

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 June 2024

DOCKET NUMBER: AR20230010421

APPLICANT REQUESTS:

- placement on the Temporary Disability Retired List (TDRL) or on the Permanent Disability Retired List (PDRL)
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- List of Attachments
- A - DD Form 214 (Certificate of Release or Discharge from Active Duty)
- B - 2012 Army Medical Evaluation Board (MEB) Decision
- C - 2014 Army TDRL Reassessment Decision
- D - 2014 TDRL Reassessment Prognosis
- E - Letter from Dr. S- W-
- F - Letter from Major (MAJ) R- M-
- G - Letter from MAJ (Retired (R)) A- B-
- H - Department of Veterans Affairs (VA) Records from 2013 through 2017 (not included as an attachment)
- I - VHA Directive 2012-002
- J - Additional VA records from 2018
- K - Email Correspondence
- L - 2018 VA Bipolar Disorder Claim
- M - 2018 100 percent VA Rating
- N - Work Performance Review 2018
- O - Army Review Boards Agency (ARBA) Confirmation
- P - Officer Evaluation Reports
- TDRL Decision Appeal with attachments

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:

a. He was medically discharged from the Army and placed on the TDRL in 2012 due to a diagnosis of bipolar disorder. He was removed from the TDRL and fully discharged from the Army following a reassessment in 2014. In light of the evidence included with his application, he is requesting that the Army consider returning him to the TDRL or placing him on the PDRL.

b. He recklessly downplayed and ignored increasingly severe symptoms of his bipolar disorder for a period of several years following his discharge from the Army due to fear of stigmatization and negative career impacts. Such denial is extremely common to sufferers of bipolar disorder, and mental health conditions in general. He believes that the Army's 2014 decision to remove him from the TDRL was flawed due to its reliance on information he provided, during those years of denial. The denial of his condition has since inflicted severely negative impacts on his life over many years, irreparably damaging his relationships and ability to maintain employment.

3. The applicant provides the following documents:

a. Memorandum removal from TDRL, 29 October 2014, states the Physical Evaluation Board (PEB) had reviewed the report of his recent periodic medical examination and other available medical records. The PEB recommended his name be removed from the TDRL. He would not be separated or retired because of physical disability without a formal hearing, if he requested it. If he requested a formal hearing, the Army would provide him with an Army attorney to counsel and represent him.

b. Document Clinical Findings, states in pertinent part, he reports no functional deficits. He has occasional disturbances of mood. He reports feeling, at times, depressed and anxious. He reports more difficulty adapting to stressful situations than before he became ill. Overall he is much improved. He continues to need ongoing psychotherapy support to maintain his current level of functioning.

c. Letter, from Dr. S- W-, 5 July 2023, states:

(1) The applicant is the Dr.'s patient at the Washington D.C. VA Medical Center and is being seen as an outpatient on a regular basis. The Dr. was addressing symptoms of bipolar disorder, most recent episode depressed, 70 percent service connected. The Dr. has been his psychiatrist since January 2019.

(2) The Dr. was writing the letter in support of his request that the Army reconsider its October 2014 decision to reduce his disability rating to 0 percent given the reemergence and worsening of his symptoms since that time. The Army based its decision on information he provided, at a time when he rejected his bipolar diagnosis and refused treatment for it as a result. In contrast with the Army's determination that his condition was stable for a rating at 0 percent in 2014, the VA increased his disability rating to 100 percent in April 2019 following the reemergence of symptoms that severely disrupted his life and has rated his disability at 70 percent since May 2021 following a stabilization of his symptoms, at the time.

(3) Between August 2013 and March 2018, he consistently maintained that his bipolar diagnosis was erroneous and rejected attempts at treatment as a result. He reported that his refusal to accept the accuracy of his bipolar diagnosis resulted from a combination of denial, fear of stigmatization, and concerns over impacts on employment status; reactions which are common among people who suffer from this frequently debilitating psychiatric condition. In addition to lack of insight about the illness, if a patient is not compliant with treatment or undermedicated, then a depressive or a manic episode can also impact his/her judgement which can lead to refusal to accept treatment. Due to bipolar disorder, the applicant has not been able to maintain steady employment since losing his job in 2018. The long period of remission he experienced between episodes is also common among people who suffer from this potentially debilitating condition.

(4) After the Army's decision to reduce his rating to 0 percent in 2014, he later had experiences and worsening of symptoms he experienced in 2018, which forced him to accept the accuracy of his diagnosis. He resumed treatment and medication as a result and also joined a bipolar support group.

(5) Since 2019, he has been compliant with his medication and follow ups with the Dr. He is compliant with his bipolar medication Lamotrigine, has been stable as an outpatient, and did not require an inpatient psychiatric admission. He, however, does experience periodic relapses of his symptoms triggered by stress related to employment issues. These periodic symptoms are managed by stress reduction and psychotherapy techniques he learned from individual psychotherapy. He is now compliant with his treatment and understands his illness. He is receptive to treatment recommendations and is fully compliant.

(6) He has improved insight into his illness of bipolar disorder. He understands that it is a chronic long term illness and he requires long term treatment for this disorder. He understands that discontinuing treatment can cause a major relapse and inpatient psychiatric admission. He is currently compliant with treatment recommendations and will need long term medication management to maintain psychiatric stability.

