reserve service and was eligible for retired pay upon reaching age 60.

5. Headquarters, 88th Readiness Division Order Number 069359, dated 9 June 2022 order the applicant to ADT for a period of 10 days effective 10 July 2022, at Port Clinton, OH.

6. The applicant provided three pages of undated Ohio Department of Public Safety Unit, Motorist/Non-Motorist, and Occupant/Witness Addendum reports, which show on an unspecified date, he was involved in a motor vehicle accident, wherein he drove off the road into an embankment and collided with a guardrail after falling asleep or fainting while driving. The applicant's injuries are annotated on the report as suspected minor injuries which were treated at the scene.

7. The applicant provided a KLG Mobile Intensive Co, LLC bill for \$50.00, dated 14 July 2022, which he has labeled as an emergency medical technician (EMT) bill. The bill is for a specific call number on 10 July 2022 from State Route 11 South of Exit 154.

8. A DFAS LES, dated 5 August 2022, shows the applicant was paid for ADT from 10 July 2022 through 19 July 2022.

9. A DA Form 2173 shows:

a. The applicant was seen at Weirton Medical Center as an outpatient on 10 July 2022, for injuries with the following ICD-10 Codes (alphanumeric codes consisting of up

to 7 characters that classify medical diagnoses) M51.9 (Unspecified intervertebral disc disorder), M54.5 (Low back pain), M54.2 (Cervicalgia), R07.82 (Intercostal pain) incurred while he was in an ADT status in Port Clinton, OH.

b. The details of the incident show the applicant passed out from coughing as a result of water aspiration while he was driving. He became unconscious, hitting a guardrail, crossing over the median strip into oncoming traffic before coming to a stop on the opposite side of the highway. No other vehicles were involved. He was evaluated by EMS services and found to be stable enough to not need to go to the emergency room via ambulance.

c. The applicant's immediate commander signed the form on 16 August 2022, indicating a formal LOD investigation was required, and the injury was incurred in the LOD.

10. Headquarters, 99th Readiness Division (USAR) Orders 22-262-00052, dated 19 September 2022, released the applicant from his current USAR assignment and transferred him to the Retired Reserve effective 11 November 2022, due to completion of 20 or more years of qualifying service for retirement pay at age 60.

11. A 2nd Battalion, 312th TS (CS/CSS) Regiment memorandum for record, dated 24 February 2023, shows:

a. On 10 July 2022, the applicant was enroute to a shooting competition at Camp Perry, OH, when he was involved in a motor vehicle accident in his privately owned vehicle. He was briefly hospitalized and released the same day. Despite the accident, he managed to attend and shoot at the competition. The applicant informed his first line supervisor on 11 July 2022, that he was in an accident.

b. A timeline of the applicant's LOD submission is provided, detailing the steps involved between the date of the accident on 10 July 2022, and the unit commander's approval in MedChart on 17 November 2022, highlighting areas of shortfall in the speed of the process, including the unit administrator's military leave and MedChart being offline.

c. Through no fault of the applicant, the LOD process was not completed prior to his retirement on 11 November 2022. His unit fully supports the applicant's request and will assist as necessary with any additional requirements as needed.

12. In the adjudication of this case, an advisory opinion was obtained from the USAR Headquarters on 21 August 2023, which shows:

a. The documentation included in the applicant's LOD request has been reviewed. Currently, there is not sufficient medical documentation provided to make a determination. The only medical documentation provided was the emergency room records dated 10 July 2022. These documents were uploaded in the applicant's LOD case in the Electronic Medical Management Processing System (eMMPS). The diagnoses listed on the emergency room documents are non-qualifying LOD conditions; however, the DA Form 2173 lists four diagnoses, but there is no medical documentation to support those conditions.

b. Please reach out to the applicant to request the supporting medical documentation to support these conditions. The documentation should include provider reports, diagnostic reports, physical therapy records, and surgical records if applicable.

13. The applicant was provided a copy of the USAR Headquarters advisory opinion on 25 August 2023, and given an opportunity to submit comments, but he did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends on 10 July 2022, while serving in the USAR, he was on active duty orders to go to Camp Perry, OH, and while enroute to Camp Perry, he was in a car accident and his personal vehicle was totaled. He states he was evaluated by the paramedics on site and then released to his brother who drove him back home. He turned in all medical documentation to his unit and initiated his LOD, but his unit did not complete his LOD prior to his retirement on 11 November 2022. The Board reviewed and agreed with the USAR LOD Manager's review, finding insufficient medical documentation provided to make a determination. The only medical documentation provided was the emergency room records dated 10 July 2022. These documents were uploaded in the applicant's LOD case in the Electronic Medical Management Processing System. The diagnoses listed on the emergency room documents are non-qualifying LOD conditions; however, the DA Form 2173 lists four diagnoses, but there is no medical documentation to support those conditions. The applicant may request reconsideration if he can provide supporting medical documentation to support these conditions. The documentation should include provider reports, diagnostic reports, physical therapy records, and surgical records if applicable. The Board determined completion and approval of a formal line of duty investigation is currently unwarranted.

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:

Army Regulation 600-8-4 (Line of Duty (LOD) Policy, Procedures, and Investigations) prescribes policies and procedures for investigating the circumstances of disease, injury, or death of a Soldier providing standards and considerations used in determining LOD status.

a. A formal LOD investigation is a detailed investigation that normally begins with DA Form 2173 (Statement of Medical Examination and Duty Status) completed by the medical treatment facility and annotated by the unit commander as requiring a formal LOD investigation. The appointing authority, on receipt of the DA Form 2173, appoints an investigating officer who completes the DD Form 261 (Report of Investigation LOD and Misconduct Status) and appends appropriate statements and other documentation to support the determination, which is submitted to the General Court Martial Convening Authority for approval.

b. The worsening of a pre-existing medical condition over and above the natural progression of the condition as a direct result of military duty is considered an aggravated condition. Commanders must initiate and complete LOD investigations, despite a presumption of Not In the Line of Duty, which can only be determined with a formal LOD investigation.

c. An injury, disease, or death is presumed to be in LOD unless refuted by substantial evidence contained in the investigation. LOD determinations must be supported by substantial evidence and by a greater weight of evidence than supports any different conclusion. The evidence contained in the investigation must establish a degree of certainty so that a reasonable person is convinced of the truth or falseness of a fact.

//NOTHING FOLLOWS//