

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 December 2024

DOCKET NUMBER: AR20230009522

APPLICANT REQUESTS: in effect, after reversing the combat-related determinations made by his physical evaluation board (PEB), amend U.S. Army Physical Disability Agency (USAPDA) Order Number D247-01, dated 4 September 2014, to show that his disabling condition resulted from a combat-related injury.

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

- DD Form 149 (Application for Correction of Military Record)
- U.S. Army Human Resources Command (HRC) Denial Letter, dated January 2015, with Combat-Related Special Compensation (CRSC) application packet
- Department of Veterans Affairs (VA) medical records

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); 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 states the VA awarded him a 100 percent disability rating, and USAPDA Order Number D247-01 shows he is 100 percent disabled; however, the order also indicates his disabling condition is not combat-related. When he returned from Iraq, the doctors diagnosed him with this disabling condition, and additional diagnoses included "hypoplastic frontal sinuses." The applicant affirmed he has applied for CRSC but has been denied because of the foregoing language in USAPDA's order. He declares that he does not understand the reasoning behind HRC's denial.
3. A review of the applicant's service record shows:
 - a. On 20 October 2001, after completing prior enlisted service in the Regular Army, [REDACTED] Army National Guard ([REDACTED] ARNG), and the U.S Army Reserve (USAR), the applicant enlisted into the [REDACTED] ARNG for 6 years.

b. On 10 February 2003, the applicant entered active duty, per Title 10 (Armed Forces), U.S. Code, section 12303 (Ready Reserve: Members Not Assigned to, or Participating Satisfactorily in, Units). On 1 May 2003, he deployed to Iraq and redeployed, on 23 April 2004.

c. On 29 March 2007, orders mobilized the applicant, under the provisions of Title 10, U.S. Code, section 12302 (Ready Reserve). On 7 April 2007, the applicant deployed to Kuwait and Iraq; he redeployed, on 4 August 2007; following his redeployment, the applicant required hospitalization due to depression, suicidal ideation, and psychotic behavior.

d. On 19 December 2007, the [REDACTED] ARNG honorably discharged the applicant because he was enlisting into another component of the U.S. Armed Forces; on 20 December 2007, he enlisted into the USAR for 4 years. Effective 10 March 2009, the applicant's USAR command transferred him to The Standby Reserve (Active Status List) after the applicant acquired overseas residency and employment; (in 2012, HRC transferred the applicant to the Individual Ready Reserve (IRR) following its discontinuance of The Standby Reserve).

e. On 25 March 2013, the applicant extended his enlistment in the IRR by 6 months. On 8 October 2013, [REDACTED] ARNG notified the applicant, via memorandum, that he had completed the required years of service to receive retired pay at age 60 (20-Year Letter).

f. On 21 August 2014, a PEB determined the applicant was unfit for continued military service and recommended his permanent disability retirement with a 100 percent disability rating.

(1) The PEB found that the applicant's depression with comorbid schizoaffective disorder was incurred in the line of duty and was permanent and stable; however, the condition was not based on a disease or injury incurred in the line of duty in combat and as a direct result of armed conflict or caused by an instrumentality of war. Additionally, the applicant's disability did not result from a combat-related injury, as defined in Title 26 (Internal Revenue Code), U.S. Code, section 104 (Compensation for Injuries or Sickness).

(2) On 25 August 2014, the applicant concurred with the PEB's findings and recommendations and waived his right to a formal hearing; additionally, he opted not to request a reconsideration of his VA rating.

g. On 4 September 2014, USAPDA Order Number D247-01 announced the applicant's placement on the Permanent Disability Retired List, effective 9 October 2014. The Order included the following two comments:

- "Disability is based on injury or disease received in LOD (line of duty) as a direct result of Armed Conflict or caused by an instrumentality of war and incurred in the LOD during a war period as defined by law: NO"
- "Disability resulted from a combat related injury as defined in (Title) 26 USC (U.S. Code) (section) 104: NO"

h. On 10 December 2014, the applicant applied for CRSC, indicating his qualifying condition was depression with comorbid schizoaffective disorder and stating he incurred this condition during actual combat. On 2 January 2015, HRC denied the applicant's request, noting that, according to the Defense Finance and Accounting Service (DFAS), the applicant was in a retired status but did not have a VA Waiver offsetting his retired pay.

