

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 September 2024

DOCKET NUMBER: AR20230011037

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show the narrative reason for separation as a diagnosis of "Paranoid Schizophrenia" rather than "Personality Disorder"
- Military Life Insurance
- Workers compensation
- Disability pension

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), Section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states he has been granted a 100 percent (%) service-connected disability rating for paranoid schizophrenia which proves his disorder started during his military service. There was a clear and unmistakable error when he was misdiagnosed with personality disorder by the Army. He was hospitalized for one month without counseling or medication. His health got worse, and he was mentally disoriented when he gave up his military benefits. The applicant notes post-traumatic stress disorder (PTSD) and other mental health as conditions related to his request.
3. The portion of the applicant's request pertaining to life insurance and workman's compensation are outside of the Board's purview and will not be further addressed in this record of proceedings.
4. The applicant enlisted in the Regular Army on 20 July 1982, for a 3-year period. The highest rank he attained was private/E-1. The applicant's service record shows he did

not complete advanced individual training. Nor was he awarded a military occupational specialty.

5. The applicant accepted nonjudicial punishment under the provisions of Article 15 of the Uniform Code of Military Justice, on 28 October 1982, for failure to obey a lawful order by sleeping on fireguard duty, on or about 22 October 1982.

6. The applicant was formally counseled, on or about 12 January 1983, for leaving his area of responsibility prior to inspection, being in the latrine during "off limits" time, being late for formation and in ranks inspection, exiting the building via the fire exit, disrespect, and failure to follow orders.

7. A DA Form 4187 (Personnel Action) shows the applicant was hospitalized at Chambers Pavilion (psychiatric ward), Fort Sam Houston, TX, on 14 January 1983.

8. On 8 February 1983, the applicant's immediate commander notified him of his intent to initiate actions to separate him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 5, based upon his unusual behavior and personality traits. The commander further advised the applicant he could receive an honorable or general discharge certificate.

9. On that same date, the applicant acknowledged receipt of the notification and his understanding of his right to consult with counsel. In an attached statement, the applicant stated, in effect, that he encountered difficulties due to his cultural background, age, and difficulty comprehending the language. He did not always understand the quick orders and spoken commands of his superiors. Nor did he understand the reasons and requirements to perform certain tasks. His slow reaction and lack of understanding made him a source of amusement for younger Soldiers. His interests and cultural standards set him apart.

10. The applicant's immediate commander recommended his separation from service under the provisions of AR 635-200, Chapter 5, by reason of personality disorder. As the specific reasons, the commander noted the applicant was unable to function effectively in a military environment. He failed to obey lawful orders, and his lack of knowledge of the English language made communication with him fragmentary. His "disorder" was time consuming, disruptive, and not conducive to further service.

11. The applicant was returned to duty on 16 February 1983, following a 34-day hospitalization at Chambers Pavilion.

12. On that same date, the applicant consulted with legal counsel. He was advised of the basis for the contemplated separation action, the effects of the separation, the rights available to him, and the effects of waiving his rights.

13. The applicant's intermediate command recommended approval of the separation action and further recommended a waiver of additional counseling and rehabilitative requirements.

14. On 9 March 1983, the separation authority approved the recommended separation action and directed the issuance of a DD Form 256A (Honorable Discharge Certificate).

15. The applicant was discharged on 11 March 1983, under the provisions of AR 635-200, paragraph 5-13, by reason of personality disorder. His DD Form 214 shows his characterization of service was honorable, with separation code JFX (JMB) and reenlistment code RE-3. He completed 7 months and 22 days of active service.

16. Regulatory guidance, in effect at the time, stated a service member may be separated for personality disorder, not amounting to disability, that interfered with assignment to or performance of duty when diagnosed by a medical authority.

17. The Board should consider the applicant's statement in accordance with the published equity, injustice, or clemency determination guidance.

18. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a correction of his DD Form 214 to show the narrative reason for separation as due to Paranoid Schizophrenia rather than Personality Disorder. He also indicated that PTSD and Other Mental Health Issues are related to his request. Furthermore, the applicant requests military life insurance, workers compensation and disability pension. He contends he experienced Paranoid Schizophrenia which resulted in his separation from the military. 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: 1) the applicant enlisted in the Regular Army on 20 July 1982, the highest rank attained was E-1, he did not complete advanced individual training and was not awarded a military occupational specialty, 2) the applicant accepted nonjudicial punishment (NJP) under the provisions of Article 15 for failure to obey a lawful order by sleeping on fireguard duty on 22 October 1982, 3) the applicant was counseled on 12 January 1983 for leaving his area of responsibility prior to inspection, being in the latrine during off limits time, being late for formation and in ranks inspection, exiting the building via the fire exit, disrespect, and failure to follow orders, 4) the applicant was psychiatrically hospitalized at Ft. Houston, TX on 14 January 1983 and was returned to duty on 16 February 1983 after being psychiatrically hospitalized for 34 days, 5) the applicant's Commander notified him of intent to initiate actions to separate him under the provisions of Army Regulation (AR) 635-200, Chapter 5 based on unusual behavior and personality traits. The applicant's response to the Commander's notification cited cultural differences, difficulty understanding spoken orders of his superiors, slow reaction and understanding made

