

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 June 2024

DOCKET NUMBER: AR20230010919

APPLICANT REQUESTS: in effect, an increase to his combat-related special compensation (CRSC) for service connected disabilities.

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

- DD Form 149 (Application for Correction of Military Record)
- Permanent Orders 040-033 Award of the Combat Action Badge (CAB)
- DA Form 3947 (Medical Evaluation Board (MEB) Proceedings)
- Officer Record Brief (ORB)
- MEB Department of Veterans Affairs (VA) Diagnosis
- Tricare Primary Care Manager (PCM) Notes
- VA Dental Exam
- VA Dentist Findings
- VA Ratings
- VA Social Worker Note

FACTS:

1. The applicant states his temporomandibular joint disorder (TMJD) was found to be non-combat related by CRSC, when it is due to post-traumatic stress disorder (PTSD) from combat. VA ratings clearly state that TMJD and bruxism are caused by PTSD. His MEB, Physical Evaluation Board (PEB), VA compensation, and pension examinations all noted that his bruxism and TMJD were due to his PTSD, which is noted as combat-related by CRSC and justified by his CAB. Further, his current VA dentist, VA social worker, and Tricare appointed PCM all noted the TMJD and bruxism were due to PTSD. He believes this occurred due to improper review of all of his medical records. A clear understanding that bruxism and TMJD are interrelated and both were noted by the MEB, PEB, and VA ratings to be the result of PTSD due to combat.

2. The applicant provides the following documents:

- a. Permanent Orders 040-033, published by Headquarters, Multi-National Corps-Iraq, 9 February 2007, awarded him the CAB for engaging or being engaged by the enemy on 14 January 2007.

b. VA Dental Exam, 29 July 2021, shows in pertinent part, he was diagnosed with TMJD and bruxism. In 2008 he began to wake up in the morning with tight and sore jaw muscles from grinding his teeth at night. Since then the condition has stayed the same. In 2007, he began experiencing popping and clicking with the right and left TMJ along with pain. Since then the condition has gotten worse and the popping is more frequent along with more pain.

c. MEB VA diagnosis, 10 September 2021, shows TMJ, right; TMJ, left; bruxism claimed as jaw pain from clenching jaw due to PTSD. He stated in 2008 he began to awaken in the morning with tightness and sore jaw muscles from grinding his teeth at night and popping and clicking in the bilateral TMJs.

d. DA Form 3947 (MEB Proceedings), 17 September 2021, shows he had the following conditions that did not meet retention standards:

- Cranial Schwannoma status-post excision
- Peripheral vestibular disorder
- Migraine including migraine variants

e. VA dentist findings, 20 March 2023, shows he has no history of traumatic injury to the face, but states he has had TMJD issues since about 2007. He was informed by a previous doctor it could be stress related. He stated he had brain surgery and was not sure if it could be related. He stated he does notice he clinches his jaw but was not sure about grinding his teeth. He was prescribed a TMJ splint.

f. VA Social worker note, 20 March 2023, he shared the tension resulted in him clenching his jaws and causing pain.

g. Tricare PCM, 27 March 2023, document, states in pertinent part, he had TMJD syndrome with symptoms including pain, clicking, and popping of joint. He and his wife admit to him clenching jaws during sleep and while awake. His TMJD symptoms started in 2007 after he started experiencing PTSD symptoms. The entire document is available for the Board's review.

h. VA rating decision states proposed entitlement to service connection for traumatic brain injury with post concussion syndrome and PTSD for VA benefits.

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

- a. His service record was void of a DA Form 71 (Oath of Office - Military

Personnel), however, his ORB shows he was appointed as a second lieutenant in the Regular Army on 29 May 2004. Section I (Assignments) shows he had deployments to the following locations:

- Saudi Arabia from 17 September 2017 through 6 September 2018
- Iraq from 15 September 2010 to 29 August 2011
- Afghanistan from 14 June 2008 through 24 June 2009
- Iraq from 17 January 2005 through 22 February 2007.

b. DA Form 199 (Informal PEB Proceedings), 3 December 2021, shows the board found him to be physically unfit and recommended a rating of 30 percent (%) and he be permanently retired due to disability. His medical conditions determined to be unfitting were right vestibular nerve schwannoma, status-post excision, with residual peripheral vestibular disorder and migraine including migraine variants. He concurred with the findings and waived a formal hearing in his case. He did not request reconsideration of his VA rating.

c. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably transferred to U.S. Army Reserve Control Group (Retired) on 19 April 2022. He had completed 17 years, 10 months, and 21 days of active duty service. He was discharged for permanent disability.

d. CRSC letter, 20 October 2022, states they had reviewed his claim for CRSC and had approved his claim in accordance with program guidance. The following conditions were verified as combat related:

- TBI with post concussion syndrome and PTSD
- Gastroesophageal reflux disease and hiatal hernia with irritable bowel syndrome
- Tinnitus
- Right ear hearing loss
- Chronic sinusitis
- Total Combat-Related Disability was 80%

They were unable to verify the following as combat-related disability:

- Obstructive sleep apnea and constrictive bronchiolitis
- TMJD
- Vestibular hypofunction status post cranial schwannoma excision
- Rosacea
- Left upper extremity cervical radiculopathy
- Left shoulder strain with labral tear and lytic lesion left humerus status post surgery with IM rod nailing of the left humerus

- Cervical strain
- Right res planus
- Right iliopsoas tendinitis, limitation of flexion
- Left iliopsoas tendinitis, limitation of flexion
- Right wrist chronic sprain
- Lumbosacral spine (back) strain
- Left knee strain
- Right knee strain
- Right ankle lateral collateral ligament sprain
- Chronic allergic conjunctivitis
- Trigeminal neuralgia
- Erectile dysfunction

e. CRSC letter, 2 March 2023, states they had reviewed his reconsideration request for CRSC and had approved his claim in accordance with program guidance. The verified combat-related conditions remained the same as previously awarded with the addition of obstructive sleep apnea and constrictive bronchiolitis. His total combat-related disability was changed to 90%.

f. CRSC letter, 1 August 2023, states after reviewing all documents in support of his claim, they were unable to overturn the previous adjudication(s). The documentation which he submitted still showed no new evidence to link his requested conditions to a combat-related event. This disapproval was considered final. If he chose to appeal he must apply to the Board.

g. CRSC letter, 8 January 2024, states the letter was being sent to notify him they had received his application for reconsideration. Records in their database indicate he received a final CRSC determination letter on 1 August 2023. That decision was a final CRSC process for his reconsideration request. His only recourse was to contact the Board.

4. Based on the applicant's documents showing his disabilities, the ARBA Medical Section provided a medical review for the Board's consideration

#### MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). The applicant seeks to have his Temporomandibular Joint (TMJ) Disorder and Bruxism to be found combat injuries (due to PTSD). In his ABCMR application, the applicant contends that the MEB, PEB and VA ratings endorsed TMJ

Disorder were the result of PTSD due to combat. As per current ARBA policy, this review will focus on answering the following two questions: What are the medical conditions alleged to be combat related? And what was the origin or cause as described in the medical records?

2. The applicant entered service in the Regular Army 26May2004. His MOS was 13A Field Artillery Officer. He had 2 deployments in Iraq (20100915 to 20110829 and 20060117-20070722); and one deployment to Afghanistan 20080614 to 20090624. He is a recipient of the Combat Action Badge for period of service 14Jan2007. The applicant was discharged 19Apr2022.

3. Below is a summary of pertinent dental/medical records and related for the Temporomandibular Joint (TMJ) Disorder and Bruxism conditions which are alleged by the applicant to be combat related because he believes they are due to his PTSD condition. TBI with Post Concussion Syndrome and PTSD has already been verified as CRSC qualified.