(1) "Pursuant to CRSC Program Guidance; Section 1413a (CRSC), Title 10, U.S. Code, as amended, dated January 2004, a Veteran must meet all of the following preliminary criteria in order to apply for CRSC benefits. The criteria are:"

- "Receiving military retired pay for one of the following: 20 year Retiree, Medical Chapter 61, Temporary Early Retirement Act and Temporary Disabled Retirement List Retiree"
- "Have 10% or greater VA rated injury that is combat related"
- "Military retired pay is reduced by VA disability payments, aka a VA Waiver"

(2) "You may apply for a VA Waiver by completing VA Form 21-651 (copy enclosed) and submitting it to your local VA office. A waiver is the election of compensation in lieu of retired pay or waiver of retired pay to secure compensation from the VA. The form is filed with the VA who then sends it to DFAS where it is processed and made active in your Retiree pay records."

(3) "Once your (Retirement Account Statement) reflects a waiver amount, you may file a CRSC Reconsideration Request Form 12e (copy enclosed) to initiate the processing of your application for benefits."

i. On 26 January 2024, the applicant refiled his application for CRSC.

(1) The applicant identified the following conditions as being combat-related and qualified for CRSC:

- Bipolar Disorder
- Schizoaffective Disorder
- Chronic Sinusitis
- Allergic Rhinitis

(2) On 5 July 2024, HRC approved the applicant for the following verified combat-related conditions:

- Obstructive Sleep Apnea
- Chronic Sinusitis
- Allergic Rhinitis
- Bilateral Hearing Loss

(3) HRC stated it was unable to verify the below-listed conditions as combat-related and advised the applicant that his request form required that he prove his eligibility by submitting other military official documentation that showed how each identified condition met the CRSC criteria. The additional documentation could include medical records completed at the time of injury, wartime chain of command endorsements confirming the applicant's exposure to armed conflict, copies of combat decorations, and/or evaluation reports validating the applicant's exposure to armed conflict:

- Post-Traumatic Stress Disorder (PTSD)
- Erectile Dysfunction

MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). The applicant seeks CRSC eligibility. He contends that he has a 100% disability rating from the Army (for his mental health condition), but it has not been determined to be CRSC eligible. In addition, he stated that when he came back from Iraq, he had a lot of medical issues. He specifically mentioned Hypoplastic Frontal Sinuses. His mental health condition(s) will be reviewed by a BH specialist under separate cover.

2. The ABCMR ROP was reviewed. The applicant first entered active service 04Dec1984. His final period of active service ended 24Aug2007. While in service his MOS was 88N Traffic Management Coordinator and 19E Armor Crewman. He was deployed in Iraq from 20030501 to 20040423 and from 20070407 to 20070804. He was discharged on 08Oct2014 through the Army Physical Disability Evaluation System under AR 635-40 for his mental health condition. His disposition was permanent disability retirement for medical disability.

3. JLV search today revealed that the VA has service-connected the applicant for the following conditions: PTSD; Hiatal Hernia; Deformity of Penis; Eczema; Hypertensive

Vascular Disease; Sleep Apnea Syndrome; Sinusitis, Pansinusitis, Chronic; Allergic Rhinitis; and Impaired Hearing. The 05Jul2024 correspondence from US Army Human Resources Command indicated that the following conditions have already been verified as Combat-Related: Obstructive Sleep Apnea (confirmed as secondary to Chronic Sinusitis), Chronic Sinusitis (Gulf War presumptive), Allergic Rhinitis (Gulf War presumptive) and Bilateral Hearing Loss (instrumentality of war). These conditions that have already been verified as Combat-Related by USAHRC will not be covered during this review. In regard to the applicant's specific concern about hypoplastic frontal sinuses, it is an uncommon condition manifested as underdeveloped frontal sinuses which are located in the front of the head. The developmental anomaly likely contributed at least in part to the Chronic Pansinusitis condition. However, Hypoplastic Frontal Sinuses is not an independently ratable condition—it is congenital.

