

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 December 2024

DOCKET NUMBER: AR20230009999

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:

- item 8 (Last Duty Assignment and Major Command): 206 TCT MDM CO
- item 9 (Command to Which Transferred): 206th TC CO (WZFLA1), 2001 Pepperell Parkway, Opelika, AL 36801-5441
- item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):
 - Army Achievement Medal (2nd Award)
 - Army Good Conduct Medal (3rd Award)
 - National Defense Service Medal (4th Award)
 - Southwest Asia Service Medal (2nd Award)
 - Global War on Terrorism Expeditionary Medal
 - Humanitarian Service Medal (2nd Award)
 - Overseas Service Ribbon (4th Award)
- item 28 (Narrative Reason for Separation): disability, retirement

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- Headquarters, U.S. Infantry Center Orders 003-2213, 3 January 2007, with handwritten notes
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 3 January 2007
- DD Form 214, for the period ending 3 January 2007, with handwritten notes
- DD Form 215 (Correction to DD Form 215), with handwritten notes

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 he has met the requirements for retirement. He is trying to get his 20-year letter. However, Fort Liberty, NC cannot complete the process until some things are corrected on his DD Form 214 and DD Form 215. He was an Active Guard Reserve member at the time of his exiting the Army. His promotion file remained in unit file and was never sent up. All awards were never written up with noncommissioned officer evaluation reports (NCOERs). The information on his DD Form 214 is wrong. He performed duties and other events during OIF II, and he should have received other medals and awards, but he never received them while under fire even after returning. The applicant annotates post-traumatic stress disorder (PTSD), traumatic brain injury (TBI) and other mental health as related to his request.
3. The applicant provides a letter reiterating the above changes.
4. The applicant's service record shows the following information:
 - a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows the applicant enlisted in the Regular Army on 16 July 1984.
 - b. His DA Form 2-1 (Personnel Qualification Record – Part II) shows in item 5 (Overseas Service) the applicant served in Germany from 27 December 1984 to 11 June 1986.
 - c. His DD Form 214 shows he was honorably released from active duty on 16 February 1990 and transferred to the U.S. Army Reserve (USAR). He completed 5 years, 7 months, and 1 day of active service. He was awarded or authorized:
 - Army Service Ribbon
 - Army Lapel Button
 - Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
 - Expert Marksmanship Qualification Badge with Hand Grenade Bar
 - Parachute Badge
 - Overseas Service Ribbon
 - Army Good Conduct Medal
 - d. The applicant reenlisted in the USAR on 12 December 1991.

e. He entered active duty on 31 January 1991. His DD Form 214 shows he was honorably released from active duty on 15 March 1991 and transferred to the USAR. He completed 1 month and 14 days of active service. It also shows in:

- item 12f (Foreign Service); no entry
- item 18 (Remarks) ordered to active duty in support of Operation Desert Shield/Desert Storm

f. His record contains a DD Form 215, for the period ending 15 March 1991, which shows, in pertinent part, he was awarded or authorized:

- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
- Expert Marksmanship Qualification Badge with Hand Grenade Bar

g. He was ordered to active duty as a member of the Active Guard Reserve on 5 November 2000. Department of the Army, U.S. Army Reserve Personnel Command Orders R-10-006429 assigned him to 952 Engineer Company Support, Detachment 1, (WRY9A2), effective 5 February 2001.

h. He served in Iraq from 22 February 2004 to 7 September 2004.

i. The applicant's reassignment/attachment orders to the 206 TC Company Medium Truck in Opelika, AL are not in the applicant's available service record. However, his record contains U.S. Army Human Resources Command Orders C-12-637638, dated 5 December 2006, which released the applicant from attachment to the above-mentioned unit of assignment and assigned him to Fort Benning.

j. The applicant was honorably discharged on 3 January 2007 and transferred to the USAR. He was discharged under the provisions of AR 635-40, Paragraph 4-24B (3) for disability, severance pay. He completed 6 years, 1 month and 29 days of active service this period. His DD Form 214, as amended by his DD Form 215, also show in:

- item 8 (Last Duty Assignment and Major Command): 85th TCT MDM TRK CO
- item 9 (Command to Which Transferred): 850th TC CO (WS1KAA), 30 Airport Road, Lyn, MS 38645-9520
- item 12d (Total Prior Active Service): 5 years, 8 months, and 16 days
- item 12e (Total Prior Inactive Service): 10 years, 7 months, and 3 days
- item 12f (Foreign Service) 0000 00 00
- item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):
 - Army Achievement Medal

