

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 February 2025

DOCKET NUMBER: AR20230011344

APPLICANT REQUESTS: removal of the diagnosis of delusional disorder from his military records so he can continue his service in the Regular Army

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

- DD Form 149 (Application for Correction of Military Record)
- Enlisted Record Brief (ERB)
- DA Forms 2166/DA Forms 2166-9-1/DA Forms 2166-9-2 (Noncommissioned Officer Evaluation Report (NCOER))
- Memorandum Official Contention with Enclosures
- Rebuttal to Formal Physical Evaluation Board (PEB)
- Physical Disability Information Report
- Orders 219-0500 Retirement Orders

FACTS:

1. The applicant states:

a. He was diagnosed with delusional disorder by Army behavioral health providers. He was misdiagnosed. He has exhausted all appeals within the medical board process. He is currently facing involuntary separation from the Army with an expected retirement date of 12 October 2023. The solution would be to remove the diagnosis so that he can continue his career.

b. He believes he was misdiagnosed because he has no prior history of mental health issues. During his 14 year career, he has never had any misconduct either. All of his NCOER evaluations show that he is capable of doing his military occupational specialty. He also has letters of recommendation from his coworkers, leaders, and command stating that he is fit for duty.

c. As he progressed in the Army, he was given positions that require a high level of trust and never had any incidents to lead medical providers to believe that his mental health was unfit.

d. Delusional disorder is a diagnosis that can be given to a patient where then the patient is unable to be retained in the Army for this one condition. Because of this, he believes providers need to prove, without reasonable doubt, that a Soldier has this condition before diagnosing. This diagnosis requires little to no proof to diagnose, and in his case, was given after only a couple of months. It is given entirely off of the interpretation of the therapist and a few computer-generated questions.

e. Once this diagnosis is given to a Soldier, that information is added to the Soldier's medical files. He believes since all providers have access to this information, having this one provider signing off on this diagnosis led to the other providers, that did his reevaluations, to agree without due diligence. All of his reevaluations were done by the same hospital, he was not allowed to get a true third-party opinion that was not influenced by previous determinations. He was told the opinions of off-post doctors would not matter because they would not have the ability to make changes to Army profiles. The solution would be to remove this diagnosis, so that he can continue his career.

2. The applicant provides the following documents:

a. DA Forms 2166/2166-9-1/2166-9-2 (NCOER), which show he was rated as:

(1) From 1 January 2014 through 31 December 2014, in the rank of sergeant (SGT), an annual NCOER. He was rated success in competence, physical fitness and military bearing, leadership, training, and responsibility and accountability. His rater rated his overall potential as fully capable. His senior rater rated his overall performance and overall potential as two of five stating promote to staff sergeant (SSG) with peers.

(2) From 1 January 2015 through 1 June 2015, in the rank of SGT, a change of rater NCOER. He was rated excellence in competence and success physical fitness and military bearing, leadership, training, and responsibility and accountability. His rater rated his overall potential as fully capable. His senior rater rated his overall performance and overall potential as two of five stating promote to SSG with peers.

(3) From 2 June 2015 through 2 December 2016, in the rank of SGT, an extended annual NCOER. He was rated met standard in presence, intellect, leads, develops, and achieves. His senior rater rated his overall potential as most qualified stating he is the number one of four SGTS the senior rater rated. Promote ahead of peers.

(4) From 3 December 2016 through 2 December 2017, in the rank of SGT, an annual NCOER. He was rated met standard in presence, intellect, leads, develops, and achieves. His senior rater rated his overall potential as highly qualified stating he is in

the top 15 percent of noncommissioned officers (NCO) the senior rater rated. Promote ahead of peers.

(5) From 3 December 2017 through 10 October 2018, in the rank of SGT, a change of rater NCOER. He was rated met standard in presence, intellect, leads, develops, and achieves. His senior rater rated his overall potential as most qualified stating he is in number one of six NCOs the senior rater rated. Promote to SSG ahead of peers.

(6) From 11 October 2018 through 15 July 2019, in the rank of SSG, a change of rater NCOER. He was rated exceeded standard in presence, intellect, leads, and achieves. He was rated met standard in develops. His senior rater rated his overall potential as highly qualified stating he is the number two of three SSG the senior rater rated. Promote ahead of peers.

