

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 October 2024

DOCKET NUMBER: AR20230007665

APPLICANT REQUESTS: in effect, the following:

- reconsideration of his previous case to show:
 - physical disability separation
 - amendment of his service records to reflect periods of active-duty
- as a new request, correction of his social security number.

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

- DD Form 149 (Application for Correction of Military Record)
- Dr. H____ M____, letter of support, 10 September 2020
- Page six of the Record of Proceeding, Docket Number AR20210010778, 6 January 2022
- Quincy Police Case Report, 14 April 2023

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20210010778 on 6 January 2022.

2. The applicant states in effect, that he is not on probation. His social security number needs to be corrected. The disability case is still open, and he needs monetary compensation for his military service. He sent copies of the dates he met with his doctors, nurses and social workers. He looks forward to the decision and will be sending copies to the representative for the Veteran's disability lawyers handling his case. His case is related to post-traumatic stress disorder (PTSD), other mental health, and his service in the Persian Gulf War. He checks the following boxes: administrative correction, pay and allowance, disability, discharge/separation; he also checks "other" and writes in the words "some changes."

3. Regarding the SSN issue: Although the applicant has requested a correction of his social security number (SSN), the SSN on his application is the same SSN listed on his DD Form 214. In addition, he does not list what document in his service record needs to be corrected. Therefore, this issue will not be discussed further in this Record of Proceedings.

4. The applicant provides:

a. Page six of the Record of Proceeding, Docket Number AR20210010778, 6 January 2022, which reflects in part, that his application for a referral for a disability evaluation was denied by the ABCMR Board.

b. A letter of support by Dr. H__M____, 10 September 2020 which shows in part:

(1) He cares for the applicant as his primary care provider since 10 July 2020. The applicant has also regularly seen Dr. T__ M__ and S__ M____, a License Clinical Social Worker and was previously followed by Dr. Tomas Hu at their clinic. He has spoken with the applicant at length on multiple occasions regarding his military service and diagnoses of both PTSD and paranoid schizophrenia.

(2) The applicant continues to suffer from daily auditory and tactile hallucination related to his service in the military despite consistently seeking care and complying with medical management. He also has paranoid delusions stemming from his time in the National Guard, believing that since his service, terrorists and government entities have been out to get him with numerous episodes of hallucinating his home being invaded by such actors. Also holds delusions of reference, believing that the television has spoken to him many times in the past.

(3) He also reports regularly waking up to the sensations of someone physically striking and attacking him from behind which results in him getting up in a panic and fighting back, these episodes are consistent with PTSD exacerbated and complicated by tactile hallucinations. He did not experience these symptoms prior to his military service, and it is believed they are more than likely directly related to his military service.

(4) His psychiatric condition overall and especially regarding PTSD are more than likely also strongly linked to the acute trauma of witnessing the Delta flight 191 crash in 1985. He was in another plane on the tarmac after landing at Dallas Fort Worth TX Airport enroute from Fort Sam in Houston. He had a clear view of the crash and aftermath and still has flashbacks to this event.

5. The applicant's service records show:

a. He enlisted in the Army National Guard (ARNG) on 30 November 1982.

b. The applicant's DA Form 2-1 (Personnel Qualification Record – Part II) shows in item 35 (Record of Assignments) he was ordered to initial active-duty training (IADT) at Fort Jackson, S.C. for Basic Combat Training (BCT) from 6 June 1983 through 4 August 1983, after which he was transferred back to his ARNG unit in Leland, MS.

c. The applicant's records contain a DD Form 214 (Certificate of Release or Discharge from Active Duty), which shows he was ordered to active duty for active-duty training (ADT) at Fort Sam Houston, TX from 27 May through 2 August 1985, a period of 2 months and 6 days, after which he was honorably released back to his ARNG unit.

d. The applicant's National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows the following:

- he enlisted in the ARNG on 30 November 1982 and was released from the ILARNG under honorable conditions for unsatisfactory participation on 27 July 1990
- he was credited with 7 years, 7 months, and 28 days of net service this period
- item 18 (Remarks) shows a period of IADT from 30 May 1983 through 3 August 1983 and ADT from 27 May 1995 through 2 August 1985
- he was transferred to the U.S. Army Reserve (USAR) Control Group (Reinforcement) for the remainder of his military service obligation through 29 November 1991;

e. USAR Personnel Center Order Number M-12-045290, 20 January 1991, ordered the applicant to active duty from the Individual Ready Reserve effective 31 January 1991 for a period not to exceed 12 consecutive months at Fort Bliss, TX.