- a. 11Jan2005 Friedberg Dental Clinic (HAIMS). TMJ was not mentioned.
- b. 06Dec2007 Dental Clinic Ft Hood (HAIMS). TMJ was not mentioned.
- c. 08Jul2009 Dental Clinic Ft Hood (HAIMS). TMJ was not mentioned.
- d. 06Sep2011 Dental Clinic Ft Hood (HAIMS). TMJ was not mentioned.
- e. 06Jul2012 Jordan Dental Clinic (HAIMS record). TMJ was not mentioned.
- f. 12Jun2013 Jordan Dental Clinic (HAIMS record). TMJ was not mentioned.
- g. 09Jun2014 Jordan Dental Clinic (HAIMS record). TMJ was not mentioned.
- h. 02Jun2015 Maxwell AFB Clinic (HAIMS record). No problems noted.
- i. 08Aug2016 Jordan Dental Clinic (HAIMS record). No TMJ symptoms.
- j. 30Aug2017 Dental Clinic, Ft Carson (HAIMS record). No TMJ symptoms.
- k. 27Mar2019 Larson Dental Clinic (HAIMS record). No TMJ symptoms.
- l. 13Nov2019 Colorado Springs Military Health System Sleep Laboratories. The applicant endorsed that he would grind his teeth at night.
- m. 09Jul2020 Smith Dental Clinic (HAIMS record). No TMJ symptoms mentioned.

n. 16Jun2021 Dental Discharge Summary (Evans ACH). Four bitewing images were completed. No jaw symptoms were documented. The specialist did not find any clinical pathology. The applicant was not diagnosed with TMJ dysfunction.

o. 19Jul2021 Dental Encounter. The specialist documented that the applicant reported no dental concerns. No jaw symptoms were noted during the dental exam or procedures that day. His reported pain level was 0. He was not diagnosed with TMJ dysfunction.

p. 16Jul2021 Initial PTSD DBQ. Stressor: Iraq 2006-2007 – “one engagement which ‘we screwed up and killed some civilians,’ lost one SM on the deployment, multiple wounded, close call to rocket attack, within 10 feet, LOC (loss of consciousness). Afghanistan 2008-2009 – exposed to small arms and IDF fire, lost four SM on the deployment, present when Pvt. \_ was killed; witnessed civilians and combatants killed”. Symptoms described included brief period of alcohol abuse after deployment, worldview changed, sleep impairment, nightmares and intrusive memories, avoidance, hypervigilance, increased irritability, depression etc. DSM-5 Diagnosis: PTSD. DSM-5 Diagnosis: PTSD. TMJ dysfunction nor bruxism were mentioned as symptoms of his PTSD.

q. 29Jul2021 Oral and Dental Conditions DBQ examiner diagnosed TMJ and Bruxism. The examiner recorded that in 2007 the applicant began to experience popping and clicking in the right and left TMJ along with pain. In 2008 he began to wake up in the morning with tight and sore jaw muscles from grinding his teeth at night. The examiner endorsed the most likely etiology was stress, anxiety, and sleep disturbances. The Temporomandibular Disorders DBQ examiner also indicated the etiology of his bruxism was most likely stress, anxiety, and sleep disturbances.

r. During the 02Sep2021 IDES Clinical Psychologist review of the applicant's condition, TMJ dysfunction nor bruxism were mentioned.

s. 17Sep2021 MEB Proceedings (DA Form 3947) indicated that PTSD, Temporomandibular Disorder, Right and Temporomandibular Disorder, Left and Bruxism all met medical retention standards of AR 40-501 chapter 3. An IMR (Impartial Medical Review) was completed for the PTSD condition; however, TMJ Disorder nor Bruxism conditions were mentioned. The MEB NARSUM noted TMJ dysfunction was not diagnosed during the 16Jun2021 and 19Jul2021 dental exams. The MEB NARSUM also summarized the findings of the Oral and Dental Conditions DBQ and Temporomandibular Disorders DBQ noting that the applicant stated in 2008 he began to awaken in the morning with tightness and sore jaw muscles from grinding his teeth at night and popping and clicking in the bilateral TMJs. PTSD as the origin was not discussed.

t. 19Oct2021 VA Rating Decision. The VA service connected TMJ Disorder (claimed as jaw pain from clenching jaw due to PTSD) as directly related to military service and assigned a 40% rating.

u. 03Dec2021 Informal PEB (DA Form 199) found the following conditions unfitting for continued service: Right Vestibular Nerve Schwannoma, Status Post Excision, with Residual Peripheral Disorder; and Migraine Including Migraine Variants. The conditions were not determined to be combat or combat related injuries. The PEB indicated that the applicant was fit for PTSD, Right and Left Temporomandibular Disorder, and Bruxism conditions. Review of records by the undersigned did not find that the PEB rendered an opinion on the combat designation for the PTSD, Right and Left Temporomandibular Disorder, and Bruxism conditions.

v. 20Mar2023 Social Work Note. The applicant shared that tension (resulting from exposure to triggers) resulted in him clenching his jaws and causing pain.

w. 27Mar2023 Family Practice Associates, LLC. The provider noted the TMJ symptoms including pain, clicking, and popping of the joint. They also noted TMJ symptoms started in 2007 after patient started experiencing PTSD symptoms.