(7) From 16 July 2019 through 10 February 2020, in the rank of SSG, a change of rater NCOER. He was rated exceeded standard in presence, intellect, leads, and develops. He was rated far exceeded standard in achieves. His senior rater rated his overall potential as highly qualified stating number one of two SSGs the senior rater rated. Promote immediately.

(8) From 16 July 2019 through 10 February 2020, in the rank of SSG, a change of rater NCOER. He was rated exceeded standard in presence, intellect, leads, and develops. He was rated far exceeded standard in achieves. His senior rater rated his overall potential as highly qualified stating number one of two SSGs the senior rater rated. Promote immediately.

(9) From 11 February 2020 through 27 October 2020, in the rank of SSG, a change of rater NCOER. He was rated exceeded standard in presence and develops. He was rated far exceeded standard in intellect, leads, and achieves. His senior rater rated his overall potential as highly qualified stating number one of six SSGs the senior rater rated. Immediately promote to sergeant first class (SFC) ahead of peers.

(10) From 28 October 2020 through 31 May 2021, in the rank of SSG, a change of rater NCOER. He was rated exceeded standard in presence, intellect, leads, develops, and achieves. His senior rater rated his overall potential as highly qualified stating number 8 of 29 SSGs the senior rater rated. Promote now.

(11) From 1 June 2021 through 31 May 2022, in the rank of SSG, an annual NCOER. He was rated met standard in presence, intellect, leads, and develops. He was rated as exceeded standard in achieves. His senior rater rated his overall potential as qualified stating among the top 25 percent of NCOs the senior rater has served with in 20 years. Promote to SFC with peers.

(12) From 1 June 2022 through 14 June 2014, in the rank of SSG, an extended annual draft NCOER. He was rated exceed standard in presence, leads, develops and achieves. He was rated as met standard in intellect. His senior rater rated his overall potential as highly qualified stating number two of four SSGs the senior rater rated.

b. Memorandum official contention to Formal PEB, 9 February 2023, states in pertinent part, the applicant states he is fit for duty. If he is found not fit for duty, he respectfully requests that his profile be sent back to the Military Treatment Facility for review. The memorandum includes statements in support of the applicant as well as his DA Form 705 (Army Combat Fitness Test Scorecard), DA Form 570 (Record Firing Scorecard), and behavioral health records. The documents are available for the Board's review. The behavioral health records will be reviewed by the Army Review Boards Agency (ARBA) medical section who will provide an advisory.

c. Memorandum rebuttal to Formal PEB Findings, 2 August 2023, states, in pertinent part, U.S. Army Physical Disability Agency (USAPDA) notes the applicant's disagreement with the findings of the Formal PEB and reviewed the entire case wherein, the applicant non-concurred with the Formal PEB findings as documented on the DA Form 199-1 (Formal PEB Proceedings), 26 July 2023. USAPDA conclude his case was properly adjudicated by the Formal PEB, which correctly applied the rules that govern the Physical Disability Evaluation System in making its determination. The findings and recommendations of the Formal PEB are supported by a preponderance of evidence and therefore affirmed. The issues raised in his 31 July 2023 appeal were adequately addressed by the Formal PEB in its board proceedings. The entire memorandum is available for the Board's review.

d. Physical Disability Information Report, 3 August 2023, shows he received a 70 percent disability rating. The date of his separation was 12 October 2023 and he was placed on the retired list on 13 October 2023.

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

a. Pages 2 and 3 of DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 13 January 2009. He remained in the Regular Army through immediate reenlistments.

b. Orders 219-5000, published by Headquarters, United States Army Garrison, Fort Gregg-Adams, 7 August 2023, show he was released from assignment and duty because of physical disability incurred, while entitled to basic pay. He was retired on 12 October 2023 and placed on the retired list on 13 October 2023 with a permanent disability at 70 percent.

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 12 October 2023. He completed 14 years and 9 months of active service. He had service in Afghanistan from 18 February 2011 through 11 February 2012. He was discharged for disability, permanent.

d. Orders 0006772349.00, 8 December 2023, show he mandatorily retired effective 13 October 2023.

e. The applicant's service record is void of a DA Form 199-1 (Formal PEB Proceedings).

