

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 February 2025

DOCKET NUMBER: AR20230010753

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending on 13 April 2009 to show:

- a medical (military) retirement
- back pay from the date of his discharge

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

- DD Form 149 (Application for Correction of Military Record)
- Bronze Star Medal with "V" Device Certificate
- Honorable Discharge Certificate
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Letter from First Sergeant (Retired) RC\_\_
- Kentucky Army National Guard (KYARNG) Memorandum
- Department of Veterans Affairs (VA) letter
- Congressional Correspondence

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 should have been given an active-duty retirement due to illness and injury sustained during active duty while deployed to Afghanistan. He requests this correction so he can receive his military retirement. He also requests back pay from the date of his discharge.

b. He served 22 years and 8 months honorably in the military with too many medals to list including a Combat Action Badge and a Bronze Star Medal with "V" Device. As a result of his service, he has severe lung and immune system issues as well as traumatic

brain injury (TBI) and post-traumatic stress disorder (PTSD), as a direct result of his military career while deployed to Afghanistan doing clearance work. When returning stateside, he was plagued with health issues with many hospitalizations. His home station personal should have prepared a line of duty (LOD) for him.

3. The applicant provides:

a. Bronze Star Medal Certificate with "V" Device, 23 February 2009 shows the applicant was awarded the BSM "V" for gallantry and heroic valorous actions during Operation Enduring Freedom, in Afghanistan on 10 August 2008. [The applicant] contributed to the overwhelming success of route clearance platoon five's mission during a complex ambush attack.

b. A letter from 1SG (Retired) RC\_\_ undated, states that upon return from deployment, he advised the applicant to go the hospital the night of 19 March 2009. While deployed, the applicant had to be put on light duty a few times for what was thought was a breathing problem. It sounded like the applicant was going to die when he coughed. He was put on antibiotics and Tylenol. He was treated at the aid station and misdiagnosed with a cold. They should have sent him to the local hospital, but they did not. They pushed them out the door as fast as they could because they were afraid of returning Soldiers from combat would create major problems. Soldiers were subjected to many harsh things in the environment; trash and burn pits on every forward operating base (FOB) in high elevation where the air was thin, and the smoke laid like a blanked. The entire time breathing in dust on routes when clearing improvised explosive devices (IEDs). "The applicant did his job honorably in combat and we failed him when it was our job to correct or aid him".

c. VA letter (date difficult to read), reflects that the applicant had a service-connected condition that has not changed for Chronic obstructive pulmonary disease (COPD) to include restrictive lung disease, recurrent pneumonia, acute respiratory failure, and lung. He was given a 100 percent disability rating.

d. KYARNG Memorandum: Subject: Army Board for Correction of Military Records Referral for the [Applicant], 6 March 2020 shows the applicant would have been eligible for a Medical Evaluation Board (MEB) if he had received the appropriate line of duty LOD determination. His unit and the medical detachment provider failed to upload his medical documents for his LOD. There is no indication that the applicant's condition was the result of intentional misconduct or willful negligence.

(1) Due to no fault of his own, the Soldier was discharged without proper due process. An ex post facto review of medical records the Soldier brought in after his discharge revealed that without a doubt, he sustained severe life altering injuries that

required follow-up care and hindered both his civilian employment and his military eligibility.

(2) Although it is the opinion of the Director, Military and Family Support, this Soldier was potentially deprived of his due process, all actions taken by the KYARNG G1 were in compliance with laws, rules, and regulatory compliance with the information we were given.

4. A review of the applicant's service records show:

a. He enlisted in the U.S. Army Reserve (USAR) on 9 November 1990.

b. He entered active duty for training on 15 May 1991. His DD Form 214 shows he was released from active duty on 15 August 1991 and transferred to Pikeville, KY with a character of service as "Uncharacterized". He received his military occupational specialty as a 12618 (sic) Combat Engineer. He completed 3 months and 1 day of net active service this period. The applicant's character of service on this document will be administratively corrected to honorable in the "Administrative Notes" section without Board action.

c. The applicant enlisted in the Kentucky Army National Guard (KYARNG) on 22 May 1995.

d. DA Form 2173 (Statement of Medical examination and Duty Status) 22 July 1998 shows the applicant was treated as an outpatient in a civilian hospital for pneumonia while he was on active duty for training.