f. Headquarters, U.S. Army Air Defense Artillery Center, Fort Bliss Orders 46-121, on 8 March 1991, released the applicant from active-duty effective 10 March 1991 and reassigned him to the USAR Control Group (Standby).

g. A second DD Form 214, covering the period from 31 January 1991 to 10 March 1991, which shows the applicant was credited with 1 month and 10 days of net active service. He was honorably released from active duty due to expiration term of service and transferred to the USAR Control Group (Reinforcement).

h. USAR Personnel Center Orders D-06-218293, 2 June 1992, honorably discharged the applicant from the USAR Control Group (Reinforcement) effective 2 June 1992.

i. In a prior ABCMR Docket Number AR20210010778, on 6 January 2022, the applicant requested a physical disability separation and an amendment of his service records to reflect his periods of active duty training. The Board noted that after careful

consideration of his military records and all other available evidence, the Board determined the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

j. The applicant's available service records do not show:

- he was issued a permanent physical profile rating
- he suffered from a mental condition, physical or mental, that affected his ability to perform the duties required by his MOS and or grade or rendered him unfit for military service
- he was diagnosed with a medical condition that warranted his entry into the Army Physical Disability Evaluation System (PDES)
- he was diagnosed with a condition that failed retention standards and or was unfitting

6. Due the applicant claim of PTSD and other mental health issues, the Mental Health Staff at the Army Review Boards Agency will review and discuss their findings. See "Medical Review".

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a reconsideration of his previous case to show physical disability separation, amendment of his service records to reflect periods of active duty, and a correction of his social security number (SSN). His requests to amend his service records to reflect periods of active duty and correct his SSN are outside of the scope of this Advisory and will not be addressed. The applicant's previous ABCMR case is summarized in Docket Number AR20210010778 dated 6 January 2022. The applicant indicated his case is related to Posttraumatic Stress Disorder (PTSD), Other Mental Health Issues, and his service in the Persian Gulf War. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) the applicant enlisted in the Army National Guard (ARNG) on 30 November 1982, 2) his National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows he was released from the ILARNG under honorable conditions for unsatisfactory participation on 27 July 1990. He was transferred to the U.S. Army Reserve (USAR) Control Group for the remainder of his military service obligation through 29 November 1991, 3) he was ordered to active duty from the Individual Ready Reserve (IRR) effective 31 January 1991 and was reassigned to the USAR Control Group (Standby) on 10 March 1991. His DD Form 214 shows he was honorably released due to expiration term of service (ETS) and transferred to the USAR Control Group (Reinforcement), 4) the applicant was honorably discharged from the USAR Control Group on 02 June 1992. 5) the applicant's previous petition to the ABCMR on 06

January 2022 was denied as the Board determined that his service records did not show the following: that he was issued a permanent profile rating, that he suffered from a mental or physical condition that affected his ability to perform his duties or rendered him unfit for military service, that he was diagnosed with a medical condition that warranted his entry into the Army Physical Disability Evaluation System (PDES), or that he was diagnosed with a condition that failed retention standards or was unfitting.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. The electronic military medical record (AHLTA) was not reviewed as it was not in use during the applicant's time in service. There were no in-service BH records available for review. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant's previous BH Advisory included in Docket Number AR20210010778 was reviewed as part of his current request and a brief overview as it pertains to this Advisory will be summarized. The previous BH Advisor noted that the applicant's records did not show that he was ever placed on a temporary or permanent profile for BH reasons and that the records showed he met retention standards and was fit for duty during military service. It was noted that his records in JLV shows that he was first diagnosed with Schizophrenia on 22 June 2018 and did not have any service-connected disability ratings through the VA. The previous Advisor cited a VA rating decision letter dated 22 December 2020 showing the applicant was denied service connection for his diagnoses of PTSD and Schizophrenia. Given the findings, the previous Advisor documented that there was insufficient evidence to warrant a referral of the applicant's record to the DES for consideration of military medical disability/retirement.

d. The applicant provided civilian medical records from SIU Center for Family Medicine as part of his request. A letter dated 10 September 2020 written by his primary care provider noted that he had been treated by that provider since 10 July 2020 and had also been treated by a Licensed Clinical Social Worker (LCSW) at their clinic as well as another physician (specialty not specified). The physician noted the applicant has been diagnosed with PTSD and Paranoid Schizophrenia and continued to experience auditory and tactile hallucinations despite consistent treatment and medical management. The provider further noted that the applicant had paranoid delusions related to his time in the ARNG, believing that various actors (e.g., terrorists, government entities, etc.) have been out to get him. The provider stated the applicant did not experience symptoms of Schizophrenia or PTSD prior to military service and opined that they are more likely directly related to his military service. Furthermore, the provider attributed the applicant's condition as being related to witnessing Delta flight