(7) Since he needs long term treatment for his bipolar disorder and it is a chronic disorder and can persist for life, the Dr. asks the Board to review his case and reinstate his disability service connection from the Army.

d. Letter from MAJ A- B-, 22 October 2023, states:

(1) The MAJ is providing the memorandum in support of the applicant's disability claim for bipolar disorder. The MAJ fears he may end up homeless or deceased if denied appropriate disability compensation. The impacts of his bipolar disorder to his occupational and social functioning are simply too severe to expect any other outcome. The MAJ is serving on active duty as an Army behavioral health officer in Alaska. The MAJ has over 21 years of service, including previous duty as an enlisted military policeman and judge advocate. He is writing in his personal capacity as a friend of the applicant, not as a treating provider. He met the applicant in 2005, while they were both enrolled at the Georgetown University Army Reserve Officer Training Corps. They have maintained a close friendship, since that time.

(2) From the months prior to the applicant's diagnosis to the present day, the MAJ has directly observed the clear nexus between his bipolar disorder symptoms and his severely impaired occupational and social functioning. Since his medical retirement in 2011, he has vacillated between accepting his diagnosis and being in denial of it. During periods of denial, he has refused mental health treatment, including taking medication, against medical advice. His inconsistent engagement in treatment has exacerbated the most harmful impacts of his bipolar disorder. He has held full-time employment for fewer than half of the 12 years that have passed since he left active duty service. His recurrent severe manic and severe depressive episodes have resulted in negative performance reviews, failure to renew work contracts, and loss of employment. Most recently, he was fired from his position as a Door Dash delivery driver after customers complained about his inappropriate behavior. His erratic moods and behavior have led to a loss of credibility among supervisors and colleagues. His history of severe manic and depressive episodes has led to a propensity to start projects he does not, or cannot, finish. His approach to work has caused his employers to allocate resources towards investments and programs that fail to deliver returns. This classic indicator of bipolar disorder has severely damaged his ability to maintain employment.

(3) His bipolar disorder symptoms have resulted in severe negative impacts to his romantic and social relationships. His erratic and emotional behavior has alienated friends and caused him to become estranged from members of his family. He became engaged to his fiancé, during a manic episode in 2018. Since that time, his relationship has been characterized by tumultuousness and instability. Because of her concerns about his persistent mental instability, his fiancé had indefinitely postponed their wedding date.

(4) The MAJ is aware the applicant requested to return to active duty status subsequent to receiving a medical retirement from the Army. The MAJ believes his unrealistic belief that he was fit for active duty was likely a manifestation of his bipolar disorder symptoms. In particular, criterion A of bipolar disorder describes, "abnormally and persistently increased goal-directed activity or energy." Criterion B describes "inflated self-esteem or grandiosity...flight of ideas...increase in goal-directed activity....excessive involvement in activities that have a high potential for painful consequences." The applicant now recognizes that he was experiencing a manic episode, when he asked to return to active duty. The MAJ agrees that a manic episode best explains the applicant's behavior in this instance. Similarly, in 2018 he experienced a manic episode, during which he attempted to enroll in law school to become a public defender. At the time, he was aware that his history of hospitalization and manic/depressive episodes could jeopardize his ability to graduate law school. Yet, he followed through on the application process to the point of accepting admission into the University of Maryland Law School before promptly withdrawing from enrollment. While his desire to serve others as a public defender was noble, his medical records clearly document that his efforts were accompanied by denial and minimization of the severity of his bipolar symptoms.

(5) The MAJ fears the applicant may end up homeless if his disability status is not reinstated. He currently survives on financial support from his fiancé and a cycle of compounding month-to-month credit card debt. He is continually at risk of being evicted from his apartment. In 2018, he and his fiancé received an eviction notice from their apartment because he failed to pay his share of the rent and she was unable to cover it. This incident severely strained their relationship and was among the consequences of manic episodes he experienced in the summer and fall of 2018. Since that time, he has relied largely on the financial support of his fiancé to remain housed a dynamic which continues to strain their relationship.

(6) Prior to the initiation of his Army medical board, he was hospitalized after he made suicidal statements, while in the midst of a manic episode. Since that time, he has disclosed to the MAJ numerous times in personal conversation that he regularly experiences suicidal thoughts. In 2021, he informed the MAJ he called the VA suicide prevention hotline, while experiencing suicidal thoughts. Subsequent to the call, he received weekly safety checks for a period of several months. It is well established that bipolar disorder is associated with significantly heightened suicide risk. Given his bipolar disorder and recurrent history of suicidal ideation, the MAJ fears he may attempt suicide, at some point in the future.

(7) The MAJ fears the applicant may end up homeless or deceased if denied appropriate disability compensation. The impacts of his bipolar disorder on his occupational and social functioning are simply too severe to expect any other outcome.