## 5. Summary

a. The applicant's first encounter for BH services was in September 2019 in the context of an intake appointment by Case Management services to assess his need for services. The applicant had been diagnosed with right vestibular schwannoma and was status post craniotomy resection of the tumor 20Jun2019. The next encounter was a 26Jun2020 BH Intake Psychosocial History & Assessment when a MEB was under consideration for his tumor condition. TMJ dysfunction nor bruxism symptoms were mentioned.

b. Teeth grinding was first noted in available records in November 2019 as reported during on a sleep study questionnaire. Jaw symptoms consistent with TMJ dysfunction were first noted in the available records in July 2021. He was diagnosed with Temporomandibular Disorder and Bruxism at that time. There were no theater notes available for review. Initial BH notes did not mention TMJ or Bruxism as a result of his PTSD. After discharge from service, jaw clenching attributable to stress/tension was first noted in the March 2023 Social Work Note.

c. The following is a quote from Correlation between Sleep Bruxism, Stress, and Depression—A Polysomnographic Study [J Clin Med](#). 2019 Sep; 8(9): 1344: "The origin of bruxism is multifactorial. There are also scientific reports indicating the comorbidity of bruxism with systemic disorders, such as thyroid diseases, digestive system disorders, sleep disorders, or cardiovascular diseases. Particularly important factors predisposing

to the appearance of sleep bruxism include personality type, genetic predisposition, taking certain medications, and the presence of stressful situations, using caffeine and nicotine (especially with regard to the influence of these substances on the sleep architecture). There are many scientific reports indicating connection between sleep bruxism and stress. There are also scientific reports indicating a connection between the occurrence of bruxism and symptoms of depression". ADDENDUM: The aforementioned notwithstanding, there were no theater notes or contemporaneous medical documentation which provided a nexus between a specific combat event and the applicant's current claimed conditions TMJ Disorder and Bruxism. In addition, it was observed that there were no complaints by the applicant or objective documentation of TMJ pathology until the exams completed during the 29Jul2021 Oral and Dental Conditions DBQ and Temporomandibular Disorders DBQ examinations, approximately 14 years after the claimed start of symptoms in 2007. Bruxism was noted in 2019 during a sleep study approximately 12 years after the claimed start of symptoms in 2007. The applicant's Combat Action Badge received for period of service 14Jan2007 was noted; however, there were no contemporaneous clinical notes found documenting a history of complaints of symptoms or documentation of traumatic injury to the face or jaw structures in the record tied to a specific combat or combat related event. The 20Oct2022 US Army HRC CRSC Decision Letter noted the applicant was deemed CRSC eligible for TBI, PTSD, Tinnitus and Hearing Loss conditions due to his Combat Action Badge award. However, they determined that no medical documentation was found establishing a definitive causal relationship between a combat related event and TMJ Disorder. The ARBA Medical Reviewer concurs.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the medical advisor's review, the Board concurred with the advising official finding the determination from the Program Specialist for Combat Related Special Compensation (CRSC) for the U.S. Army Human Resources Command deemed the applicant eligible for CRSC for traumatic brain injury (TBI), post-traumatic stress disorder (PTSD), and tinnitus/hearing loss conditions; however, determined no medical documentation existed establishing a causal relationship because a combat related event and temporomandibular joint (TMJ) disorder, to which the medical advisor agreed. The Board noted the applicant's contention that the TMJ disorder is due to PTSD from combat; however, determined there was no documentation to support the TMJ disorder was caused by combat and therefore determined there was no basis to increase his CRSC rating.



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.