- Army Good Conduct Medal (2nd Award)
 - National Defense Service Medal (2nd Award)
 - Southwest Asia Service Medal
 - Global War on Terrorism Service Medal
 - Armed Forces Service Medal
 - Humanitarian Service Medal
 - Iraq Campaign Medal with two bronze service stars
 - Army Service Ribbon
 - Overseas Service Ribbon
 - Combat Action Badge
 - Parachutist Badge
 - Driver and Mechanic Badge with Mechanic Clasp
 - Army Reserve Components Achievement Medal
 - Armed Forces Reserve Medal with "M" Device, Numeral 2, and bronze hourglass
- item 28 (Narrative Reason for Separation) Disability, Severance Pay

k. Headquarters, U.S. Infantry Center Orders 003-2213, dated 3 January 2007 show the applicant was transferred to the transition point for transition processing and after processing, discharged from the USAR. The additional instructions show:

- percentage of disability: 10 percent
- he was authorized disability severance pay in pay grade sergeant/E-5 based on 12 years, 6 months, and 15 days of service
- Disability is based on injury or disease received in Line of Duty (LOD) as a direct result of armed conflict or caused by an instrumentality of war and incurred in the LOD during a war as defined by law: Yes
- Disability resulted from a combat related injury: Yes

5. By regulation (AR 635-5), The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. The information entered thereon reflects the conditions as they existed at the time of separation.

- Item 12f reflected an entry of the total amount of foreign service completed during the period by the DD Form 214
- Item 13 reflected all awards and decorations
- Item 18, for an active duty Soldier deployed with his or her unit during their continuous period of active service, enter the statement "Service in (Name of County Deployed), Form (inclusive dates YYYYMMDD-YYYYMMDD)

6. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is again applying to the ABCMR requesting an increase in his military disability rating with a subsequent change in his disability separation disposition from separated with disability severance pay to permanently retired for physical disability.

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His DD 214 for the period of Service under consideration shows he entered the regular Army on 5 November 2000 and was separated with \$61,970.40 of disability severance pay on 4 December 2008 under provisions provided in chapter 4 of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (8 February 2006).

d. On 27 September 2006, a medical evaluation board (MEB) determined his PTSD failed the medical retention standards in chapter 3 of AR 40-501, Standards of Medical Fitness. From the MEB narrative summary:

e. On 29 September 2006, the applicant did not agree with the board's findings and recommendation and submitted a written appeal. From his hand-written appeal:

"My chain of command referred me to Ft. Benning for PTSD, but however the referral stated my being as disrespectful and having a conflict with my peers and supervisors. That is a lie and untrue. I've always respected officers, civilian and military. Certain NCO's don't wish for me being in the unit and feel that I'm a retard due to my Iraq experience.

My PTSD is due to some very harsh family issues, but also has a great impact on my combat experience such at 1 NBC [nuclear biological chemical], several mortar incidents, IED's [improvised explosive device], ambush of our convoys, and RPGs.

During my return, I've received no awards and or medical treatments, just question – Other than the history of present illness statement, everything else is in due order."

f. The case, along with the appeal, was forwarded to a physical evaluation board (PEB) for adjudication.

g. In an 11 October 2006 memorandum from the United States Army Physical Disability Agency (USAPDA) to the MEB, they state the PEB was discontinued because there was a question as to its necessity:

“Physical Evaluation Board proceedings pertaining to the above-named Soldier are discontinued for the following reasons: According to the NARSUM [MEB Narrative Summary], the Soldier is working in his unit, not taking any medication nor receiving any other treatment. It appears the Soldier either meets retention standards or should at least be treated before submitting an MEB or, perhaps, this continues to be an adjustment disorder.”

h. MAJ [REDACTED] the Chief of the Department of Behavioral Health at Martin Army Community Hospital, replied via a 12 October 2006 email:

“This is a Reserve Soldier whose unit was trying to get him separated from the military. He has declined care and has been a significant disruption to his unit. It would probably be beneficial for the PEB to talk with his current Commander. This is not someone who is an asset to the military according to the reports that I received.