For this reason, the MAJ prays the applicant's VA disability claim is thoroughly considered and appropriately dispositioned. Through no fault of his own, the applicant was medically retired, after he experienced his first manic episode and was diagnosed with bipolar disorder, while serving on active duty. The MAJ believes he personified the Army values of duty, selfless service, and honor, during his Army career. He distinguished himself by training Soldiers in the U.S. and leading in combat in Iraq. For his service, he was awarded the Bronze Star Medal and Meritorious Service Medal.

e. Letter from MAJ (R) A- B-, 27 July 2023, states:

(1) The MAJ (R) provided the letter to express her support for the applicant's request that the Army reconsider their October 2014 decision to reduce his disability rating to 0 percent given the reemergence and worsening of his symptoms since that time. As an Army retired Aviation Officer actively involved with servicemember and veteran medical board advocacy/education and mental health awareness, when she learned about his experience, she felt an appeal would be appropriate. She encouraged him to research and pursue it immediately. They met at a writing workshop he facilitated at the DC VA. As they became familiar, he shared with her his deeply alarming, gravely concerning decade-long struggle with bipolar disorder that permanently ended a promising military career, at which he excelled as evidenced by his assignment history and service record.

(2) He shared his experience of stigmatization which lead to years of denial and his refusal to acknowledge this debilitating condition, come to terms with it, and accept necessary treatment. Further, during the time of his TDRL reassessment and PEB interview, he did not report the full scope, severity, or frequency of his symptoms to therapists or administrators. In denial and against medical advice, he was not on medication and therefore suffered real and tangible consequences that dramatically undermined his quality of life, reputation, and ability to maintain employments. As a result, he reluctantly explained that he has been in a state of financial crisis for over five years. He was unaware of the ability to appeal the TDRL decision and possibility to have his retired status restored.

(3) It is the MAJ's understanding that the Army found his condition stable at 0 percent in 2014 and meanwhile, his VA rating has fluctuated between 100 percent and 70 percent in 2019 and as recently as May 2021 respectively. Though much improved, his still inconsistent compliance with recommended treatment, which is itself a well-known complication inherent to his diagnosis and not at all uncommon among those who suffer with bipolar, continues to undermine his quality of life and employment as his experience unpredictably oscillates between classic and sometimes severe manic and depressive episodes with a cascade of symptoms related to each. Unfortunately, as a result of such episodes and despite temporary periods of remission, he lost his job in 2018 and has been unable to reestablish gainful employment or secure long-term job

prospects. This lack of stability exacerbates his already fragile symptomatic state and puts him at high risk for stress-induced crises of all kinds. Having his retirement status returned will offer added financial stability and expand his access to world-class resources only available with the use of a retired identification card and Tricare coverage.

(4) Based on the MAJ's interactions with the applicant, his performance at the DC VA, and what he has shared with her, she is optimistic that his case will be appropriately reconsidered. Based on his willingness to finally acknowledge and be fully transparent regarding the severity of his condition, she trusts the facts of his case will support a favorable long-overdue reconsideration that is in the best interest of this veteran whose honorable service most certainly aggravated what is already a well-known notoriously disruptive and devastating condition. It is her hope this request is met with great leadership capable of giving it the attention it deserves and it is handled with due diligence toward an efficient and appropriate resolution in accordance with laws, policies, and procedures.

f. VAH Directive (Reengaging Veterans with Targets Serious Mental Illnesses in Treatment), 7 February 2018, updates policy on the procedures to follow to reengage in treatment Veterans with a targeted serious mental illness who have been lost to follow-up care. The entire directive is available for the Board's review.

g. VA Medical records, which show he was diagnosed with bipolar disorder. The medical records are available for the Board's review.

h. Email correspondence showing he was requesting transfer from the Retired Individual Ready Reserve to a Troop Program Unit. The entire email chain is available for the Board's consideration.

i. VA Statement in support of claim, 28 November 2015, wherein the applicant explains he had been placed on the TDRL in 2012 and was removed. He did not realize he needed to take a VA physical and his VA rating had been reduced to 0 percent. He was reapplying for his VA benefit. The entire document is available for the Board's review.

j. VA Rating decision, 22 March 2019, shows his combined service-connected rating was 100 percent for bipolar disorder, effective 14 December 2018.

k. Email work performance review, 1 December 2020, wherein the applicant's boss stated he had a tendency to become angry without taking the time to understand issues his boss and team members were trying to make. He had several outbursts and issues with partners they had worked hard to build vital relationships with, which cost them substantial business. He had a tendency to talk over team members and go in

directions unrelated to the topic at hand. The entire email is available for the Board's review.

I. A self-authored appeal to the Army Physical Disability Review Board, which states:

(1) He was writing the letter to request the Army reconsider its decision to remove him from the TDRL in November 2014, following its PEB assessment for his condition of bipolar disorders. He believes the Army's judgement in the case of his 2012 medical separation was unambiguously correct and prescient, and also that the evidence contained in the appeal clearly establish the only basis for it's reversal was highly flawed and inaccurate information he provided, during a period of denial and shame regarding his diagnosis. They document years of denial and refusal of treatment that led to catastrophic challenges maintaining employment and work relationships, the VA's decision to increase his disability rating to 100 percent in 2018 following a manic episode that resulted in the termination of his job, and his eventual 2021 enrollment in the VA suicide prevention program, during a mental health crisis regarding his prospects for future employment that followed the ending of yet another career opportunity, due to disruptions caused by manic symptoms.