him a source of amusement for younger Soldiers, 6) the applicant was notified that his Commander recommended separation from service by reason of personality disorder, specifying that the applicant was unable to function in the military environment, failed to obey lawful orders, lack of knowledge of English language made communication with him fragmentary, and that his “disorder” was time consuming, disruptive and not conducive to further service, 7) the applicant was discharged on 09 March 1983 under the provisions of AR 635-200, paragraph 5-13, by reason of personality disorder.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant’s military service and available medical records. The VA’s Joint Legacy Viewer (JLV) was examined and records available via the Veterans Benefits Management System were also reviewed. Numerous behavioral health (BH) records were available for review in JLV and are summarized below. No in-service military BH records were available for review. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. Per review of JLV, the applicant is 100% service-connected (SC) through the VA for Paranoid Schizophrenia since 2003. The applicant has received ongoing care through the VA for Schizophrenia since September 16, 2004. It was documented that the applicant was diagnosed with Schizophrenia in 1983 following discharge from the military and reported to his provider that he first experienced auditory hallucinations while in the military in 1982. It was documented that the applicant reported he had been psychiatrically hospitalized while in the military and multiple times since his discharge from the military owing to “hearing voices, pain, suffering, depression and suicidal thoughts.” A psychiatry note dated October 15, 2004 documented that the applicant denied experiencing a history of military trauma though he “felt spiritually and mentally abused because his fellow soldiers were using alcohol and drugs and bad words.” A psychiatry note dated 13 May 2024 indicated the at the applicant depends on his wife for management of medications, dressing, grooming, cooking, appointments and monitoring. The applicant’s reliance on his wife to assist with activities of daily living has been documented through the VA since September 2004. The applicant is prescribed Ziprasidone and Paliperidone for treatment of psychosis and mood, Trazodone for sleep, Clonazepam as needed for anxiety, and Escitalopram for mood through the VA.

d. The applicant’s original compensation and pension (C&P) examination diagnosing him with SC for Paranoid Schizophrenia was unavailable for review. However, subsequent disability benefits questionnaires (DBQ) were available for review dated 08 June 2017, 22 May 2018, as was some supporting documentation that was provided by the applicant for his initial C&P exam. The C&P examination conducted on 08 June 2017 pertained to a separate request for disability though cited his SC of Schizophrenia. The DBQ cited the military service treatment records (STR) that were used as initial evidence to establish SC disability. The exam indicates that the military STR diagnosed the applicant with situational reaction with depressed mood and Adjustment Disorder

with Mixed Emotional Features. Furthermore, the documentation indicates that the referenced military STR specified that the applicant was not experiencing hallucinations, was not diagnosed with a psychotic disorder nor did the records indicate the applicant had any treatment for Schizophrenia or psychotic symptoms in the military. The evaluation documented that the applicant was awarded SC for Schizophrenia through the VA in 2003. A subsequent DBQ conducted on 22 May 2018 confirmed that the applicant met criteria for Paranoid Schizophrenia. Furthermore, the DBQ documented that the applicant was unable to complete tasks of daily living due to confusion, is unable to set or follow-through on goals and cannot take care of his activities of daily living without his wife. Supporting documentation submitted as part of his C&P examination included a memorandum from his civilian treating psychiatrist dated January 18, 2001 which stated that the applicant had been a patient of his for over 10 years and was being treated for Schizophrenia, Paranoid type. Furthermore, there was documentation available of multiple hospitalizations due to Schizophrenia.

e. A self-statement dated 03 February 1983 authored by the applicant's legal counsel on his behalf in response to notification for separation from the military indicated that the applicant believes he had difficulties adjusting to life in the U.S. Army due to his cultural background as he is originally from Romania and joined the Army two years after moving to the United States, age, and difficulty comprehending the language. Furthermore, it states that the applicant said he realized in November 1982 that he could not adapt to the requirements of life in the U.S. Army and requested to be discharged.