We cannot force someone to get treatment if they decline. Noncompliance with care does not mean that someone Meets Retention Requirements in my opinion.”

i. On 25 October 2006, the applicant’s informal physical evaluation board (PEB) found his PTSD to be unfitting for continued service:

“Posttraumatic stress disorder from multiple stressors and emotional issues due to family difficulties. Seen in-theatre for the family issues and return to conus resulted. Has not had treatment nor medication. Has been disruptive to his units; however, social/industrial impairment is felt to be mild secondary to the PTSD.”

j. Using the VA Schedule for Rating Disabilities (VASRD), they derived and applied a 10% disability rating PEB and recommended the applicant be separated with disability severance pay. On 31 October 2006, after being counseled on the PEB’s findings and recommendation by this PEB liaison officer, the applicant concurred with the Board and waived his right to a formal hearing.

k. JLV shows his VA service-connected disability ratings for PTSD was increased to 100% effective 30 January 2008. The awarding of a higher VA rating does not establish prior error or injustice. A disability rating is intended to compensate an individual for interruption of a military career after it has been determined that the individual suffers

from an impairment that disqualifies him or her from further military service. The rating derived from the VA Schedule for Rating Disabilities reflects the disability at the point in time the VA exams were completed. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service. This role and authority were granted by Congress to the Department of Veterans Affairs and are executed under a different set of laws.

I. It is the opinion of the ARBA Medical Advisor there is insufficient evidence to warrant a change in the applicant's military disability rating.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, the Board made the following findings and recommendations related to the requested relief:

- Change the last duty assignment on DD 214: DENY, based upon a lack of evidence showing he reflected unit was entered in error
- Add awards to the DD 214: PARTIAL GRANT, based upon the lack of evidence of any of the requested awards, the Board concluded all but the Army Good Conduct Medal was denied. Based upon the applicant completing over 11 years of military service without any misconduct recorded, the Board did conclude that adding an additional Army Good Conduct Medal was appropriate.
- Change narrative reason for separation: DENY, based upon the findings and recommendation in the medical review, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's narrative reason for separation.

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 Army records of the individual concerned be corrected by amending the applicant's DD Form 214 by awarding and adding the Army Good Conduct Medal.

2. 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 all other requested relief.

3/31/2025

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 38 USC, 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.

3. Title 38 USC, 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.

4. Army Regulation 635-40 (Personnel Separations Disability Evaluation for Retention, Retirement, or Separation), in effect at the time, 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. Once a determination of physical unfitness is made, all disabilities are rated using the Department of Veterans Affairs Schedule for Rating Disabilities (VASRD).

a. Chapter 3-2 states 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. Chapter 3-4 states 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. The percentage assigned to a medical defect or condition is the disability rating. The fact that a Soldier has a condition listed in the VASRD does not equate to a finding of physical unfitness. An unfitting, or ratable condition, is one, which renders the Soldier unable to perform the duties of their office, grade, rank, or rating in such a way as to reasonably fulfill the purpose of their employment on active duty. There is no legal requirement in arriving at the rated degree of incapacity to rate a physical condition which is not in itself considered disqualifying for military service when a Soldier is found unfit because of another condition that is disqualifying. 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.

5. Title 10, USC, 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.

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with AR 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in an MEB; when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by a Military Occupational Specialty 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.

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.

6. Title 38, USC, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by that agency. The VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

7. Army Regulation (AR) 635-5 (Separation Documents), in effect at the time, provided detailed instructions for completing separation documents, including the DD Form 214. It provided detailed instructions for completing separation documents, including the DD Form 214.

- item 8 (Last Duty Assignment and Major Command) enter Army station or installation and State
- item 9 (Command to Which Transferred) enter the proper data
- item 12f (Foreign Service) enter the total amount of foreign service completed during the period by the DD Form 214
- item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) enter all awards and decorations
- item 18 (Remarks), for an active-duty Soldier deployed with his or her unit during their continuous period of active service, enter the statement "Service in (Name of County Deployed), From (inclusive dates YYYYMMDD - YYYYMMDD)
- item 28 (Narrative Reason for Separation) is based on regulatory or other authority and can be checked against the cross reference in Army Regulation 635-5-1