(2) The letters of support he received each present a concise summary of his rationale and are the best starting point for review of his supporting documents. They include letters from his currently treating psychiatrist at the VA, a friend and mentor who encouraged him to submit the appeal, and another friend and mentor who is currently serving in the Army as a mental health professional; the complete records of both the 2011 PEB that placed him on the TDRL and the 2014 PEB that removed him from it; all relevant medical records from 2011 through present that document the continued presence and worsening of these symptoms since the time of his medical separation; numerous communications from employers documenting them, to include a termination notice; along with a number of other documents he believes are relevant.

(3) Last, he also included an interview with Major General (MG) (R) G- M-, who was diagnosed with bipolar disorder, late in his career. It was sent to him by MAJ M- at the time of its publication. He has included quotes from it throughout his appeal, as he found the MG's descriptions of his experience with the condition were strikingly similar to the applicant's. He deeply admires the MG's courage for sharing his experience and believes that the first twelve years of the applicant's battle with this condition would likely have proceeded differently if he had the examples of leaders like the MG to draw strength from.

(4) His medical records reveal he rejected his bipolar diagnosis, refused treatment, and was interested in continuing therapy only as a means to correct his

"misdiagnosis" on fourteen consecutive occasions between 2013 and 2017, to include his response to outreach from the VA directly in support of VHA Directive 1160.

(5) The October 2014 PEB that recommended he be removed from the TDRL occurred at the height of this period of denial. Thus, its findings were fundamentally inaccurate. Both mental health professionals supporting his appeal find the professional recommendation of the PEB that he was "capable of understanding and participating on his own behalf," "capable of managing his financial affairs," and particularly their conclusion that "without new stressors, he should continue to do well," to be strikingly questionable given that he explicitly stated he was not taking medication or receiving treatment for the condition due to his denial of the diagnosis combined with the fact he was aware he had been previously hospitalized for nine days, during the manic episode that ended his Army career. One of these authors has stated to him their belief that they invalidate the results of the PEB entirely.

(6) His symptoms have not only maintained their severity, they have worsened substantially since the time of his diagnosis. This statement is supported by the professional opinions of his current psychiatrist, Dr. S- W-, and also MAJ R- M- who serves in Alaska.

(7) The most dramatic illustration of the escalation in his symptoms is his enrollment in the VA suicide prevention program in April 2021 for a period of six months. This followed a call he made to the VA suicide prevention hotline in April 2021, which was prompted by a mental health crisis precipitated by the bankruptcy of a company he was asked to confound by a friend, which they both believed was caused in part by manic symptoms he exhibited that concerned and alienated established and potential business partners.

(8) He has included documents from two other examples of employment termination he believes resulted primarily from manic symptoms he demonstrated. These are the termination from a job on Veteran's Day weekend in 2018, which was accompanied by an eviction notice from his apartment due to his inability to maintain his personal finances. Numerous former colleagues related to him that this termination was substantially caused by manic symptoms he demonstrated during a company Veteran's day event he was asked to lead. He has also included another termination notice, which followed a brief professional engagement with a financial services firm that took interest in ideas he presented to them, during a chance meeting but was unable to develop.

(9) The VA upgraded his disability rating for bipolar disorder to 100 percent in December 2018. While it was later downgraded to 70 percent in 2021, that decision was accompanied by a call he placed to the VA suicide hotline, which was also largely motivated by his belief he had again massively understated the severity of his symptoms due to feelings of shame.

(10) "It's wonderful until you go too high, and then you become destructive and a problem - or until you've crashed into depression. Your energy was over-the-top. You were not getting enough sleep. You were doing [physical training] all hours of the day and night...You'd have so many ideas, you couldn't keep track of the ideas. Your speech got very rapid and pressurized, and it seemed weird...You started mistrusting certain people when it made no sense...You started having imaginary delusions about people out to get you." MG G- M-

(11) "For the most part, people said, 'No, we didn't see any indication,' until my bipolar got strong enough that subordinates started saying, 'You know, now that you mention it, I did see stuff. Your energy was over-the-top. You weren't getting enough sleep. You were doing [physical training] all hours of the day and night...You'd have so many ideas, you couldn't keep track of the ideas. Your speech got very rapid and pressurized and it seemed weird.'" MG G- M-

(12) Without exception, every OER he received prior to the initiation of his MEB in 2011 featured the language "unlimited potential," a rater evaluation of "outstanding performance, must promote," and senior rater promotion potential rating of "best qualified." His Army career began with 31 months spent as a medium truck platoon leader. At the Officer Basic Course, with orders then assigning him to Korea, he immediately volunteered to deploy in support of Operation Iraqi Freedom days after the Iraq Surge campaign was announced, at a time when convoys were the most dangerous mission in country. He personally commanded more than 90 separate nightly convoy movements in Iraq on missions that would routinely last a week or more, and was also assigned duties such as planning and managing the offloading of the Central Command ammunition forecast for an entire fiscal quarter in 2008 from a fast sealift ship. He also successfully fought his battalion's nomination for him to serve as a general's aide because he felt his place was with his Soldiers leading convoys.