f. A letter of notification for separation authored by the applicant's Commander dated 08 February 1983 states that the applicant was psychiatrically hospitalized for observation at the time of the notification. It was further noted that the applicant was placed on a permanent S2 profile and a Physical Profile Board determined that his condition was not correctable. A DA Form 4187 dated 17 February 1983 shows that the applicant was psychiatrically hospitalized for 34 days; however, the military STR was unavailable for review.

g. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to indicate the applicant had a condition or experience in-service that contributed to his separation from the military. The applicant has a well-established diagnosis of Schizophrenia, Paranoid Type and is 100% SC through the VA for this condition. While in-service, the applicant was psychiatrically hospitalized for 34 consecutive days and per VA documentation the military STR indicated the applicant was diagnosed with Adjustment Disorder with Mixed Emotions and Situational Reaction with Depressed Mood. VA documentation indicates the applicant was diagnosed with Schizophrenia within a year of discharge from the military. As depressive symptoms are more common in the prodromal phases

of Schizophrenia, there is a nexus between his reason for discharge and presence of a psychotic disorder.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant is diagnosed and 100% SC with Schizophrenia, Paranoid Type through the VA.

(2) Did the condition exist or experience occur during military service? Yes, the applicant is diagnosed and SC through the VA for Schizophrenia, Paranoid Type. Service connection establishes that the condition existed during military service.

(3) Does the condition experience actually excuse or mitigate the discharge? Yes. The applicant asserts discharge from the military due to Schizophrenia, Paranoid type. He has been diagnosed with Schizophrenia, Paranoid Type and is 100% SC through the VA for this condition. Depressive symptoms are more prominent in the prodromal phases of Schizophrenia and it was indicated through VA records the applicant was diagnosed with Situational Reaction with Depressed Mood and Adjustment Disorder with Mixed Emotions during active service. Behaviors associated with the reason for discharge include the applicant's 'unusual' behavior and personality traits as described by his Commander, inability to function effectively in a military environment, failure to obey lawful orders, and inability to communicate effectively. There is an association between these behaviors and paranoia, disorganization, and auditory hallucinations and as such a nexus between his diagnosis of Schizophrenia and the reason for discharge.

i. The applicant cites his VA Disability rating as evidence of error in discharge and requests records amendment to show he was discharged due to disability. However, 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 does not imply failure to meet Army retention standards at the time of service or that a different diagnosis rendered on active duty is inaccurate. A subsequent diagnosis of Schizophrenia through the VA is not indicative of a misdiagnosis or other injustice at the time of service. However, specific to this applicant, it is the opinion of the BH advisor that his case should be referred to IDES for further disposition and evaluation of his claim of disability. He has a well-established diagnosis of Schizophrenia with associated service connection and there is ample documentation post-service suggesting psychiatric hospitalizations due to Schizophrenia and in addition to an in-service psychiatric hospitalization, albeit with unknown cause. As depressive symptoms are most common in the prodromal stages of Schizophrenia and paranoia and hallucinations may contribute to difficulties with comprehension, communicating effectively, and following orders, these behaviors are consistent with the natural sequelae of Schizophrenia. The applicant's diagnosis of Schizophrenia and evidence of impairment while on active duty as established by a prolonged psychiatric

hospitalization and his Commander's statement that the applicant was given a permanent S2 profile along with multiple psychiatric hospitalizations post-discharge is suggestive of a level of impairment that would not meet psychiatric retention standards.

j. Regarding the applicant's assertion of PTSD, while there is no evidence to support this diagnosis, the applicant's self-assertion of PTSD alone merits consideration by the Board.

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 noted the applicant's contention of post-traumatic stress disorder (PTSD). The Board reviewed the medical advisor's review and concurred that Department of Veterans Affairs rating determinations are based on the roles and authorities granted by Congress to the Department of Veterans Affairs and executed under a different set of laws. Based on a preponderance of the evidence, the Board concluded there was no error in the applicant's separation processing and narrative reason for separation assigned during separation and therefore denied relief.

2. Upon review of the applicant's petition and military records, the Board found insufficient evidence to support the applicant's contention of PTSD and based on this, the Board determined referral of his case to the Disability Evaluation System (DES) 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.

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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. Title 10, 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, Section 1556, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the 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 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 at less than 30 percent (%).