4. Review of the remaining conditions that are service connected by the VA but have not been determined to be verified as combat related are below.

a. Gastroesophageal Reflux Disease (GERD). Per the 18Nov2013 Esophageal Conditions DBQ, GERD was diagnosed in 2012 several years after his final Iraq deployment. Record reviewed showed that in 2012 he was taking ranitidine and omeprazole.

b. Seborrheic Dermatitis. JLV search revealed that the applicant was first diagnosed with this condition during the 27May1999 Dermatology Consult VAMC, several years prior to Iraq deployment. The time frame for onset of this condition was affirmed during the 18Nov2013 Skin Diseases DBQ which noted Seborrheic Dermatitis was diagnosed in 1999.

c. Hypertension. The 18Nov2013 Hypertension DBQ indicated the applicant reported that he had elevated blood pressures since around 2002, (prior to Iraq deployment). He was recommended to take medication at the time which he took only a few months. He restarted treatment in 2004. JLV search revealed an elevated blood pressure 120/90 during the 07Nov2001 Nursing Outpatient Note VAMC visit.

d. Erectile Dysfunction. The 17Jun2024 Male Reproductive Organ Conditions DBQ exam indicated the condition had been treated since 2014, diagnosed several years after his Iraq deployment. The examiner assessed that the applicant's Erectile Dysfunction was caused by "Emotional condition and therapy". Consequently, the Erectile Dysfunction condition was service-connected by the VA as a secondary condition to PTSD.

5. The applicant also submitted excerpts from clinical visits for the following:

a. Laceration to the anterior lower extremity (31Aug2023 Emergency Department

Note VAMC). This laceration was an acute injury sustained while taking out the garbage on that date.

b. Calcaneus films showed mild irregularity of the distal tibia and Calcaneal Spurs left larger than right (14Aug2023). The applicant was first seen for Achille's tendon spurs in August 2023. Of note, he had a remote history of a tibial fracture in 1999 (05Oct2004 Primary Care Follow up Note).

6. Summary/Opinion

a. The record review included but was not limited to exams that were available for review that were completed before and after Iraq deployment (27May2004 Primary Care Follow-up Note, 09Apr2007 CTMC Wellness Center). None of the reviewed conditions (GERD, Seborrheic Dermatitis, Hypertension and Erectile Dysfunction) were diagnosed while deployed in Iraq. Seborrheic Dermatitis and Hypertension were diagnosed prior to deployment to Iraq and therefore could not have been a direct result of armed conflict, or been incurred while engaged in hazardous service, or while in the performance of duty under conditions simulating war, or through an instrumentality of war. In addition, there was no documentation of treatment or exacerbation while deployed. The applicant began treatment for GERD 5 years after his final Iraq deployment. He began treatment for Erectile Dysfunction (considered to be secondary to PTSD), 7 years after his final Iraq deployment. This condition was service-connected by the VA as a secondary condition to his PTSD condition and was not considered eligible for CRSC compensation unless the primary condition was CRSC eligible. Again, the applicant's mental health condition is reviewed under separated cover.

b. It should be noted that none of the conditions included in this review were determined by the MEB to have failed medical retention standards of AR 40-501 chapter 3; and none were found unfitting for continued service by the PEB.

BEHAVIORAL HEALTH REVIEW:

a. The applicant is applying to the ABCMR requesting a correction of his records to reverse the combat-related determinations made by his physical evaluation board (PEB), dated 4 September 2014, to show that his disabling condition resulted from a combat-related injury. 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) On 20 October 2001, after completing prior enlisted service in the Regular Army, [REDACTED] Army National Guard ([REDACTED] ARNG), and the U.S Army Reserve (USAR), the applicant again enlisted into the [REDACTED] ARNG; 2) The applicant deployed to Iraq from 1 May 2003-23 April 2004 and he deployed again to Kuwait and Iraq from 07 April-04 August 2007; 4) On 19 December 2007, the [REDACTED] ARNG honorably discharged the applicant, because he was enlisting into another component of the U.S. Armed Forces.