(13) While he was deployed, he found that the experience of combat was almost like taking a drug, which speaks directly to bipolar disorder symptoms of attraction to risk-taking behaviors. His OERs from that time include language such as "exceptional performance in combat" and "his combat experience is invaluable and must be exploited." He routinely reacted to improvised explosive device (IED) attacks and managed multiple evacuations of Soldiers and tactical communication node drivers on his convoys when their vehicles were destroyed by IEDs. The reason he never received a Combat Action Badge is that his brigade adopted a policy that only Soldiers in vehicles hit by IEDs would qualify for it, and while many of his Soldiers were not spared that terrible fate, the vehicle containing he and his driver was never hit. He volunteered to serve on an Embedded Training Team in Afghanistan prior to redeployment, but that program was disbanded shortly later. Once he learned that, he volunteered to serve on a Provincial Reconstruction, but he learned those slots were only available to first

lieutenants. He then attempted to secure a position on a Military Transition Team (MITT), and at his request his senior rater recommended him for that assignment on his OER for the period ending in May 2010, but that program was also disbanded.

(14) Upon returning from deployment, at the age of 24, based on his reputation his battalion commander pulled him directly from being a platoon leader to being the battalion S3 officer in charge (OIC). This opportunity presented itself because the Headquarters and Headquarters Company was the only deployed company for the majority of his assignment, and no field grade officers were available elsewhere due to a combination of his brigade's deployment schedule and overall shortage of MAJs in the brigade due to MITT team deployments. He immediately transformed the battalion S3 shop into a simulated Tactical Operation Center in a deployed setting, complete with a map of Georgia and South Carolina with named supply routes and fictional insurgent groups. He developed and supervised intensive field training plans for each company to ensure that the unit status report reporting reflected actual combat readiness, which his senior rater described as, "best in the brigade." On the last OER he received, prior to his bipolar diagnosis, his rater characterized his performance by saying, "[the applicant] is a superstar. His performance as the battalion's operations officer is truly amazing considering he was performing in a position normally reserved for a field grade officer." He was awarded the Meritorious Service Medal as his permanent change of station award from his first duty station having served only as a platoon leader and ostensibly rear detachment S3 OIC.

(15) At the Captain's (CPT) Course, he told his branch manager that he wanted to be sent to the first deploying unit, which led to his assignment to the 10th Sustainment Brigade given the large number of units preparing for deployment it contained. He was again assigned to serve as an S3 OIC, this time in a slot designated for a CPT, and within two months of his arrival in the unit, slated for company command ahead of peers who had been awaiting the results of the Brigade Commander's selection for that assignment for several months. At his own request, he was also told to prepare for time as an embedded advisor with the Afghan National Army logistics kandak [sic], prior to assuming command. During the rating period that ended a month following his diagnosis, his senior rater commented, "currently slated for command of the largest company in the brigade, promote him to MAJ the first time considered. [The applicant] is one of the Army's stars and possesses unlimited potential as a future leader."

(16) What his chain of command did not accept, at the time, due to their bafflement was that his psychiatrist's notes only weeks earlier stated, "SM states he has not sought help for any of this before because he didn't want this to have a negative impact on his career" and four days later stated, "he continues to have a lot of questions about his Army career and was told that he definitely will not deploy...this was a difficult session for him as he is slowly realizing that this might mean the end of his career." For

context into how overwhelming that moment in his life was, he will again restate that in the span of exactly 12 days, at the abyss of the worst depression he had ever experienced, he was told that his decision to seek help had cost him the Army career he loved, that just 13 days earlier he still believed could be long and promising if he sought help now that he recognized the warning signs.

(17) "I should not have been in the military. I shouldn't have been leading. I shouldn't have had access to a clearance. I shouldn't have had access to weapons. That would have been a danger and a liability." MAJ G- M-

(18) The applicant's chain of command at Fort Drum, during the period of his diagnosis, did not know he was haunted by the belief that he could have prevented the deaths of five Soldiers in the unit they were scheduled to relieve in Afghanistan in a green-on-blue incident if only he had employed psychic abilities he thought he possessed, at the time - nor did the mental health providers who told him within 12 days of seeking help that his Army career was effectively over given that he only brought it to the attention of his care providers years later. Nor did they know he was attempting to recruit people to drive from France to China with him in the car he drove on post every day to secretly spend time in Iran on an independent mission to improve U.S. Iranian relations, or that the walls of his apartment were lined with dozens of empty scotch bottles he drank from, during sleepless nights writing drafts of various novels he never completed. That is when he began to be haunted by parallels he saw between himself and others he knew who suffered from bipolar disorder, including a first cousin he lived with for several months following his separation from the Army who subsequently claimed his own life by suicide.