- item 31 (Formal LOD Investigation Required): "No"
- item 32 (Injury is Considered To Have Been Incurred in the LOD): "blank"

e. On 25 August 1998 the applicant's LOD was approved by the reviewing and approving authority, which was signed by the Adjutant General of the KYARNG.

f. There is no documentation to show that a LOD was initiated or completed in the applicant's record.

g. He entered active duty on 5 July 2004. His DD Form 214 shows he was honorably released from active duty on 5 April 2005 and transferred to KYARNG. He completed 9 months and 1 day of net active service this period.

h. He entered active duty on 2 March 2008. His DD Form 214 shows he was honorably released from active duty on 13 April 2009 and transferred to KYARNG. He completed 1 year, 1 month and 12 days of net active service this period.

i. KYARNG Order 188-820, 6 July 2012 shows the applicant was honorably discharged effective date 6 July 2012. Special Remarks: VA compensation.

j. ARNG Retirement Points History Statement, 10 July 2012 shows the applicant had 17 years creditable service for retired pay.

k. NGB Form 22 (Report of Separation and Record of Service), 6 July 2012 shows the applicant was honorably discharge due to dependency or hardship (includes parenthood and sole parents) affecting the Soldier's immediate family.

l. The applicant's record is void of a separation packet containing the specific facts and circumstances surrounding the applicant's discharge processing. It is also void of a Medical Evaluation Board (MEB) or Physical Evaluation Board (PEB).

## 5. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of a correction of his DD Form 214 for the period ending 13 April 2009, medical/military retirement, and back pay from the date of his discharge. He contends he experienced an undiagnosed mental health condition, including PTSD, that mitigates his misconduct.

b. 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:

- The applicant enlisted into the U.S. Army Reserves on 9 November 1990 and entered active duty for training on 15 August 1991. The applicant enlisted in the Kentucky Army National Guard (KYARNG) on 22 May 1995.
- The applicant had periods of active duty including the following: 5 July 2004 to 5 April 2005; 2 March 2008 to 13 April 2009; 6 July 2012 to 6 July 2012 (for VA compensation). His ARNG Retirement Points statement indicates he had 17 years of creditable service for retired pay.
- NGB Form 22 (Report of Separation and Record of Service), 6 July 2012 shows the applicant was honorably discharge due to dependency or hardship (includes parenthood and sole parents) affecting the Soldier's immediate family.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts he was discharged without due process, and he indicated PTSD, TBI, and "other mental health" as factors that should have been considered along with his physical health conditions. The application included a VA letter with illegible date showing the applicant is 100% service connected for Chronic Obstructive Pulmonary Disease (COPD), 70% for Traumatic Brain Injury (TBI), 50% for PTSD, and ratings for

two other conditions. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which includes medical and mental health records from DoD and VA, was also reviewed and showed DoD documentation of a post-deployment health assessment dated 9 March 2009, which showed no indication of mental health symptoms were reported. However, at a primary care visit at the VA on 24 March 2009, he screened positive for PTSD, depression, and TBI and was referred to mental health, and he completed an initial mental health assessment on 21 April 2009. The applicant reported symptoms of PTSD, including sleep difficulty, nightmares, hypervigilance, irritability, and memory difficulties, and he was diagnosed with PTSD. He discussed deployment-related trauma exposure from his work doing route clearance (i.e. IED blasts, mortar attacks, recovery of dead bodies). He completed a TBI evaluation and endorsed several symptoms of TBI, and he was started on medications to help with mood stabilization and sleep/anxiety and was provided with speech and physical therapies. Documentation on 23 December 2009 noted continued PTSD symptoms despite individual therapy and several medication changes, and the applicant reported a recent hospitalization due to pneumonia. A psychiatry intake was conducted on 4 May 2010, and it was noted that in addition to his continued PTSD symptoms, he had been hospitalized in a medically induced coma due to pneumonia in March 2010. His medication was again changed, and he continued with multiple therapies for PTSD and TBI. In January 2011 he entered a residential treatment program for PTSD, but his treatment was terminated on 3 February 2011 due to his extensive physical health problems and not returning from a pass. Documentation showed he opted to engage in outpatient therapy and was started on a trauma-focused evidence-based PTSD treatment protocol, which he completed in August 2011, but he continued in supportive therapy thereafter. DoD documentation on 13 September 2011 showed that a fitness for duty evaluation was requested by his unit due to his physical and mental health conditions interfering with his ability to engage in his duties, including that he had missed 10 drill weekends because of hospitalizations or health reasons. This evaluation was completed on 7 November 2011, and a neuropsychological evaluation was conducted on 17 November 2011. The technician who administered the testing noted the applicant's visual and cognitive impairment was of such severity that the full battery of tests was not able to be performed, and she recommended a multi-day full assessment. This evaluation was attempted on 20 December 2011 but had to be discontinued because the applicant was unable to remain awake and attentive during the testing. Because of the confluence of his physical and mental health problems, his cognitive functioning was severely impaired in several domains, and a conclusive diagnosis was deferred. This evaluation provided substantial history and examples of how his TBI-related symptoms were interfering with his daily functioning, and it was recommended that he continue in treatment prior to returning for additional testing. At the point at which the applicant was discharged from the military, in July 2012, he was

actively engaged in therapies for TBI, mental health, and the Caregiver Support Program (his mother as identified caregiver).

