

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 June 2024

DOCKET NUMBER: AR20230010786

APPLICANT REQUESTS: his records to be corrected to show he was medically retired vice being honorably released from active duty due to completion of his required active service.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Screenshot of Department of Veterans Affairs (VA) Disability
- Letter from VA
- VA Records

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states:

a. He is writing to formally request the correction of his military records, specifically regarding his discharge status. He believes his discharge from the military, initially classified as honorable, should be upgraded to a medical retirement due to the significant impact of post-traumatic stress disorder (PTSD) resulting from his service during the Iraq war, as well as the immense stress experienced, while serving in the Army.

b. His military service began on 6 March 2000 and he served honorably until his discharge on 30 April 2006. During his time in service, he was deployed to Iraq where he was exposed to highly stressful and traumatic events that left a lasting impact on his mental and emotional wellbeing. As a result of his experiences in Iraq, he developed severe PTSD, which significantly affected his ability to cope with daily life both during and after his military service.

c. Upon leaving the Army, he faced immense challenges in transitioning to civilian life. He turned to alcohol as a means of coping with the trauma he experienced, during his deployment, and this led to a dependency on alcohol.

d. Additionally, he struggled with weight gain, which further compounded his physical and emotional health issues. It is with a heavy heart that he admits that he was not aware of the available services and support for veterans until a couple of months ago, which prevented him from seeking help earlier. Now, with a clearer understanding of the resources available, he is determined to seek the correction of his military records to better reflect the true impact of his service related issues.

e. Unfortunately, at the time of his discharge, he was not fully aware of the extent of his condition or the resources available to address them. As a result he did not adequately report his struggles with PTSD and stress related issues, during the separation process. This oversight, compounded by the lack of comprehensive evaluation, led to an inaccurate characterization of his discharge as honorable.

f. In the aftermath of his service, he faced immense challenges in transitioning to civilian life. Struggling to cope with the emotional burden of his experiences, he turned to alcohol as a misguided means of seeking relief. Regrettably, this decision further exacerbated his health issues, both physically and emotionally, leading to weight gain and a dependence on alcohol.

g. Having learned about the services and support available to veterans, in recent months, he is now determined to correct the oversight in his military records. He believes his experiences, during service; the subsequent diagnosis of PTSD; and the corroborating medical records will provide clear evidence of the service related nature of his struggles. These factors, he is convinced, warrant a reevaluation of his discharge status.

h. He humbly requests a thorough and impartial review of his case by the appropriate review board. He sincerely hopes that the Board will take into account the supporting documentation he has attached, which underscores the impact of his service related issues, and recognize the need for an appropriate correction in his discharge status. He thanks the Board for their attention to this matter and their commitment to ensuring justice and fairness for veterans.

3. The applicant provides the following documents:

a. A screen shot of his VA disabilities, which shows he received service connected disability for:

- Right knee instability, 0 percent, 15 October 2014
- Surgical scars, left ankle and right knee, 0 percent, 11 June 2013
- Tinnitus, 10 percent, 6 December 2016
- Right knee, status post patellar tendon repair, 10 percent, 11 June 2013
- Left ankle status post Achilles tendon rupture 10 percent, 11 June 2013
- Surgical scars, left ankle and right knee, 30 percent, 5 June 2014
- Tinea pedis, 0 percent, 28 September 2014
- Patellofemoral pain syndrome, left knee, 10 percent, 11 June 2013
- Left knee patellofemoral pain syndrome, 10 percent, 5 December 2016
- Bilateral flatfeet, 10 percent, 11 June 2013
- Irritable bowel syndrome, 30 percent, 19 December 2022
- Pseudo folliculitis barbae, 0 percent, 28 September 2014

b. Letter from the VA, 4 August 2023, shows he has 100 percent combined service connected disability. It does not indicate what he received the disability for.

c. VA records, which do not indicate he suffers from PTSD. The records are available for the Board's review.

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

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows the applicant enlisted in the Regular Army and entered active duty on 7 March 2000.

b. He held military occupational specialty 25B, Information Systems Operator. He served in Iraq from 7 January 2005 through 7 January 2006.

c. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably released from active duty on 30 April 2006, in accordance with Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) due to completion of his required active service. He was transferred to U.S. Army Reserve Control Group (Reinforcement) and had completed 6 years, 1 month, and 24 days of active duty service. He was issued Separation Code MBK and Reentry Code (fully eligible to reenlist).

d. His service record was void of documentation showing he suffered from PTSD.

5. Based on the applicant's documents showing his disabilities and assertion he suffers from PTSD, the ARBA Medical Section provided a medical review for the Board's consideration

6. MEDICAL REVIEW:

a. Background: The applicant is requesting his records to be corrected to show he was medically retired. He contends PTSD is related to his request.