#### 4. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting removal of the diagnosis of Delusional Disorder from his military records. 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 13 January 2009; 2) On 7 August 2023, the applicant was released from assignment and duty because of physical disability incurred. He was retired on 12 October 2023 and placed on the retired list on 13 October 2023 with a permanent disability at 70% for Delusional Disorder.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service and medical records. The VA's Joint Legacy Viewer (JLV) and medical and military documents provided by the applicant were also examined.

c. The applicant is requesting removal of the diagnosis of Delusional Disorder from his military records to continue his service in the Regular Army. The applicant began substance abuse treatment in April 2012 when he self-referred himself to ASAP for excessive drinking and verbal aggression towards her spouse. He described a lengthy history of alcohol, cocaine, and marijuana abuse starting in his teenage years. He was diagnosed with alcohol dependence, cocaine abuse, and cannabis dependence in remission. He was recommended for substance abuse treatment, which included regular individual and group therapy and referred to a psychiatrist, who prescribed the applicant psychiatric medication to assist with his reported anxiety. The applicant continued in substance abuse treatment till discharged from the substance abuse program in July 2012. The applicant reengaged in treatment on 15 February 2022. He reported to his 1SG that he was smoking cannabis again, and he recently took a urinalysis. He described not liking his current assignment as a Drill Sergeant and currently experiencing anxiety and insomnia. He was seen again on 22 February 2022, and he reported using "synthetic weed" on two occasions and was "going through

something.” The applicant acknowledged his history of substance abuse/dependence, and he used this illegal substance currently “to get out of the military.” He was also reporting current paranoid and delusional thoughts that began prior to his use of illegal drugs. He was initially diagnosed with Alcohol dependence and Anxiety Disorder, and he was provided treatment for primarily for substance abuse. However, the applicant continued to report paranoid and delusional thinking during his treatment sessions, and he was admitted into a civilian inpatient psychiatric treatment on 23 March 2022 for this psychotic behavior. He was diagnosed with a Brief Psychotic Disorder and Delusional Disorder and discharged from the inpatient program on 30 March 2022. The applicant continued to endorse symptoms consistent with Delusional Disorder and paranoid thoughts for weeks and months after he discontinued using synthetic marijuana and his inpatient hospitalization. His Command requested a Command Directed Evaluation for his fitness for duty on 05 May 2022. He underwent a clinical interview and psychological testing over multiple days. The results of the evaluation concluded the applicant met criteria for Delusional Disorder, and he did not meet retention standards for fitness and suitability for continued service. Consequently, the applicant was referred to an MEB. In September 2022, the applicant was found to not meet medical retention standards as a result of Delusional Disorder. He attempted to appeal the decision and requested a second evaluation completed in May 2023. He again was diagnosed with Delusional Disorder, currently in partial remission. The applicant’ formal PEB proceedings convened on 26 July 2023, and the applicant was found to not meet medical retention standards for Delusional Disorder with a 70% disability rating.

d. A review of JLV provided evidence the applicant underwent a Compensation and Pension Evaluation in October 2023, and he was found 100 disabled with service-connected conditions including Delusional Disorder (70%SC). There is insufficient evidence the applicant is currently engaged in behavioral health care at the VA.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that the applicant was seen multiple times by multiple different behavioral health providers to assess his suitability for continued service. He was provided psychological testing on multiple occasions, and he was formally interviewed by independent providers. It was consistently noted the applicant at the time of his active service met criteria for a mental health condition that did not meet retentions standards. It was noted, after being removed from his primary duties, the applicant did demonstrate some improvement, but due to the severity of his condition, he could not continue in the military. Therefore, there is insufficient evidence at this time to recommend a change to the results of the applicant’s PEB results.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No, the applicant was seen multiple times by multiple different behavioral

health providers to assess his suitability for continued service. He was provided psychological testing on multiple occasions, and he was formally interviewed by independent providers. It was consistently noted the applicant at the time of his active service met criteria for a mental health condition that did not meet retentions standards. It was noted, after being removed from his primary duties, the applicant did demonstrate some improvement, but due to the severity of his condition, he could not continue in the military. Therefore, there is insufficient evidence at this time to recommend a change to the results of the applicant's PEB results.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation and the findings outlined in the medical review, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's military record.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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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CHAIRPERSON

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, 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).
2. 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 an 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.

3. 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.

4. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions 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.

5. 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 (TBI); sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was

unreported, or the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on 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.

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (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.

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//