e. A Compensation and Pension (C&P) examination was conducted on 28 April 2011, and the applicant reported multiple symptoms of PTSD and TBI. His symptom onset was during his deployment to Afghanistan, and he discussed multiple IED explosions and other deployment-related trauma. However, the evaluator required a drug test to rule out influence of any substances on his condition, but the applicant did not complete this; therefore, a diagnosis was not rendered at the time. A second C&P exam was conducted on 24 January 2013, which resulted in diagnoses of PTSD, Depressive Disorder not otherwise specified, and Polysubstance Dependency, which was later determined only to be Opioid Dependence, sustained full remission. Notably, the applicant was taking prescribed medications to treat his physical and mental health conditions.

f. A review of MedChart showed that the applicant was referred to case management by command on 21 October 2011 due to his mental health problems. On 8 March 2012 it is noted that the applicant attended an examination and a temporary profile was issued, and the unit was "working on an LOD" for a fit for duty packet. However, documentation on 21 June 2012 showed that the applicant "opted out of FFD board" and was awaiting discharge. The case was closed on 10 July 2012. A review of HRR showed a temporary profile for PTSD signed on 7 March 2012, and it is noted that the "soldier has numerous medical issues that will need to be addressed via temp or permanent profile" and indication of "impairment, poor concentration, headaches, multiple pain issues, and blurry vision." Multiple medical records related to the applicant's mental health treatment were found (summarized above), but there was no documentation of an LOD or a permanent profile.

g. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support a referral to the Integrated Disability Evaluation System (IDES). In addition to significant physical health problems, the applicant was diagnosed with PTSD in 2009, which required on-going treatment, including a residential treatment program, through his discharge in July 2012. Multiple duty-limiting mental health medications were trialed, and the applicant was hospitalized for pneumonia on more than one occasion. Neuropsychological testing demonstrated significant impairment such that the testing had to be discontinued because of his impaired cognitive functioning and comorbid, complicating physical health conditions. There is indication that the applicant was unable to attend drill weekends as a result of his physical and mental health conditions, and although it was noted by case management that he opted out of the FFD evaluation, he clearly demonstrated impairment in his cognitive functioning. It is more likely than not that the applicant's physical and mental health conditions interfered with sound decision making at the time when he declined the FFD evaluation. Despite the lack of duty-limiting profiles, the

documentation supports that the applicant was more than likely psychiatrically unfit at the time of discharge for a boardable mental health condition, PTSD, as he did have persistent and reoccurring symptoms that interfered with duty performance and required treatment with duty-limiting medications. A memorandum to the ABCMR dated 6 March 2020 discusses the concurrence that the applicant was discharged without due process and that there was a failure within the medical system to ensure documentation of an LOD and deserved referral to an MEB. Therefore, a referral to IDES is supported. Additionally, it is recommended that the applicant's physical health conditions be considered as part of the evaluation.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? NA; request for medical evaluation for retirement.

(2) Did the condition exist or experience occur during military service? NA; request for medical evaluation for retirement.

(3) Does the condition or experience actually excuse or mitigate the discharge? NA; request for medical evaluation for retirement

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 and the findings and recommendations outlined in the medical review, the Board concluded there was sufficient evidence to direct the applicant's military record to the Integrated Disability Evaluation System (IDES) for further evaluation to determine whether a medical discharge/retirement is warranted.

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 that the evidence presented was sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by directing the applicant be entered into the Disability Evaluation System (DES) and a Medical Evaluation Board (MEB) convened to determine whether the applicant's condition(s), to include the significant physical health problems and the diagnosed PTSD met medical retention standards at the time of service separation.

a. In the event that a formal physical evaluation board (PEB) becomes necessary, the individual concerned will be issued invitational travel orders to prepare for and participate in consideration of their case by a formal PEB. All required reviews and approvals will be made subsequent to completion of the formal PEB.

b. Should a determination be made that the applicant should have been separated or retired under the DES, these proceedings will serve as the authority to void their administrative separation and to issue them the appropriate separation retroactive to their original separation date, with entitlement to all back pay and allowances and/or retired pay, less any entitlements already received.