191 crash in 1985 as he had a clear view of the crash and aftermath and reported experiencing flashbacks of the event.

e. A review of JLV shows the applicant is not service-connected through the VA for any conditions. VA Rating Decision Letters available via the Veterans Benefits Management System (VBMS) were reviewed (Dates of Letters: 16 August 2019; 23 March 2022; 06 July 2023; 25 May 2024; 08 August 2024). Review of the most recent letter dated 08 August 2024 reaffirmed previous findings that his claim for service-connection for Schizophrenia and PTSD with anxiety, depression, and sleep disorder/insomnia was denied. A referral for BH treatment through the VA was submitted on 01 June 2018 for Schizophrenia. He completed an intake through psychiatry on 19 June 2018 and the provider diagnosed him with Chronic Paranoid Schizophrenia and Alcohol in Partial Remission. The applicant continued to follow-up with psychiatry and case management through the VA.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence available that the applicant had a BH condition in-service that fell below retention standards in accordance with (IAW) AR 40-501 that would have required disposition through medical channels. There were no in-service medical records available for review and no indication that he was diagnosed with a BH condition in-service. Although review of available VA and civilian medical records show that the applicant has been diagnosed with Schizophrenia and PTSD since being discharged from the military by his treating providers, he has not been service-connected through the VA for any BH conditions. Furthermore, even if VA service-connection were established, as VA ratings are based on different standards and parameters and do not address whether a condition met or failed Army retention criteria or if it was a ratable condition during the period of service, a subsequent VA disability rating does not imply failure to meet Army retention standards at the time of service or that a different diagnosis rendered on active duty is inaccurate. Consistent with the previous BH Advisory, as there is no evidence that the applicant was ever placed on a profile for BH reasons while in-service and there is no evidence that he was diagnosed with a condition in-service that was determined to be unfitting IAW AR 40-501, there is insufficient evidence to warrant a referral to IDES for consideration of military disability/retirement.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? N/A. Request is for medical retirement.

(2) Did the condition exist or experience occur during military service? N/A. Request is for medical retirement.

(3) Does the condition or experience actually excuse or mitigate the discharge? N/A. Request is for medical retirement.

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.
2. 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.
 - a. The evidence of record shows the applicant served in the ARNG from 30 November 1982 to 27 July 1990, when he was released from the ARNG for unsatisfactory participation. He was transferred to the U.S. Army Reserve (USAR) Control Group for the remainder of his military service obligation through 29 November 1991. He was then ordered to active duty from the IRR effective 31 January 1991 and was reassigned to the USAR Control Group (Standby) on 10 March 1991. His DD Form 214 shows he was honorably released due to ETS. He was transferred to the USAR Control Group (Reinforcement) and was ultimately honorably discharged from the USAR Control Group on 2 June 1992.
 - b. The Board did not find evidence in the record that shows he was issued a permanent profile rating, that he suffered from a mental or physical condition that affected his ability to perform his duties or rendered him unfit for military service, that he was diagnosed with a medical condition that warranted his entry into the Army disability evaluation system, or that he was diagnosed with a condition that failed retention standards or was unfitting. The Board also reviewed and agreed with the medical reviewer's determination that the applicant had a behavioral health condition in-service that fell below retention standards in accordance with AR 40-501 that would have required disposition through medical channels. Therefore, the Board determined there is no error or injustice or a reason to separate him for disability.
 - c. The applicant's DD Form(s) 214 captured his active service. The Board found no evidence he completed other periods of active duty of sufficient regulatory duration that would have warranted the issuance of another DD Form 214. Additionally, the applicant's NGB Form 22 captures his ARNG service. Any correction to this form should be addressed to the State ARNG that issued it.

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 to amend the decision of the ABCMR set forth in Docket Number AR20210010778 on 6 January 2022.

[REDACTED]

[REDACTED]

[REDACTED]

[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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

2. Army Regulation 635-5 (Separation Documents), effective 1 October 1979, prescribed the separation documents that must be prepared for Soldiers on retirement, discharge, or release from active-duty service or control of the Active Army. It established standardized policy for preparing and distributing the DD Form 214. Source documents for preparation of the DD Form 214 included the DA Form 201 (Military Personnel Records Jacket), DA Form 2 and 2-1 (Personnel Qualification Records), separation orders, DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States), DA Form 3716 (Personnel Financial Record), enlistment records and DD Forms 214 for prior-service personnel, and any other available records.