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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. Department of Defense (DOD) Financial Management Regulation 7000.14-R Volume 7B (Military Pay Policy – Retired Pay) provides in Chapter 63 (Combat Related Special Compensation (CRSC)) that CRSC is special compensation to members of the Uniformed Services who have retired pay reduced because of receiving U.S. Department of Veterans Affairs (VA) disability compensation where a portion of such VA disability compensation is the result of disabilities that are combat-related as determined by the Military Department. The CRSC program became effective 31 May 2003. Payments are made on the first day of the first month following the month in which the compensation accrued, provided the member is receiving VA disability compensation for a disability that has been determined to be combat-related by the Military Department.

a. CRSC is a monthly entitlement. A retiree is entitled to CRSC for each month during which, for the entire month, the member has applied for and elected CRSC under these provisions, meets preliminary CRSC criteria, and meets final CRSC criteria.

b. With regard to the effective date, payments are made on the first day of the first month following the month in which the compensation accrued, provided the member is receiving VA disability compensation for a disability that has been determined to be combat-related by the Military Department. A member may submit an application for CRSC at any time and, if otherwise qualified for CRSC, compensation will be paid for any month after May 2003 for which all conditions of eligibility were met.

c. Disability ratings by the Secretary of the Military Department concerned (or designee), as of the date on which the member retired, may be used to help make determinations of whether the member meets preliminary CRSC criteria. The actual computation of the amount of CRSC payable to an eligible retiree is based solely on VA disability determinations and the amount of VA compensation paid, without regard to any disability that is not combat-related.

d. When the VA makes a retroactive increase in a member's VA disability compensation pertinent to a member's combat-related disabilities under CRSC, DFAS and VA will exchange data to determine the additional retroactive amount that the member is entitled to receive as the result of CRSC. DFAS will compute the additional entitlement and advise VA in order for VA to pay the member the appropriate additional authorized VA disability compensation. Any increase affecting CRSC qualified disabilities in the current month requires that CRSC be re-computed.

e. Section 630502 states, a combat-related disability is a disability with an assigned medical diagnosis code from the VA Schedule Rating of Disabilities (VASRD). The

Military Departments will determine whether a disability is combat-related based on the following criteria:

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

f. The Department will record for each disability determined to be combat-related which of the circumstances provided qualifies the disability as combat-related. A determination of combat-relatedness (see section 6306) will be made with respect to each separate disability with an assigned medical diagnosis code from the VASRD. A retiree may have disabilities that are not combat-related. Such disabilities will not be considered in determining eligibility for CRSC or the amount of CRSC payable. An uncorroborated statement in a record that a disability is combat-related will not, by itself, be considered determinative for purposes of meeting the combat-related standards for CRSC prescribed herein. CRSC determinations must be made on the basis of the program criteria.

g. Section 6306 (Determinations of Combat Relatedness)

(1) Direct Result of Armed Conflict:

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

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

(2) In the Performance of Duty Under Conditions Simulating War. In general, performance of duty under conditions simulating war covers disabilities resulting from military training, such as war games, practice alerts, tactical exercises, airborne operations, leadership reaction courses, grenade and live fire weapon practice, bayonet training, hand-to-hand combat training, repelling, and negotiation of combat confidence and obstacle courses. It does not include physical training activities such as calisthenics, jogging, formation running, or supervised sport activities.

(3) Instrumentality of War:

a. There must be a direct causal relationship between the instrumentality of war and the disability. It is not required that a member's disability be incurred during an actual period of war. The disability must be incurred incident to a hazard or risk of the service.

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

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

d. For example, if a member is on a field exercise, and is engaged in a sporting activity and falls and strikes an armored vehicle, then the injury will not be considered to result from the instrumentality of war (armored vehicle) because it was the sporting activity that was the cause of the injury, not the vehicle. On the other hand, if the individual was engaged in the same sporting activity and the armored vehicle struck the member, then the injury would be considered the result of an instrumentality of war.

2. Army Regulation (AR) 15-185 (Army Board for Correction of Military Records (ABCMR)) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. Title 38, USC, sections 1110 and 1131, permit 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 physically unfit 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.

4. Title 26, USC, section 104, authorizes special rules for combat-related injuries for compensation for injuries or sickness. For purposes of this subsection, the term "combat-related injury" means personal injury or sickness (A) which is incurred (1) as a direct result of armed conflict, (2) while engaged in extra-hazardous service, or (3) under conditions simulating war; or (B) which is caused by an instrumentality of war.
5. Title 10, USC, section 1552 states, the Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice.
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//