(19) He drew strength from his brigade commander's comments on his final OER that he was making a "courageous decision to separate from the Army that he loves due to a medical issue" he recognizes guilt, self-loathing, and fear of stigmatization sunk in for him following his separation from the Army: if simply saying he experienced periodic highs and lows, and engaged in reckless behaviors that were frankly common to recently redeployed Soldier, what would they think if he told them the full story? He simply could not find any example of the other leaders who had been diagnosed with bipolar disorder, and became consumed with guilt that he had kept his symptoms hidden for so long. In addition to feeling almost criminal for not identifying the symptoms his doctors identified in him earlier, he was also plagued with doubts about whether or not the diagnosis was valid in the first place. As his medical records reflect, in later years he often attempted to attribute them to factors such as stress or even tobacco use as a way to hide from the need to confront the seriousness of his diagnosis. His denial and regret over the loss of his Army career became so severe in future years that he, at one point, attempted to reenter the Army through the Inactive Ready Reserves, believing he could somehow demonstrate that his diagnosis was inaccurate.

(20) He is not only deeply regretful of his years of denial, he is ashamed of them. Not only did they have lasting, nearly catastrophic consequences for his own life, but far more difficult for him is the stress, concern, and emotional draining they caused to those who cared for and supported him most. He now finds himself with highly limited career options due to reputational damage and toxic endings to multiple career opportunities, and as a result, he is in a state of severe financial hardship where he is reliant almost entirely on the financial support of others to maintain housing and even the appearance of stability in his life. In light of the circumstances he's explained, he hopes the Army will consider his request to be fair and appropriate as those who have written the letters of support do. He appreciates the Board's consideration of his appeal and hopes they will consider it to be fair and justified.

m. A termination of his employment effective 9 November 2018 wherein he received nine weeks of his salary. The entire document is available for the Board's review.

4. The applicant's service record contains the following documents:

a. DA Form 71 (Oath of Office - Military Personnel) shows he took the oath of office as a Reserve commissioned officer on 19 May 2006.

b. DA Form 199 (PEB Proceedings), 20 December 2011, shows he was found medically unfit for duty due to bipolar disorder. He was given a 50 percent disability rating. He agreed with the findings and waived his right to a formal hearing of his case.

c. DA Form 4187 (Personnel Action), 30 January 2012, shows he requested placement on the TDRL or PDRL effective 10 March 2012.

d. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably transferred to U.S. Army Control Group (Retired) on 10 March 2012. He had completed 5 years, 8 months, and 21 days of active service. He had service in Kuwait from 24 February 2008 through 24 May 2009. He was discharged for disability, temporary (enhanced). He was awarded or authorized the:

- Bronze Star Medal
- Meritorious Service Medal
- Army Commendation Medal (2nd Award)
- National Defense Service Medal
- Global War on Terrorism Expeditionary Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal with Campaign Star
- Army Service Ribbon
- Overseas Service Ribbon
- Parachutist Badge

- German Armed Forces Proficiency Badge Gold

e. DA Form 199 (Informal PEB Proceedings), 29 October 2014, shows the board found the applicant physically unfit with a rating of 0 percent for bipolar disorder and that he be separated with severance pay. His condition was considered stable for rating. Symptoms were not severe enough to interfere with occupational and social functioning or to require continuous medication. He concurred with the findings and waived a formal hearing of his case. He signed the form on 20 November 2014.

f. Order D 339-13, published by U.S. Army Physical Disability Agency, 5 December 2014, removed him from the TDRL with a percentage of 0 percent disability effective 5 December 2014.

5. Based on the applicant being on the TDRL and his diagnosis of bipolar disease, the ARBA Medical Section provided a medical review for the Board's consideration.

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 the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting an increase in his military disability rating and that his disability discharge disposition be changed from separated with disability severance pay to permanent retirement for physical disability. He states:

"I was medically discharged from the Army and placed on Temporary Disability Retirement List (TDRL) status in 2012 due to a diagnosis of bipolar disorder, then removed from TDRL status following and fully discharged following a reassessment in 2014. In light of the evidence detailed in this application, I am requesting that the Army consider returning me to either Temporary Disability retired status or permanently retired status.

Put simply, I recklessly downplayed and ignored increasingly severe symptoms of my bipolar disorder for a period of several years following my discharge from the Army due to fear of stigmatization and negative career impacts. Such denial is extremely common to sufferers of bipolar disorder, and mental health conditions in general.

I believe that the Army's 2014 decision to remove me from TDRL status was flawed due to its reliance on information I provided during these years of denial. This denial of my condition has since inflicted severely negative impacts on my life over many years, irreparably damaging my relationships and ability to maintain employment.”

c. The Record of Proceedings details the applicant’s service and the circumstances of the case. His DD 214 for the period of Service under consideration shows he entered the regular Army on 20 June 2006 and was placed on the Temporary Disability Retirement List (TDRL) on 10 March 2012 under provisions in chapter 4 of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (8 February 2006). His Physical Evaluation Board (PEB) Proceedings (DA Form 199) shows his percentage of disability for his sole unfitting condition of bipolar disorder was 50%.

d. Orders published by the United States Army Physical Disability Agency on 5 December 2014 show he was removed from the TDRL and separated with disability severance pay on 5 December 2014 for a military disability rating of 0%.

e. As part of the reevaluation, the provider requested a medication profile from the applicant. The applicant marked “**I DO NOT** receive prescription medications from any pharmaceutical facility(s).”

f. The applicant underwent his TDRL reevaluation in August 2014. The applicant informed the provider:

“In a stable relationship with a girlfriend of 6 months ... ‘going well.’”

