

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 June 2024

DOCKET NUMBER: AR20230012336

APPLICANT REQUESTS: reconsideration of his previous request to be medically retired.

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

- Reconsideration Statement
- Previous Record of Proceedings, 19 May 2020
- Certificate of Birth,
- DA Form 20 (Enlisted Qualification Record (Previously Considered)
- Statement of Medical Examination and Duty Status (Previously Considered)
- Medical Diagnosis Report, 10 April 1975 (Previously Considered)
- Medical Document, 27 October 1960 (Previously Considered)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20180015299 on 19 May 2020.

2. The applicant states he is appealing the decision denying his request for change of Discharge, due to the ABCMR Director's attitude in his claim that his (the applicant's) documents are illegal documents. He thinks that although the Board gave him the opportunity to express his concerns, he believes this was a waste of his time. His case should have started at the time of the BASIUAR skull fracture, 1/2/1973, the occurs only 4 percent of the time of skull fractures.

a. First, the chapter 5 discharge. He was born with a personality disorder. Even if he was born with this personality disorder, this diagnosis was used for reason for Nazis to kill 6 million J***. They were all born that way, so they said. The reason that they used it is because it is an empty diagnosis; it is incomplete. In searching for the truth, the real truth, he has two books, DSM-IV, and DSM-5-TR. A master books on mental disorder. Looking for personality disorder, he found on the internet, claiming to be genetic, (born with). In these books, official mental health disorders, he could not find them saying that a personality disorder being genetic. In his line of thinking and has these books stated,

that the description personality disorder is describing what the physical connection to the human body. It will be immediately followed with a mental disorder, one which he has been diagnosed with over 24 mental disorders (that is in his medical records) after his skull fracture, 1/2/73. He has found that even if he was born with the fake diagnosis, it can change, in a person that has had trauma such as, wars and head injuries. Because of his attitude, he will send his DSM-IV so that the Board can read the truth.

b. The next point is that if the Board still wants to stand by this garbage, he wants to point out that the military did officially accept him and his twin brother into the Army on 21 October 1968. Punching him for what he was born with, that's what the Nazis were doing. He did join the Army with his twin brother on the buddy plan. They both were sent to Germany, then, he was sent to Vietnam 1970-1972. His twin was sent to Korea 1971-1973. This provide evidence that he has been in that Army before his accident. Also proof of his abilities and conduct in his duties. His 201 file shows that he had an excellent rating for conduct, and efficiency rating until the accident. Until the skull fracture, he had an outstanding rating. It also shows the number of units that he was in.

c. While on active duty, he was in 14 different units. He was an outstanding Soldier in the first 8 units that he was in. In the 9th unit, in Panama CZ (Canal Zone), he became victim of a high rank NCO bully. This is where he had the accident if it was an accident. Was it an accident or intentional? He does not know, but the bucket loader that they had him operating was in bad shape, especially the tires. His feeling was that it came from the CZ garbage dump. So, for the first 5 days, he was getting one or two flats a day. On the 6th day, he got 5 flats, two before noon which were fix during lunch. The last 3 was evening. The next morning, they took him to the airport to see if they could use him as a forklift operator. There the airmen did not want an operator that had no skill loading an aircraft. When he returned to camp, he still had 3 tires to repair. It was the last tire that had the problem. The lock-ring kept slipping off. He went to his motor sergeant and told him three times of the problem and asked for help. His motor sergeant did not answer him. He knew with this bully; he was in trouble. It could have been his intention, something that he had to face. For his own safety, do nothing and get a court-martialed or take a chance and possibility die. He took the chance and lived.

