

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 December 2023

DOCKET NUMBER: AR20230004934

APPLICANT REQUESTS:

- In effect, referral into the Army's Disability Evaluation System (DES) and, based on DES findings, change his current separation authority to medical separation
- The addition of his already-awarded Combat Action Badge to his DD Form 214 (Certificate of Release or Discharge from Active Duty)

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

- DD Form 149 (Application for Correction of Military Record)
- Three Department of Veterans Affairs (VA) letters
- DD Form 214

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). However, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant's requested relief for the addition of the Combat Action Badge to his DD Form 214 is supported by sufficient evidence; as a result, this portion of the requested relief will be addressed in the "ADMINISTRATIVE NOTE(S)" section and will not be considered by the Board.

3. The applicant states, in effect, his command erroneously "chaptered" him out of the Army with a personality disorder, and they did so without referring him to a medical evaluation board (MEB).

a. After leaving the Army, the VA determined he had service-connected disability post-traumatic stress disorder (PTSD). Based on VA's findings, the Army should change his separation to more accurately reflect his "true" condition: PTSD. The applicant asks

the Board to refer him into the Army's Disability Evaluation System (DES) because his PTSD resulted from trauma sustained in combat.

b. In support of his request, the applicant provides three VA letters, one of which indicates the VA awarded him a 70% disability rating for PTSD, effective 11 May 2011.

4. A review of the applicant's service record reveals the following:

a. On 23 March 2007, the applicant enlisted into the Regular Army for 3 years and 18 weeks; upon completion of initial entry training and the award of military occupational specialty 88M (Motor Transport Operator), orders assigned him to a combat support battalion at Fort Carson, CO, and he arrived at his new unit, on or about 16 August 2007. Effective 23 September 2007, his leadership promoted him to private (PV2)/E-2.

b. On 27 December 2007, the applicant deployed to Iraq. On 5 June 2008, the applicant accepted nonjudicial punishment (NJP), under the provisions of Article 15, Uniform Code of Military Justice, for violating General Order Number 1; the command accused him of wrongfully consuming alcohol. After a closed hearing, in which the applicant presented matters in defense, extenuation, and mitigation, the NJP imposing official (the applicant's battalion commander) found the applicant guilty; punishments included reduction to private (PV1)/E-1.

c. On 2 July 2008, U.S. Navy Lieutenant Commander (LCDR/O-4) SPC the Officer-in-Charge (OIC) of a Combat Stress Control (CSC) unit, prepared a memorandum for the applicant's commander that pertained to the applicant; LCDR C__ wrote:

(1) "The aforementioned service member (SM) was evaluated at (CSC) on 30 April 2008. Since this initial assessment, he has participated in five additional outpatient sessions. The following interventions have been offered to assist the SM prior to the issuance of this formal recommendation: (1) pharmaceutical symptom management, (2) 2 1/2-day mental health Fitness program & (3) individual insight oriented and cognitive therapy."

(2) "Based on the reported history, clinical presentation, and psychiatric assessment, the diagnoses are as follows: Axis II – (301.9) Personality Disorder, NOS (not otherwise specified), with Borderline and Dependent Traits."

(3) "This diagnosis represents a DSM IV (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition), Axis II Personality Disorder under AR (Army Regulation) 635-200 (Active Duty Enlisted Administrative Separations), Chapter 5-13 (sic, chapter 5 (Separation for Convenience of the Government), paragraph 5-13 (Separation Because of Personality Disorder)). This condition reflects a deeply ingrained maladaptive pattern of behavior that significantly interferes with the service

member's ability to function interpersonally and occupationally. This condition existed prior to entrance into the military and will subsist long after service separation. In this case, the diagnosed condition is so severe that both the service member's safety and the Command's mission are placed at unnecessary risk. Specifically, this service member has demonstrated character traits indicating a tendency towards marked mood lability and impulsivity that directly influences work performance and, consequently, the mission. Additionally, this condition is hallmarked by a pattern of unstable interpersonal relations that commonly proves problematic in an operational environment. Retention of this SM in the Army would present a persistent and unnecessary liability."