2. Prior to closing the case, the Board noted the administrative note below from the analyst of record and recommended that change also be completed to more accurately reflect the military service of the applicant.

[REDACTED]

[REDACTED] [REDACTED]

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[REDACTED]  
[REDACTED]

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

ADMINISTRATIVE NOTES:

Amend the applicant's DD Form for the period ending on 15 August 1991 to show in item 24 (Character of Service) "Honorable" vice "Uncharacterized" due to receiving his MOS.



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. Section 1556 of Title 10, USC, 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.
  
3. 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.
  
4. 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.
  
5. 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.

6. 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.

7. 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.

8. Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations) prescribes policies and procedures for investigating the circumstances of disease, injury, or death of a Soldier providing standards and considerations used in determining LOD status.

a. A formal LOD investigation is a detailed investigation that normally begins with DA Form 2173 completed by the medical treatment facility and annotated by the unit commander as requiring a formal LOD investigation. The appointing authority, on receipt of the DA Form 2173, appoints an investigating officer who completes the DD Form 261 and appends appropriate statements and other documentation to support the determination, which is submitted to the General Court Martial Convening Authority for approval.

b. Paragraph 1-7a states the worsening of a pre-existing medical condition over and above the natural progression of the condition as a direct result of military duty was considered an aggravated condition. Commanders must initiate and complete LOD investigations, despite a presumption of Not in the Line of Duty, which can only be determined with a formal LOD investigation.

c. Paragraph 2-6 states an injury, disease, or death is presumed to be in LOD unless refuted by substantial evidence contained in the investigation. LOD determinations must be supported by substantial evidence and by a greater weight of evidence than supports any different conclusion. The evidence contained in the investigation must establish a degree of certainty so that a reasonable person is convinced of the truth or falseness of a fact.

9. PTSD can occur after someone goes through a traumatic event like combat, assault, or disaster. The Diagnostic and Statistical Manual of Mental Disorders (DSM) is published by the American Psychiatric Association (APA) and provides standard criteria and common language for the classification of mental disorders. In 1980, the APA added PTSD to the third edition of its DSM nosologic classification scheme. Although controversial when first introduced, the PTSD diagnosis has filled an important gap in psychiatric theory and practice. From a historical perspective, the significant change ushered in by the PTSD concept was the stipulation that the etiological agent was outside the individual (i.e., a traumatic event) rather than an inherent individual weakness (i.e., a traumatic neurosis). The key to understanding the scientific basis and clinical expression of PTSD is the concept of "trauma."

10. PTSD is unique among psychiatric diagnoses because of the great importance placed upon the etiological agent, the traumatic stressor. In fact, one cannot make a PTSD diagnosis unless the patient has actually met the "stressor criterion," which means that he or she has been exposed to an event that is considered traumatic. Clinical experience with the PTSD diagnosis has shown, however, that there are individual differences regarding the capacity to cope with catastrophic stress. Therefore, while most people exposed to traumatic events do not develop PTSD, others go on to develop the full-blown syndrome. Such observations have prompted the recognition that trauma, like pain, is not an external phenomenon that can be completely objectified. Like pain, the traumatic experience is filtered through cognitive and emotional

processes before it can be appraised as an extreme threat. Because of individual differences in this appraisal process, different people appear to have different trauma thresholds, some more protected from and some more vulnerable to developing clinical symptoms after exposure to extremely stressful situations.

11. The fifth edition of the DSM was released in May 2013. This revision includes changes to the diagnostic criteria for PTSD and acute stress disorder. The PTSD diagnostic criteria were revised to take into account things that have been learned from scientific research and clinical experience. The revised diagnostic criteria for PTSD include a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity. The sixth criterion concerns duration of symptoms, the seventh criterion assesses functioning, and the eighth criterion clarifies symptoms as not attributable to a substance or co-occurring medical condition.

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

13. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

14. The Under Secretary of Defense (Personnel and Readiness) issued guidance to Service DRBs and Service BCM/NRs on 25 July 2018 [Wilkie Memorandum], regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

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

16. Army Regulation 635-5 (Personnel Separations-Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for the preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. The general instructions stated all available records would be used as a basis for preparation of the DD Form 214. The information entered thereon reflects the conditions as they existed at the time of separation.

//NOTHING FOLLOWS//