On 20 December 2007, he enlisted into the USAR for 4 years; 5) On 10 March 2009, the applicant transferred The Standby Reserve (Active Status List); 6) On 21 August 2014, a PEB determined the applicant was unfit for continued military service and recommended his permanent disability retirement with a 100 percent disability rating. The PEB found that the applicant's Depression with comorbid Schizoaffective Disorder was incurred in the line of duty and was permanent and stable. However, the condition was not based on a disease or injury incurred in the line of duty in combat and as a direct result of armed conflict or caused by an instrumentality of war. Additionally, the applicant's disability did not result from a combat-related injury; 7) On 25 August 2014, the applicant concurred with the PEB's findings. On 09 October 2014, the applicant was placed on the Permanent Disability Retired list; 8) On 10 December 2014, the applicant applied for CRSC, indicating his qualifying condition was Depression with comorbid Schizoaffective Disorder and stating he incurred this condition during actual combat. On 2 January 2015, HRC denied the applicant's request.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) and VA medical documentation provided by the applicant were also examined.

c. The applicant asserts his mental health conditions are both disabling conditions and combat-related injuries. The applicant was initially seen by behavioral health services on 07 September 2005. The applicant was referred by his primary care provider and seen by a psychiatrist at the VA. He reported insomnia, paranoid ideation, increased alcohol abuse, and homicidal ideation. The applicant was diagnosed with Paranoid Delusional Disorder, prescribed psychiatric medication, and referred to psychotherapy. The applicant refused psychotherapy, but he was willing to start psychiatric medication. He was seen for a follow-up session by psychiatry on 14 September 2005, and he reported improvement with his symptoms as a result of his medication. The applicant was seen for a predeployment physical evaluation in April 2007, and he was cleared to deploy. The applicant deployed again to a combat environment. The applicant was not seen again for behavioral health services till 10 July 2008 during a visit to the Emergency Department when the applicant reported again experiencing homicidal and suicidal ideations. He was clinically interviewed and reported that he was seen while he lived [REDACTED] by psychiatry, and he briefly took psychiatric medication, but attributed his improvement to "working things out with the help of his wife." He then went to Afghanistan for three months as a private contractor in 2006. He then redeployed to Iraq with the [REDACTED] ARNG, but he returned early due to occupational and command problems. There was insufficient evidence the applicant was medically evacuated for mental health concerns. The applicant reported that he moved [REDACTED] to work with a plumbing company and serve in the USAR. The applicant reported since May 2008 he began to experience increased paranoia, homicidal, and suicidal thoughts. He was diagnosed with depression with suicidal and

homicidal ideation. He was admitted to inpatient psychiatric treatment. He was discharged on 18 July 2008 with the diagnosis of Bipolar Disorder most recent episode manic. During his inpatient psychiatric treatment, he was seen for a more extensive diagnostic evaluation, which was completed by a clinical psychologist on 12 and 13 July 2008. The results of the psychological testing, clinical interview, and review of medical records determined the applicant fit criteria for Bipolar Disorder, and he was placed on appropriate psychiatric medication. On 29 July 2008, the applicant started psychotherapy directed at him better managing his symptoms associated with Bipolar Disorder. He was seen for three sessions before he was again seen at the Emergency Department for suicidal and manic symptoms and readmitted into inpatient psychiatric treatment. The applicant has been repeatedly admitted into inpatient psychiatric treatment programs, intensive outpatient programs, outpatient therapy, and attended medication management appointments for his symptoms of delusions, suicidality, homicidally, paranoia, depression, and anxiety till present. In 2024, the applicant was diagnosed with PTSD.