(4) Therefore, I recommend this service member be administratively discharged from service. Select symptoms associated with this condition are potentially amenable to treatment strategies (i.e. Cognitive therapy, Dialectical Behavior therapy, and Antidepressant therapy). However, both individual motivation and time are commonly prohibitive. If the Command chooses not to follow this recommendation, they need to understand they are accepting the corresponding liability associated with this service member's continued service."

(5) "While awaiting Chapter processing, the member is strongly encouraged to attend regular outpatient mental health appointments at (CSC) for ongoing symptom management and safety assessment."

d. On 4 July 2008, the applicant's platoon sergeant counseled the applicant, using a DA Form 4856 (Developmental Counseling Form). The platoon sergeant advised that the applicant had been recommended for separation, and that he was counseling the applicant for unsatisfactory performance, per paragraph 1-16 (Counseling and Rehabilitative Requirements), AR 635-200. The platoon sergeant further stated, "If your performance does not improve, you may be processed for involuntary separation from the U.S. Army, under the provisions of Chapter 91AR 635-200 (sic)."

e. On 9 August 2008, the applicant's company commander signed a memorandum for record, subject: "Continued Behavior Issues and Pending Chapter 5-13." The commander noted the applicant's 2 July 2008 personality disorder diagnosis and stated the applicant had continued to display "display emotional instability and a lack of motivation to any issues dealing with the Army." The commander continued:

(1) "[Applicant] had committed several infractions resulting in a FG 15 (field grade level NJP) and other disciplinary actions. He has been given more than ample amounts of opportunities to correct and cure his deficiencies and issues. Even with intervention on all levels, [applicant] has not developed into a Soldier."

(2) (The applicant) has a problem with telling the truth to the leadership in all instances. He continues to break out into crying episodes when leaders from this

command are assisting him with solutions to his problems. He seems to not want any solution at all and makes every possible problem, not matter how small, seem absolutely hopeless."

(3) The commander concluded, "[Applicant] has been relinquished of all responsibilities and has no further use in the military."

f. On 14 August 2008, the applicant's company commander advised him, via memorandum, that she was initiating separation proceedings against the applicant, under the provisions of AR 635-200, chapter 5, section III (Other Convenience of the Government Separation Policies), paragraph 5-13. As her basis for this action, the commander cited the applicant's personality disorder diagnosis; in addition, the commander affirmed she would be recommending the applicant for an honorable discharge, but separation authority would make the final determination.

g. On 16 August 2008, the applicant acknowledged the command had afforded him the opportunity to consult with counsel, but he had declined. Additionally, he affirmed he had been informed of the basis for his proposed separation and understood his rights and the effect of waiving those rights. The applicant elected not to submit statements in his own behalf.

h. On 22 August 2008, the separation authority approved the commander's separation recommendation and directed the applicant's honorable discharge; on 30 September 2008, orders separated the applicant accordingly. His DD Form 214 shows he completed 1 year, 6 months, and 8 days of his 3-year, 18-week enlistment contract. The DD Form 214 also reflected:

(1) Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) lists the following:

- National Defense Service Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal
- Army Service Ribbon

(2) Item 25 (Separation Authority) – AR 635-200, paragraph 5-13.

(3) Item 26 (Separation Code) – "JFX"

(4) Item 28 (Narrative Reason for Separation) – "Personality Disorder."