“He is a graduate student at George Washington University studying Public Administration and Urban Planning. He has also been working full time at a Non-Profit Solar Energy Company since Jan 2014. He reports both school and work are going well.”

“No psych hospitalization since 2011 ... in previous Army records. He continues in therapy without functional deficits.”

“He reports no functional deficits. He has occasional disturbances of mood. He reports feeling at times depressed and anxious. He reports more difficulty adapting to stressful situations than before he became ill. Overall, he is much improved. He continues to need ongoing psychotherapy support to maintain his current level of functioning.”

g. The examiner, when asked to mark an election which best summarized the Veteran’s level of occupational and social impairment with regards to all mental health diagnoses, marked “A mental condition has been formally diagnosed, but symptoms are not severe enough either to interfere with occupational and social functioning or to require continuous medication.”

h. Per routine, the applicant was sent the results of his reevaluation for review and comment. On 9 September 2014 the applicant marked his TDRL Election Statement:

“I have read the TDRL evaluation medical report and agree with this CMR (consolidated medical report) report(s).

i. On 29 October 2014, the TDRL PEB determined his bipolar disorder remained unfitting for continued military Service and was now stable for rating purposes. Based upon the examination of record and using the VASRD, they derived and applied a 0% disability rating. Because his final rating was less than 30%, the PEB recommended he be separated with disability severance pay. On 20 November 2014, after being counseled on the PEB’s findings and recommendation, the applicant concurred with the Board’s findings and waived his rights to submit a written appeal and/or demand a formal hearing.

j. Review of his PEB case file in ePEB along with his encounters in AHLTA revealed no substantial inaccuracies or discrepancies.

k. JLV shows his VA service-connected disability rating for bipolar disorder was increased to 100% effective 28 August 2023.

l. The rating derived from the VA Schedule for Rating Disabilities reflects the disability at the point in time the VA exams were completed while the applicant was undergoing his TDRL reevaluation. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions incurred during or permanently aggravated by their military service. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

m. It is the opinion of the ARBA medical advisor that neither an increase in his military disability rating nor a referral of his case back to the DES is warranted.

BOARD DISCUSSION:

1. 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 records, and the medical review, the Board concurred with the advising official finding that the applicant was separated with severance pay for an unfitting condition of bipolar disorder at 0%. The medical advisor found an increase in his military disability rating nor a referral of his case to the disability evaluation system was warranted and the Board concurred.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

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.

[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. 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. Army Regulation (AR) 15-185 (ABCMR) states Board members will review all applications that are properly before them to determine the existence of an error or injustice; direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists on the record. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), in effect at the time, establishes the Army Physical Disability Evaluation System (PDES) according to the provisions of 10 USC 61 and DoDD 1332.18. It 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 or her office, grade, rank, or rating. If a Soldier is found unfit because of physical disability, this regulation provides for disposition of the Soldier according to applicable laws and regulations.

a. The TDRL is used in the nature of a "pending list". It provides a safeguard for the Government, against permanently retiring a Soldier who can later fully recover, or nearly recover, from the disability, causing him or her to be unfit. Conversely, the TDRL safeguards the Soldier from being permanently retired with a condition that may reasonably be expected to develop into a more serious permanent disability. b. Requirements for placement on the TDRL are the same as for permanent retirement. The Soldier must be unfit to perform the duties of his or her office, grade, rank, or rating at the time of evaluation. The disability must be rated at a minimum of 30 percent or the Soldier must have 20 years of service computed under section 1208, title 10, United States Code (10 USC 1208). In addition, the condition must be determined to be temporary or unstable. c. A Soldier who is determined to be physically fit will not be placed on the TDRL regardless of the severity of the physical defects or the fact that they might become unfitting were the soldier to remain on active duty for a period of time.

b. PERSCOM will dispose of the case by publishing orders or issuing proper instructions to subordinate headquarters, or return any disability evaluation case to-

USAPDA for clarification or reconsideration when newly discovered evidence becomes available and is not reflected in the findings and recommendations. Subparagraph b (Final disposition), based upon the final decision of USAPDA or APDAB, PERSCOM will issue retirement orders or other disposition instructions as follows:

- permanent retirement for physical disability
- placement on the TDRL
- separation for physical disability without severance pay
- separation for physical disability with severance pay
- transfer Soldier who has completed 20 qualifying years of service
- separation for physical disability without severance pay when disability was incurred as result of intentional misconduct, willful neglect, or during unauthorized absence
- return Soldier to duty determined physically fit

c. A Soldier on the TDRL must undergo a periodic medical examination and PEB evaluation at least once every 18 months to decide whether a change has occurred in the disability for which the Soldier was temporarily retired.