d. The applicant underwent a Compensation and Pension (C&P) evaluation at the VA in September 2008. He was not diagnosed with PTSD, but he was diagnosed with Bipolar Disorder. He underwent another C&P evaluation for PTSD in April 2012, and he was not diagnosed with PTSD, but he was diagnosed with Paranoid Delusional Disorder and Not Otherwise Specified Depression, and later in November 2012, his diagnosis during a C&P evaluation, was changed to Schizoaffective Disorder. Again, in November 2013, during a C&P evaluation, the applicant was again diagnosed with Schizoaffective Disorder, Delusional Disorder, and Depressive Disorder Not Otherwise Specified. The applicant began his fitness for duty evaluation in November and December 2013 for Major Depression and Schizoaffective Disorder, and the final results of the informal PEB proceedings were completed on 21 August 2014. The results of PEB proceedings determined the applicant's Depression with comorbid Schizoaffective Disorder was incurred in the line of duty and was permanent and stable. However, the conditions were not based on a disease or injury incurred in the line of duty in combat and as a direct result of armed conflict or caused by an instrumentality of war. Additionally, the applicant's disability did not result from a combat-related injury, as defined in Title 26 (Internal Revenue Code), U.S. Code, section 104 (Compensation for Injuries or Sickness). In 2024, the applicant underwent another C&P evaluation for PTSD, and the applicant was then diagnosed with service-connected PTSD (100%SC).

e. Based on the available information, it is the opinion of the Agency Medical Advisor that the applicant was deployed twice to a combat environment. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition during these deployments or while on active-duty orders. There is evidence the applicant experienced significant mental health symptoms months after returning from his first deployment, but he was able to demonstrate improvement with limited therapeutic intervention, and he was able to serve overseas as a contractor. He was also provided

a predeployment health assessment and approved to deploy again to Iraq. During his second deployment to Iraq, there is insufficient evidence the applicant reported or was diagnosed with a mental health condition. He returned and was found to meet the recruitment standards of the USAR in 2007. However, starting in 2008, while the applicant was in the USAR, there is sufficient evidence he began to experience a significant increase in mental health symptoms, which were determined to be unfitting for continued military service in 2014. Specifically, the applicant was diagnosed with Depression with comorbid Schizoaffective Disorder. He was not diagnosed with service-connected PTSD till 2024. Therefore, at this time, there is insufficient evidence the applicant was experiencing a mental health condition in the line of duty in combat and as a direct result of armed conflict or caused by an instrumentality of war.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No, the applicant was deployed twice to a combat environment. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition during these deployments or while on active-duty orders. There is evidence the applicant experienced significant mental health symptoms months after returning from his first deployment, but he was able to demonstrate improvement with limited therapeutic intervention, and he was able to serve overseas as a contractor. He was also provided a predeployment health assessment and approved to deploy again to Iraq. During his second deployment to Iraq, there is insufficient evidence the applicant reported or was diagnosed with a mental health condition. He returned and was found to meet the recruitment standards of the USAR in 2007. However, starting in 2008, while the applicant was in the USAR, there is sufficient evidence he began to experience a significant increase in mental health symptoms, which were determined to be unfitting for continued military service in 2014. Specifically, the applicant was diagnosed with Depression with comorbid Schizoaffective Disorder. He was not diagnosed with service-connected PTSD till 2024. Therefore, at this time, there is insufficient evidence the applicant was experiencing a mental health condition in the line of duty in combat and as a direct result of armed conflict or caused by an instrumentality of war.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A.

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 record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy and regulation. Upon review of the applicant's petition, available military record, and the medical review, the Board concurred with the advising official finding insufficient evidence the applicant reported or was diagnosed with a mental health condition during these deployments or while on active duty orders and insufficient evidence the applicant was experiencing a mental health condition in the line of duty in combat and as a direct result of armed conflict or caused by an instrumentality of war. The Board found, based on a preponderance of the evidence, there was insufficient evidence to amend the results of the informal physical evaluation board proceedings and amend USAPDA's order to reflect in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war.

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.

3/25/2025

X

CHAIRPERSON

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, U.S. Code, 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.

2. Title 10, U.S. Code, section 1556 (Ex Parte Communications Prohibited) 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 applicant's (and/or their counsel) prior to adjudication.