5. During the applicant's era of service, commanders could initiate separation action against Soldiers who had been diagnosed with a personality disorder by either a psychiatrist or doctoral-level clinical psychologist.

a. Separation was only authorized if the diagnosis showed the personality disorder was so severe, the Soldier's ability to function effectively in the military environment would be significantly impaired. In addition, the commander was not allowed to proceed with the separation action until he/she had formally counseled the Soldier as to his/her deficiencies and given the Soldier ample time to improve.

b. Once the foregoing criteria were met, and the commander determined separation was still appropriate, he/she was to follow the notification procedure outlined in chapter 2 (Procedures for Separation), AR 635-200. This procedure stated commanders were to provide written notice to the Soldiers, which told them the type of separation being considered, the reason for the commander's action, and the Soldiers' rights under the regulation.

c. The character of service assigned by the separation authority depended on the Soldier's status; while normally Soldiers who were separated based on personality disorder received an honorable discharge, the regulation stipulated Soldiers in an entry-level status had to be issued an uncharacterized character of service.

d. AR 635-5-1 (Separation Program Designators (SPD)), in effect at the time, showed Soldiers separated per paragraph 5-13, AR 635-200, received the SPD of "JFX," and "Personality Disorder" as the narrative reason for separation. Effective 13 March 2019, a revised AR 635-5-1 changed the SPD to "JFV," and amended the narrative reason for separation to read "Condition, Not a Disability."

6. The applicant requests the Board refer him into the Army's DES.

a. The version of AR 40-400 (Patient Administration) then in effect stated physicians who identified Soldiers with medical conditions not meeting fitness standards for retention were to initiate a DA Form 3349 (Physical Profile) and refer them into the DES. Soldiers issued a permanent profile with a numerical designator of 3 (significant limitations) or 4 (severe limitations) in one of the physical profile factors and who met retention standards were to be referred to a military occupational specialty (MOS)/medical retention board (MMRB). If the Soldier failed retention standards, as outlined in AR 40-501 (Standards of Medical Fitness), an MEB was mandatory.

b. AR 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, stated:

(1) Paragraph 3-1 (Standards of Unfitness because of Physical Disability). "The mere presences of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier reasonably may be expected to perform because of their office, grade, rank, or rating."

(2) PEBs were charged with investigating the nature, cause, degree of severity, and probable permanency of a Soldier's disabling conditions; assessing the Soldier's physical conditions against the physical requirements of the Soldier's particular office, grade, rank, or rating; and making findings and recommendations, to include ratings determinations, in accordance with the law.

(3) The PEB's available dispositions for the Soldier were: return to duty; separate with severance pay when the combined disability rating was 20 percent or less; For combined ratings of 30 percent or more: when the PEB could not confirm the permanency of a disabling condition, it recommended the Soldier for the Temporary Disability Retired List; conditions not likely to change over time resulted in placement on the Permanent Disability Retired List

7. The applicant provides evidence the VA has granted him a 70 percent disability rating for service-connected PTSD.

a. The VA and the Army operate under separate provisions of Federal law (Title 38 (Veterans' Benefits) and Title 10, respectively). As such, each makes independent determinations by applying the policies and mandates set forth within their respective parts of the law. Decisions made by the VA as to a Soldier's service-connected disabilities are not binding on the Army, and do not show that the Army's determinations were wrong.

b. The Army rates only conditions determined by the Army's Disability Evaluation System to have failed the medical retention standards of AR 40-501 and determined to be physically unfitting. The benefits associated with the Army's disability rating are intended to compensate the individual for the loss of a military career. By contrast, the VA awards disability ratings to Veterans for service-connected conditions, including those conditions detected after discharge; the VA's focus is on compensating the individual for the loss of civilian employability.

8. MEDICAL REVIEW:

a. Background: The applicant is requesting, in effect, a referral into the Army's Disability Evaluation System (DES) and, based on DES findings, change his current regulatory separation authority to reflect a medical separation. The applicant asserts PTSD as a mitigating factor in his request. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Below is a summary of information pertinent to this advisory:

- The applicant enlisted in the Regular Army on 23 March 2007.
- On 27 December 2007, the applicant deployed to Iraq.
- On 5 June 2008, the applicant accepted nonjudicial punishment (NJP) for violating General Order Number 1; the command accused him of wrongfully

consuming alcohol. After a closed hearing, in which the applicant presented matters in defense, extenuation, and mitigation, the NJP imposing official (the applicant's battalion commander) found the applicant guilty.