3. Title 10, U.S. Code, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 and Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a Medical Evaluation Board (MEB); when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an MOS Medical Retention Board; and/or they are command-referred for a fitness-for-duty medical examination.

b. The disability evaluation assessment process involves two distinct stages: the MEB and PEB. The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise his/her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether or not a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. Service members who are determined to be unfit for duty due to disability either are separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a one-time severance payment, while veterans who retire based upon disability receive monthly military retired pay and have access to all other benefits afforded to military retirees.

c. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a

finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

4. Army Regulation 635-40 establishes the Army Disability Evaluation System and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

a. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in military service.

b. Soldiers who sustain or aggravate physically-unfitting disabilities must meet the following line-of-duty criteria to be eligible to receive retirement and severance pay benefits:

(1) The disability must have been incurred or aggravated while the Soldier was entitled to basic pay or as the proximate cause of performing active duty or inactive duty training.

(2) The disability must not have resulted from the Soldier's intentional misconduct or willful neglect and must not have been incurred during a period of unauthorized absence.

c. Chapter 8 (Reserve Components), in effect at the time, provides guidance for Reserve component members eligible for physical disability processing in accordance with this regulation.

(1) When a commander or other appropriate authority believes a Reserve component member is unable to perform the duties of his office, grade, rank, or rating because of physical disability resulting from an injury determined to be the proximate result of performing active duty (30 days or less), inactive duty training, or active duty under the authority of Title 10 U.S. Code, he will refer the member for medical evaluation.

(2) If the result of the medical evaluation indicate the member is not qualified to perform his military duties he will be referred to an MEB.

(3) If the MEB finds the member's physical disability is the result of a disease not directly caused by an injury, he will be processed in accordance with the provisions of paragraph 6-8, where he might request continuance in the service in lieu of separation.

(4) If the MEB finds the member's physical disability is the result of an injury or disease directly caused by an injury the case will be referred to a PEB.

5. Army Regulation 40-501 provides information on medical fitness standards for induction, enlistment, appointment, retention, and related policies and procedures. Soldiers with conditions listed in chapter 3 who do not meet the required medical standards will be evaluated by an MEB and will be referred to a PEB as defined in Army Regulation 635-40 with the following caveats:

a. USAR or Army National Guard (ARNG) Soldiers not on active duty, whose medical condition was not incurred or aggravated during an active duty period, will be processed in accordance with chapter 9 and chapter 10 of this regulation.

b. Normally, Reserve Component Soldiers who do not meet the fitness standards set by chapter 3 will be transferred to the Retired Reserve per Army Regulation 140-10 or discharged from the Reserve Component per Army Regulation 135-175 (Separation of Officers), Army Regulation 135-178 (ARNG and Reserve Enlisted Administrative Separations), or other applicable Reserve Component regulation. They will be transferred to the Retired Reserve only if eligible and if they apply for it.

c. Reserve Component Soldiers who do not meet medical retention standards may request continuance in active USAR status. In such cases, a medical impairment incurred in either military or civilian status will be acceptable; it need not have been incurred only in the line of duty. Reserve Component Soldiers with non-duty related medical conditions who are pending separation for not meeting the medical retention standards of chapter 3 may request referral to a PEB for a determination of fitness in accordance with paragraph 9-12.

d. Paragraph 9-12 states Reserve Component Soldiers with nonduty related medical conditions who are pending separation for failing to meet the medical retention standards of chapter 3 of this regulation are eligible to request referral to a PEB for a determination of fitness. Because these are cases of Reserve Component Soldiers with non-duty related medical conditions, MEBs are not required and cases are not sent through the PEBLOs (Physical Evaluation Board Liaison Officers) at the military treatment facilities. Once a Soldier requests in writing that his or her case be reviewed by a PEB for a fitness determination, the case will be forwarded to the PEB by the USARC Regional Support Command or the U.S. Army Human Resources Command Surgeon's office and will include the results of a medical evaluation that provides a clear

description of the medical condition(s) that cause the Soldier not to meet medical retention standards.

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

7. Title 38, U.S. Code, section 1110 (General – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

8. Title 38, U.S. Code, section 1131 (Peacetime Disability Compensation – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

9. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations, and mitigating factors, when taking action on applications from former service members administratively discharged under other than honorable conditions, and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

10. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole, or in part, to: mental health conditions, including PTSD; TBI;

sexual assault; sexual harassment. Boards were directed to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria, and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for that misconduct which led to the discharge.

11. 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.

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 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.

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.

12. Section 1556 of Title 10, United States Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//