3. Title 10, U.S. Code, section 1413a (Combat-Related Special Compensation (CRSC)), as amended, provides for the payment of money to an eligible combat-related disabled military retiree (i.e., a member of the uniformed services who is entitled to retired pay and has a combat-related disability). The term "combat-related disability" means a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that:

a. Is attributable to an injury for which the member was awarded the Purple Heart;
or

b. Was incurred (as determined under criteria prescribed by the Secretary of Defense):

- as a direct result of armed conflict;
- while engaged in hazardous service;
- in the performance of duty under conditions simulating war; or
- through an instrumentality of war

3. Effective 1 January 2008, Department of Defense (DOD) implemented supplemental guidance based on the enactment of the Fiscal Year 2008 National Defense Authorization Act (NDAA). This change provided special rules for CRSC eligible retirees with fewer than 20 years of service who retired under chapter 61 (Retirement or

Separation for Physical Disability) of Title 10, U.S. Code, and for Temporary Early Retirement Authority (more than 15 but less than 20 years of total active service).

4. Title 26 (Internal Revenue Code), U.S. Code, section 104 (b) (3) (Compensation for Injuries or Sickness – Special Rules for Combat-Related Injuries) states, for the purposes of the subsection, the term "combat-related injury" means a personal injury or sickness that occurred as a direct result of armed conflict; or while engaged in extra-hazardous service; or under conditions simulating war; or was caused by an instrumentality of war.

5. Title 38 Code of Federal Regulations (CFR) (Pensions, Bonuses, and Veterans' Relief), section 3.700 (General) states not more than one award of pension, compensation, or emergency officers', regular or reserve retirement pay will be made concurrently to any person based on his or her own service.

6. The DOD Financial Management Regulation 7000.14-R, Volume 7B (Military Pay Policy – Retired Pay), currently in effect, includes combat-related injury definitions:

a. Direct Result of Armed Conflict.

(1) The disability is a disease or injury incurred in the line of duty as a direct result of armed conflict. To support a combat-related determination it is not sufficient to only state the fact that a member incurred the disability during a period of war, or in an area of armed conflict or while participating in combat operations. There must be a definite causal relationship between the armed conflict and the resulting liability.

(2) Armed conflict includes a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerilla action, riot, or any other action in which Service members are engaged with a hostile or belligerent nation, faction, force, or with terrorists.

(3) Armed conflict may also include such situations as incidents involving a member while interned as a prisoner of war or while detained against his or her will in custody of a hostile or belligerent force, or while escaping or attempting to escape from such confinement, prisoner of war, or detained status.

b. While Engaged in Hazardous Service. Such service includes, but is not limited to, aerial flight, parachute duty, demolition duty, experimental stress duty, and diving duty. A finding that a disability is the result of such hazardous service requires that the injury or disease be the direct result of actions taken in the performance of such service.

c. In the Performance of Duty Under Conditions Simulating War. In general, this covers disabilities resulting from military training, such as war games, practice alerts,

tactical exercises, airborne operations, leadership reaction courses, grenade and live fire weapon practice, bayonet training, hand-to-hand combat training, repelling, and negotiation of combat confidence and obstacle courses.

d. Instrumentality of War.

(1) Incurrence during an actual period of war is not required. There must be a direct causal relationship between the instrumentality of war and the disability. The disability must be incurred incident to a hazard or risk of the service.

(2) An instrumentality of war is a vehicle, vessel, or device designed primarily for Military Service and intended for use in such Service at the time of the occurrence or injury. It may also include such instrumentality not designed primarily for Military Service if use of or occurrence involving such instrumentality subjects the individual to a hazard peculiar to Military Service. Such use or occurrence differs from the use or occurrence under similar circumstances in civilian pursuits.

(3) A determination that a disability is the result of an instrumentality of war may be made if the disability was incurred in any period of service as a result of such diverse causes as wounds caused by a military weapon, accidents involving a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or materiel.

//NOTHING FOLLOWS//