- On 2 July 2008 it was recommended by the OIC of the Combat Stress Control unit that the applicant receive a chapter 5-13 for a personality disorder.
- On 4 July 2008, the applicant's platoon sergeant counseled the applicant, using a DA Form 4856. The platoon sergeant advised that the applicant had been recommended for separation, and that he was counseling the applicant for unsatisfactory performance, per paragraph 1-16 (Counseling and Rehabilitative Requirements), AR 635-200.
- On 9 August 2008, the applicant's company commander signed a memorandum for record, subject: "Continued Behavior Issues and Pending Chapter 5-13," where they outlined ongoing, significant concerns with the applicant's behavior (see records for full details).
- On 14 August 2008, the applicant's company commander advised him, via memorandum, that she was initiating separation proceedings against the applicant, under the provisions of AR 635-200, chapter 5, section III (Other Convenience of the Government Separation Policies), paragraph 5-13. The separation was approved.
- The applicant was discharged on 30 September 2008 with an Honorable discharge.

b. Review of Available Records Including Medical: The Army Review Boards Agency (ARBA) Behavioral Health (BH) Advisor reviewed this case. Documentation reviewed included the applicant's completed DD Form 149, his ABCMR Record of Proceedings (ROP), DD Form 214, documents from his service record and separation, as well as Department of VA letters. The VA electronic medical record and DoD health record were reviewed through Joint Longitudinal View (JLV). Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant is requesting a referral to the DES. He asserts that he was "chaptered out erroneously with a personality disorder without any med board evaluation." He also noted that the VA has service connected him for PTSD. He believes that the personality disorder should be changed to accurately reflect his PTSD. Bottom line up front, though, is that the applicant was discharged under 5-13, personality disorder. During his time in service, he never received a PTSD diagnosis, nor any diagnosis of a med boardable condition. Per AR 40-501, "physical disability" includes mental diseases, other than such inherent defects as personality disorders, and primary mental deficiency. Hence, one cannot typically receive a medical board for a personality disorder either. In addition, personality disorders and adjustment disorders are not considered mitigating conditions, though mitigation is not required in this case

given even with his history of misconduct and poor performance, he received an honorable discharge.

d. The applicant's engagement with health care, to include mental health, can be found in his electronic health record (EHR). The applicant's EHR shows the applicant first reached out to mental health care on 26 October 2007 when he requested stress and anger management support, as he noted difficulty with home problems. During his second appointment he was diagnosed with an adjustment disorder with disturbance of emotion. He engaged in sleep group and stabilization group for several sessions prior to his deployment. The applicant was then seen again in theater on 30 April 2008, reporting significant home front stressors (he had to go on R&R because he was accused of sexually abusing his 16-year-old sister, and while home he learned his truck was stolen, his fiancé was planning to abort a pregnancy, and his brother informed him his fiancé was cheating with her ex). He was diagnosed with adjustment disorder with depressed mood. He was found fit for duty though was recommended to attend a mental health fitness program and command sponsored substance use education. He did not follow through on these recommendations but was sent back to care on 7 May 2008 after making statements that concerned his leadership ("I can't take it anymore"). Home front stressors were continuing. His diagnosis was updated to reflect cluster B personality traits with a rule out of a personality disorder. He was seen again 8 and 11 June and began medication. On 24 June 2008 he returned to mental health and stated he wanted the providers to write the chapter to recommend him out of the Army. He noted that he wanted the provider to make a recommendation for service separation based upon fraudulent enlistment secondary to "significant EPTE mental health contact." He reportedly had a significant mental health history prior to enlistment. The provider encouraged him to request his civilian records. He was diagnosed with personality disorder NOS on 10 July 2008.