4. Title 38, USC, Sections 1110 and 1131, permit the Department of Veterans Affairs (VA) to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

a. The Army rates only conditions determined to be physically unfitting at the time of discharge which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career.

b. The VA does not have 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. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. 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. AR 40-66 (Medical Record Administration and Healthcare Documentation) paragraph 3-4(f) (Amendment to Medical Records) states that under Health Insurance

Portability and Accountability Act (HIPPA), individuals have the right to request an amendment or correction to their Private Health Information (PHI). Military Treatment Facilities (MTF) or Dental Treatment Facilities (DTF) will have procedures in place to address this issue. MTF may deny any individual's request for amendment, if they determine the following:

- a. The PHI was not created by the covered entity, unless the individual provides a reasonable basis to believe that the originator of PHI is no longer available to act on the requested amendment.
- b. The PHI is accurate and complete.
- c. If the MTF or DTF denies the requested amendment, in whole or in part, they will provide the individual with a timely, written denial, written in plain language that will explain the basis for denial.

6. AR 40-501 (Standards of Medical Fitness) governs medical fitness standards for enlistment, induction, appointment (including officer procurement programs), retention, and separation (including retirement). Once a determination of physical unfitness is made, the physical evaluation board (PEB) rates all disabilities using the Veterans Affairs Schedule for Rating Disabilities (VASRD).

- a. Chapter 2 provides physical standards for enlistment, appointment, and induction with the purpose to ensure members medically qualified are medically capable of completing required to training, adapt to a military environment without geographical limitations, perform duties without aggravation of existing physical defects or medical conditions.

- b. The standards in Chapter 2 are applicable to individuals who enlist in the Regular Army - for medical conditions or physical defects pre-dating original enlistment, standards are applicable for enlistee's first 6 months of active duty. It states that enlisted Soldiers identified within the first 6 months of active duty with a condition that existed prior to service that does not meet the physical standards may be separated following an evaluation by an Entrance Physical Standards Board, under the provisions of Army Regulation 635-200, Chapter 5; for Reserve Component and ARNG/ARNGUS members, these standards are applicant during the enlistee's first period of active duty for training (ADT).

- c. Chapter 3 (Medical Fitness Standards for Retention and Separation, Including Retirement), paragraph 3-35 (Personality, psychosexual, or factitious disorders; disorders of impulse control not elsewhere classified; control not elsewhere classified; substance use psychoactive disorders) states, these conditions may render an individual administratively unfit rather than unfit because of physical disability.

Interference with performance of effective duty in association with these conditions will be dealt with through appropriate administrative channels.

7. AR 340-21 (The Army Privacy Program) paragraph 2-10 (Amendment of Records) states individuals may request the amendment of their records, in writing, when such records are believed to be inaccurate as a matter of fact rather than judgement, irrelevant, untimely, or incomplete. Consideration of a request for amendment would be appropriate if it can be shown that circumstances leading up to the event recorded on the document were challenged through administrative procedures and found to be inaccurately described.

8. AR 635-40 (Physical Evaluation for Retention, Retirement, or Separation) establishes the Army Disability Evaluation System (DES) 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. It states, in part, only the unfitting conditions or defects and those that contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability. The mere presence of impairment does not, in and of itself, justify a finding of unfitness because of physical disability.

9. AR 635-200, in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 1, paragraph 1-16, provides that commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings for personality disorder. The number and frequency of formal counseling sessions are discretionary.

b. Chapter 5, paragraph 5-13, provides that Soldiers may be separated for personality disorder not amounting to disability that interferes with assignment or with performance of duty, when so disposed as indicated below.

(1) The condition is a deeply ingrained maladaptive pattern of behavior of long duration that interferes with the Soldier's ability to perform duty. (Exceptions: combat exhaustion and other acute situational maladjustments.)

(2) The diagnosis of personality disorder must have been established by a psychiatrist or doctoral level clinical psychologist with necessary and appropriate professional credentials who is privileged to conduct mental health evaluations for the DOD components. It is described in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV).

(3) Separation because of personality disorder is authorized only if the diagnosis concludes that the disorder is so severe that the Soldier's ability to function effectively in the military environment is significantly impaired.

(4) Separation processing may not be initiated under this paragraph until the Soldier has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

(5) When it has been determined that separation under this paragraph is appropriate, the unit commander will take the actions specified in the notification procedure.

(6) The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

10. AR 635-5 (Separation Documents), in effect at the time, prescribed the separation documents that were prepared for individuals upon retirement, discharge, or release from active military service or control of the Army. It established standardized policy for preparing and distributing DD Form 214. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate, reflective of the conditions as they existed at the time of separation.

11. AR 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), narrative reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214. It states that the appropriate narrative reason to assign to Soldiers separated under the provisions of Army Regulation 635-200, Chapter 5, Paragraph 5-13, separation code JFX (JMB) is "personality disorder."

12. 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 Discharge Review Boards (DRBs) and Boards for Correction of Military/Naval Records (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.

13. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and BCM/NRs 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 type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

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, BCM/NRs 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.

//NOTHING FOLLOWS//