8. AR 600-8-22 (Military Awards) provides Department of the Army policy, criteria, and administrative instructions concerning individual military decorations, Army Good Conduct Medals, service medals and ribbons, combat and special skill badges and tabs, unit decorations, trophies, and similar devices awarded in recognition of accomplishments. Army Regulation 600-8-22 (Military Awards) states:

a. The Southwest Asia Service Medal is awarded to members of the Armed Forces of the United States serving in Southwest Asia and contiguous waters or airspace there over, on or after 2 August 1990 to 30 November 1995. A bronze service star is

authorized for wear with this medal for participation in each credited campaign. Approved designated campaigns are:

- Defense of Saudi Arabia (2 August 1990 to 16 January 1991)
- Liberation and Defense of Kuwait (17 January to 11 April 1991)
- Cease-Fire Campaign (12 April 1991 to 30 November 1995)

b. Global War on Terrorism Expeditionary Medal. The Global War on Terrorism Expeditionary Medal (GWOTEM) was established by Executive Order 13289, 12 March 2003. It is authorized for award to members of the Armed Forces of the United States who deployed abroad for service in the Global War on Terrorism Operations on or after 11 September 2001 to a date to be determined.

c. Initial award of the GWOTEM. Limited to service members deployed abroad in Operations ENDURING FREEDOM and IRAQI FREEDOM in the following designated specific geographic areas of eligibility: Afghanistan, Algeria, Bahrain, Bosnia-Herzegovina, Bulgaria (Bourgas), Chad, Crete, Cyprus, Diego Garcia, Djibouti, Egypt, Eritrea, Ethiopia, Georgia, Hungary, Iran, Iraq, Israel, Jordan, Kazakhstan, Kenya, Kosovo (only specific GWOT operations not associated with operations qualifying for the Kosovo Campaign Medal), Kuwait, Kyrgystan, Lebanon, Mali, Mauritania, Niger, Oman, Pakistan, Philippines, Qatar, Romania (Constanta), Saudi Arabia, Somalia, Syria, Tajikistan, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Yemen, that portion of the Arabian Sea north of 10 degrees north latitude and west of 68 degrees longitude, Bab El Mandeb, Gulf of Aden, Gulf of Aqaba, Gulf of Oman, Gulf of Suez, that portion of the Mediterranean Sea east of 28 degrees east longitude and boarding and searching vessel operations, Persian Gulf, Red Sea, Strait of Hormuz, and Suez Canal.

d. Numerals will be used to denote second and subsequent awards.

e. The Army Achievement Medal may be awarded to any member of the Armed Forces of the United States, or to any member of the armed forces of a friendly foreign nation, who distinguished himself or herself by meritorious service or achievement of a lesser degree than required for award of the ARCOM.

f. The Army Good Conduct Medal is awarded to individuals who distinguish themselves by their conduct, efficiency, and fidelity. This period is 3 years except in those cases when the period for the first award ends with the termination of a period of active Federal military service of more than 1 year but less than 3 years. The regulation in effect at the time required that the Soldier have all "excellent" conduct and efficiency ratings and that the Soldier have no record of conviction by court-martial.

g. The National Defense Service Medal is awarded for honorable active service for any period between (dates inclusive):

- 27 June 1950 and 27 July 1954 (Korea)
- 1 January 1961 and 14 August 1974 (Vietnam)
- 2 August 1990 and 30 November 1995 (Persian Gulf)
- 11 September 2001 to a date to be determined (Global War on Terrorism)

h. The Humanitarian Service Medal (HSM) was established by EO 11965, 19 January 1977. It is awarded to Servicemembers of the Armed Forces of the United States who, after 1 April 1975, distinguished themselves by meritorious direct participation in a DOD or DA approved significant military act or operation of a humanitarian nature. After 1 April 1975, but on or before January 6, 2016, the recipient must have been physically present at the designated location, having directly contributed to and influenced the action. The designated location is the immediate site(s) of the humanitarian operations as defined by the Department of State's request for assistance.

i. The Overseas Service Ribbon was established by the Secretary of the Army on 10 April 1981. Effective 1 August 1981, all members of the Active Army, Army National Guard, and Army Reserve in an active Reserve status are eligible for the award for successful completion of overseas tours. The award may be awarded retroactively to those personnel who were credited with a normal overseas tour completion before 1 August 1981 provided, they had an Active Army status on or after 1 August 1981.

//NOTHING FOLLOWS//