e. His supporting documents and service records also contained relevant medical information. A memorandum was written on 2 July 2008, and it was recommended by the OIC of the Combat Stress Control unit that the applicant receive a chapter 5-13 for a personality disorder. It was summarized that the applicant had been seen for an initial assessment and five additional follow ups, to include numerous forms of intervention (medication, multi-day mental health fitness program, and individual therapy). He was ultimately diagnosed with a personality disorder, not otherwise specified (NOS) with borderline and dependent traits. It was also noted this condition existed prior to service, the condition was severe, and that the mission and the applicant's safety were at unnecessary risk. It was recommended he be separated under AR 635-200, chapter 5-13 (please see memo for additional information).

f. The applicant was seen for several more sessions before redeploying to be chaptered out of the Army. During his SRP evaluation on 10 September 2008, he denied most trauma related symptoms, only endorsing hypervigilance and increased

startle response. He noted his mental health symptoms and stress were secondary to dealing with his unit and the military, but not his deployment. On the same date he also reported a concussive incident reportedly occurred, with him reporting he experienced an IED (exploding reportedly 1m away) on 3 March 2008 (a medical note from 1 July 2008 shows he reported a 2 March incident, with slightly different details; he was NOT found to have a concussion during his 1 July evaluation). He was referred on for further evaluation though no further records validate a TBI.

g. Of note, throughout his mental health engagement in theater, his only presenting concerns centered around homelife stressors. There was no mention of any trauma related issues. He was never diagnosed with more than an adjustment disorder. In summary, at the time of discharge the applicant was not diagnosed with a med boardable condition, nor found unfit, and there is no evidence of a P3 profile nor the applicant being at the medical readiness decision point. There is also insufficient evidence his personality disorder diagnosis was inaccurate and supporting documentation and medical records support the signs and symptoms of this disorder.

h. Per the applicant's VA EHR and supplied VA ratings document, he is 80% service connected, to include 70% for PTSD (effective 11 May 2011). He has engaged in mental healthcare care through the VA since 2009. He has been diagnosed with substance abuse, mood disorder, anxiety, alcohol dependence, cannabis dependence, PTSD, depressive disorder NOS, personality disorder NOS, major depressive disorder (recurrent – moderate and recurrent – unspecified), and insomnia. During one of his initial appointments with mental health at the VA (14 October 2009), he reported his deployment related traumas as "being blasted by an IED and needed to shoot/kill an oncoming 12 y/o child with a rifle. He also has been shot at by sniper fire." He was first diagnosed with PTSD during this encounter. He was seen for a compensation and pension evaluation on 15 June 2017 where he detailed different traumas from his deployment (he reported receiving direct enemy fire and had occasion to fire back, shot and killed an enemy soldier at point-blank range and saw Iraqi soldiers KIA including one soldier who was "blown apart"). The applicant has consistently engaged in care through the VA since 2009, engaging in individual therapy, group therapy, medication management, case management Through review of JLV, this applicant did have "Community Health Summaries and Documents" available, though of the records available, no mental health concerns were noted.

i. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support the applicant had a condition or experience that warrants a referral to the DES. The applicant has been service connected at 70% for PTSD. However, there is no evidence to suggest the applicant was ever issued a permanent profile or was diagnosed with a med boardable condition that did not meet medical fitness standards in accordance with AR 40-501 during his period of service. In addition, VA examinations are based on different

standards and parameters; they do not address whether a medical condition met or failed Army retention criteria or if it was a ratable condition during the period of service. Therefore, a post-discharge diagnosis of PTSD and a VA disability rating does not imply failure to meet Army retention standards at the time of service, nor is it indicative of an injustice at the time of service. In addition, a diagnosis of PTSD during his time in service would not have necessarily rendered him unfit for duty. Lastly, the applicant asserts in his application that he was “erroneously” diagnosed with a personality disorder. There is insufficient evidence that his personality disorder diagnosis was inaccurate, and personality disorders are not boardable conditions. Hence, his separation process appears proper, equitable and free of error, and insufficient evidence has been provided to determine otherwise. Kurta Questions:

- Does any evidence state that the applicant had a condition or experience that may excuse or mitigate a discharge? Not applicable (NA).
- Did the condition exist or experience occur during military service? NA
- Does the condition or experience actually excuse or mitigate the discharge? NA