- Soldiers who have waived retired pay to receive compensation from the VA, continue to be retired Army Soldiers, Soldiers must undergo examinations when ordered
- Soldiers recalled to active duty while still on the TDRL must also undergo a periodic examination when ordered by the Commander, USA HRC
- Soldiers who fail to complete a physical examination when ordered will have their disability retired pay suspended
- Soldiers on the TDRL will notify Commander, HQUSAPDA (AHRC-PDB) of any change in their current mailing address

d. The Army Human Resources Command (AHRC) will notify the Soldier of the forthcoming medical examination. The letter will include the information below:

- name, address, and telephone number of the appointed MTF closest to the Soldier's home
- name and telephone number of the PEBLO who will assist the Soldier during and after the medical examination
- Soldier may telephone the MTF collect to resolve any problems
- MTF will arrange for and schedule the medical examination, every effort will be made to schedule the examination for the Soldier's convenience; however, the medical examination must be carried out within the month prescribed
- at the discretion of USA HRC, an escort may accompany a Soldier who is unable to travel alone to the place of examination, one person may travel with

the Soldier upon request when the record clearly shows that the Soldier is not physically or mentally able to travel without help

e. AHRC will take the actions described below when a periodic examination cannot be carried out. (1) Soldier's failure to report or reply. If a Soldier fails to respond to correspondence concerning the medical examination or fails or refuses to complete a medical examination, USA HRC will make an effort to discover the reason. If such action cannot be justified and the fifth anniversary of placement on the TDRL has not been reached, HRC will notify the Soldier and the Chief, Retired Pay Operations, U.S. Army Finance and Accounting Center (USAFAC), to suspend retired pay. HRC will keep the Soldier's name on the TDRL until the fifth anniversary unless it is removed sooner by other action. (2) Unable to locate Soldier. When reasonable efforts to locate the Soldier are unsuccessful, HRC will take the action prescribed in (1), above. (3) Soldier imprisoned by civil authorities. A report by the responsible MTF commander may indicate that examination of a Soldier is not possible because the Soldier is imprisoned and civil authorities will not permit the examination. If so, HRC will take the action prescribed in (1), above. (4) Removal on fifth anniversary. Soldiers on the TDRL shall not be entitled to permanent retirement or separation with severance pay without a current acceptable medical examination, unless just cause is shown for failure to complete the examination. Six months before the fifth anniversary of placement on the TDRL, HRC will make a final attempt to contact the Soldier or proper civil authorities and arrange a final examination. If this fails and the Soldier does not undergo a physical examination, HRC will administratively remove him or her from the TDRL on the fifth anniversary of placement on the list without entitlement to any of the benefits.

f. AHRC may restore the Soldier's eligibility to receive disability retirement pay if, after failure to report for and complete the required periodic examination, the Soldier later satisfactorily meets the examination requirements. AHRC will notify the Chief, Retired Pay Division, USAFAC, to restore disability retired pay retroactive to the date the Soldier undergoes the examination provided the Soldier is still qualified for retention on the TDRL. The Soldier's eligibility to receive retired pay may be made retroactive, not to exceed 1 year, if the soldier can show just cause for failure to respond to official notice or orders. A Soldier's name may have been removed from the list as provided in paragraph 7-11b (4). If so, the Soldier may take application to the Army Board for Correction of Military Records (ABCMR).

4. Title 38, U.S.C sections 1110 and 1131, permits the VA to award compensation for disabilities that were incurred in or aggravated by active military service. However, an award of a higher VA rating does not establish error or injustice on the part of the Army. The Army rates only conditions determined to be physically unfitting at the time of discharge which disqualify the Soldier from further military service. The VA does not have the authority or responsibility for determining physical fitness for military service. The VA awards disability ratings to veterans for service-connected conditions, including

those conditions detected after discharge, to compensate the individual for loss of civilian employability. These two government agencies operate under different policies. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

5. DTM 11-015, 19 December 2011, provides for the Integrated Disability Evaluation System (IDES). The IDES is the joint Department of Defense (DOD) - VA process by which DOD determines whether wounded, ill, or injured Service members are fit for continued military service and by which DOD and VA determine appropriate benefits for Service members who are separated or retired for a service-connected disability.

a. Appendix 10 to Attachment 4 states within 15 days of receiving proposed disability ratings from the (D-RAS), the PEB would apply the ratings using the diagnostic code(s) provided by the D-RAS to the Service member's unfitting conditions and publish the disposition recommendation.

b. Appendix 11 to Attachment 4 (D-RAS Procedures), in effect at the time, stated:

1) Upon receipt of the case files (request for rating and service treatment record) of unfit Service members from PEB administration, the D-RAS determines whether the VA C&P disability examination report is adequate for disability rating purposes.

2) The D-RAS will rate the service member's referred and claimed service-connected disabilities and provide a proposed rating decision, with rationale, to the PEB within 15 days of notification by the PEB administration staff that a service member is unfit.

3) Once the D-RAS has rated all unfitting conditions, the D-RAS will provide their proposed rating decision to the PEB. The D-RAS will defer rating all other conditions that require additional claim development in accordance with VA business practices and regulations.

4) Within 15 days of receipt from the PEB of a service member's written request for a one-time reconsideration of a proposed disability evaluation assigned for unfitting conditions by VA, the VA decision review officer will consider any new documentation or information from the Service member and provide the PEB updated proposed ratings, if any.

5) This is a one-time "request for reconsideration" of the rating(s) from the D-RAS. Subsequent appeals of ratings to VA must occur when the Service member has separated, attained veteran status, and has been formally notified of the rating decision

6. Title 10, U.S. Code, section 1556 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//