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 in the Regular Army on 7 March 2000.
- His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably transferred to U.S. Army Reserve Control Group (Reinforcement) on 30 April 2006. He had completed 6 years, 1 month, and 24 days of active-duty service. He served in Iraq from 7 January 2005 through 7 January 2006. He was discharged for completion of required active service.

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 states he is formally requesting the correction of his military records, specifically regarding his discharge status. He believes his discharge from the military, initially classified as honorable, should be upgraded to a medical retirement due to the significant impact of post-traumatic stress disorder (PTSD) resulting from his service during the Iraq war, as well as the immense stress experienced, while serving in the Army. His military service began on 6 March 2000, and he served honorably until his discharge on 30 April 2006. During his time in service, he was deployed to Iraq where he was exposed to highly stressful and traumatic events that left a lasting impact on his mental and emotional wellbeing. As a result of his experiences in Iraq, he developed severe PTSD, which significantly affected his ability to cope with daily life both during and after his military service. Unfortunately, at the time of his discharge, he was not fully aware of the extent of his condition or the resources available to address them. As a result he did not adequately report his struggles with PTSD and stress related issues, during the separation process. This oversight, compounded by the lack of comprehensive evaluation, led to an inaccurate characterization of his discharge as honorable.

d. The service record shows the applicant successfully completed his required active service enlistment. The active-duty electronic medical records available for review indicate during his time in service, the applicant did not participate in any behavioral health services, he did not experience persistent or recurrence of symptoms that required hospitalization, nor symptoms that so greatly interfered with his performance to necessitate limitation of his duties in a protected environment. In fact, the applicant provides an Enlisted Record Brief, dated 2 February 2006, that shows his PULHES as "111111" indicating the applicant had no profile while in service. In addition, the applicant's presentation, even post military service, was inconsistent with a diagnosis of PTSD, as evidenced by the C & P evaluation dated 18 July 2007.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 100% service connected, including 70% for PTSD. However, a comprehensive general

C and P Examination, dated 18 July 2007, indicates no behavioral health concerns with the applicant denying symptoms of depression, anxiety, and PTSD.

f. Based on the information available, it is the opinion of this Agency Behavioral Health Advisor that there is insufficient evidence to support a referral to the IDES process at this time. Although the applicant has been service connected for PTSD, VA examinations are based on different standards and parameters; they do not address whether a medical condition met or failed Army retention criteria or if it was a ratable condition during the period of service. Therefore, a VA disability rating would not imply failure to meet Army retention standards at the time of service. A subsequent diagnosis of PTSD through the VA is not indicative of an injustice at the time of service. Furthermore, even an in-service diagnosis of PTSD is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. Based on the documentation available for review, there is no indication that an omission or error occurred that would warrant a referral to the IDES process. In summary, his separation process appears proper, equitable and free of error, and insufficient new evidence has been provided to determine otherwise.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Not applicable.

(2) Did the condition exist or experience occur during military service? Not applicable.

(3) Does the condition or experience actually excuse or mitigate the discharge? Not applicable.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant completed his active duty service and was honorably released from active duty. He was assigned RE-1, fully eligible to reenlist. The Board reviewed and agreed with the medical reviewer's finding that there is insufficient evidence to support a referral to the disability evaluation system process at this time. Although the applicant has been service connected for PTSD, VA examinations are based on different standards and parameters; they do not address whether a medical condition met or failed Army retention criteria or if it was a ratable condition during the period of service. Therefore, a VA disability rating would not imply failure to meet Army retention standards at the time of service. A subsequent diagnosis of PTSD through the VA is not indicative of an injustice at the time of service. Furthermore, even an in-

service diagnosis of PTSD is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. Based on the documentation available for review, there is no indication that an omission or error occurred that would warrant a referral to the integrated disability evaluation system process. Therefore, the Board determined relief is not warranted.

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.

█

█ █

█

█

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 (USC), section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Title 10, 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. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with Department of Defense Directive 1332.18 and Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation).

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

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with AR 40-501, chapter 3, as evidenced in a medical evaluation board (MEB); when they receive a permanent physical profile rating of "3" or "4" in any functional capacity 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 physical evaluation board (PEB). The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise his or 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 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 are either separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a onetime severance payment, while veterans who retire based upon disability receive monthly military retired pay and have access to all other benefits afforded to military retirees.

c. The mere presence of 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 medical

impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

4. Title 10, USC, 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, USC, 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.

5. AR 40-501 (Standards of Medical Fitness), provides policies and procedures on medical fitness standards for induction, enlistment, appointment, and retention. Paragraph 3-33 (anxiety, somatoform, or dissociative disorders) states the causes for referral to an MEB are as follows:

- persistence or recurrence of symptoms sufficient to require extended or recurrent hospitalization; or
- persistence or recurrence of symptoms necessitating limitations of duty or duty in protected environment; or
- persistence or recurrence of symptoms resulting in interference with effective military performance

6. Title 38, USC, 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.

7. 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//