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was partially warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered. The applicant served on active duty from 23 March 2007 to 22 August 2008.

a. The applicant was awarded the Combat Action Badge. This award is not listed on his DD Form 214. The Board determined it should be. Additionally, and as a related issue, the Iraq Campaign Medal is awarded to members who have served in direct support of Operation Iraqi Freedom (OIF); the period of eligibility is from 19 March 2003 through 31 December 2011. Approved campaigns include the following: Iraqi Surge (10 January 2007-31 December 2008). Based on the foregoing, the applicant’s DD Form 214 should also be amended to add one bronze service star to his already awarded he Iraq Campaign Medal with one bronze service star.

b. The evidence shows the applicant’s chain of command honorably separated him for his personality disorder diagnosis. The Board reviewed and agreed with the medical advisor’s finding that there is insufficient evidence to support the applicant had a condition or experience that warrants a referral to the disability evaluation system. There is no evidence the applicant was issued a permanent profile or was diagnosed with a medically boardable condition that did not meet medical fitness standards in accordance with AR 40-501 during his period of service. Likewise, there is insufficient evidence that his personality disorder diagnosis was inaccurate, and personality disorders are not boardable conditions. Therefore, the Board determine the reason for separation the applicant received upon his separation was 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:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by adding to the applicant's DD Form 214 the Combat Action Badge and one bronze service star to his already-awarded Iraq Campaign Medal.

The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to referral into the Army's Disability Evaluation System and, based on DES findings, change his current separation authority to medical separation

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

REFERENCES:

1. Title 10, USC:

a. Section 1552(b) provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-

year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

b. Section 1556 (Ex Parte Communications Prohibited) provides the Secretary of the Army shall ensure that an applicant seeking corrective action by ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

2. AR 635-200, in effect at the time, set forth the basic authority for the separation of enlisted personnel. Paragraph 5-13, set forth the policy and prescribed procedures for separating members with a personality disorder.

a. A Soldier could be separated under this provision for having a personality disorder (not amounting to disability) when his/she displayed a deeply ingrained maladaptive pattern of behavior of long duration that interfered with his/her ability to perform duty.

b. The diagnosis of personality disorder had to have been established by a psychiatrist or doctoral-level clinical psychologist. Personality Disorders were described in the Diagnostic and Statistical Manual (DSM IV) of Mental Disorders, 4th edition. Separation was only authorized if the diagnosis showed the personality disorder was so severe, the Soldier's ability to function effectively in the military environment was significantly impaired.

c. The Soldier's character of service was to be honorable unless he/she was in an entry-level status.

3. AR 40-400, in effect at the time, stated physicians who identified Soldiers with medical conditions not meeting fitness standards for retention were to initiate a DA Form 3349 and refer them into the DES. Soldiers issued a permanent profile with a numerical designator of 3 or 4 in one of the physical profile factors and who met retention standards were to be referred to an MMRB. If the Soldier failed retention standards, as outlined in AR 40-501, an MEB was mandatory.

4. AR 635-40, in effect at the time, stated:

a. Paragraph 3-1 (Standards of Unfitness because of Physical Disability). "The mere presences of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier reasonably may be expected to perform because of their office, grade, rank, or rating."

b. PEBs were charged with investigating the nature, cause, degree of severity, and probable permanency of a Soldier's disabling conditions; assessing the Soldier's physical conditions against the physical requirements of the Soldier's particular office, grade, rank, or rating; and making findings and recommendations, to include ratings determinations, in accordance with the law.

c. The PEB's available dispositions for the Soldier were:

- return to duty
- separate with severance pay when the combined disability rating was 20 percent or less
- For combined ratings of 30 percent or more: when the PEB could not confirm the permanency of a disabling condition, it recommended the Soldier for the Temporary Disability Retired List; conditions not likely to change over time resulted in placement on the Permanent Disability Retired List

//NOTHING FOLLOWS//