d. In his next unit, he was treated as an outcast, not permitted to do his duties to his rank. His real other problem was none he had when he was 9 years old, a mad doctor told him it was Extrapulmonary Tuberculosis Experiment. But it took him 60 years to learn that he is one of its victims. On 30 October 1960, he was in the hospital for a lung problem. On this day, he was treated for with a drug, called Chloromycetin. This drug if he read it correctly was only 10 years old. That mean that they did not know the side effects yet. That appears to be what the experiment is about. Complications for this drug are not known, but they had already learned that it does create permanent side-effect to you immune systems. This experiment was kept a secret from me. Therefore, the Board should not judge him where as "high class people blaming the lower class people has

been intentionally being effected just to be sick.” It took him over 50 years and the internet to put Chloromycetin and Tuberculosis together and learn about Extrapulmonary Tuberculosis Experiment. Other than being its victim, he had no part in it. At his age, he did not and could not understand what was being done to him at that time. Just to let the Board know like that Nazis using twins. One effected the other is not.

e. As for PTSD, the Board used the knowledge they have today, that was not available or accepted by the military until the year 2014. So, it was easy to deny it then because it was not accepted then. Here it is, that at time, he could not use because it was not accepted. On the other hand, in on page 13 of the previous Record of Proceedings denying his claim, one can use the denial has a pre-claim denial. As for those two doctors that diagnosed him, one the VET Center and the other was a VA doctor and therefore not civilians. They were working directly with military personal “under your control.” He is sending some copies from his record. Board members may see better without going through 9,000 sheets hunting for excuses.

f. As for his claim, personality disorder that he has, he states “I’m dummer then a retard person, that’s why the Nazis were killing the Jews.” By the way because of his attitude, he did check out his name, it is Jewish, though he is not. He is “too stupid to be able to do anything.” Yet his claim. His documents were illegal, yet he was able to not only created them; he was smart enough to get them into the military files correctly. His promotions, he could only get from enlisting. That would mean, he was able to “con Army officers.” The only place he got promotions is when he was able and permitted to do his duties. Finally, as for the Narrative Summery, it Is not true, and he has provided the Board with this official accident report which stated it accrued in the line of duty.

3. Review of the applicant’s service records shows:

a. The applicant enlisted in the Regular Army on 21 October 1968. He held military occupational specialty 62N, Forklift Operator. He served in Germany from March 1969 to April 1970. He was honorably discharged on 2 April 1970 for immediate reenlistment.

b. The applicant reenlisted in the Regular Army on 29 April 1970. He served in Vietnam from February 1970 to January 1971. He was honorably discharged on 29 April 1971 for immediate reenlistment

c. The applicant reenlisted on 30 April 1971. He served in Vietnam from September 1971 to September 1972 and in Panama from January 1972 to April 1973.

d. On 2 January 1973, he was admitted to the hospital in Panama. Medical documents show the admission was due to an automobile tire that exploded in his face. X-rays revealed a fracture of the right petrous bone and bleeding into the right ear. The

applicant was given supportive therapy and antibiotics and then flown to Gorgas Hospital where admitting exam revealed him to be conscious and cooperative but somewhat sleepy. There was blood noted in the right external auditory canal. The rest of physical examination was within normal limits. He was released on 25 January 1973.

e. On 7 September 1973, he was found to be medically qualified for duty with limitations. He was issued a permanent P3 profile for hearing loss, bilateral. His limitation was: "No assignment involving habitual or frequent exposure to loud noises or firing of weapons" and "He should wear acoustical protective devices when exposed to acoustic trauma (high noise levels)."

f. On 12 June 1975, the applicant was honorably released from active duty due to expiration term of service. He was credited with 4 years, 1 month, and 14 days of net active service this period, with 1 day of lost time.

g. On 11 June 1976, the applicant entered active duty in the Regular Army. He was again honorably discharged on 25 March 1977. His DD Form 214 (Report of Separation from Active Duty) for this period does not show the authority or reason for discharge.

h. On 17 July 1977, the applicant enlisted in the Illinois Army National Guard (ILARNG) and on 16 July 1978, he was honorably discharged from the ILARNG. The reason and authority for the discharge is not listed on the separation document.

i. He again served in the ILARNG from 13 May 1980 to 8 September 1980. He was honorably discharged from the ARNG for the purpose of enlisting in another component.

j. On 7 July 1980, the applicant requested a waiver for enlistment. The form shows the applicant was absent without leave from 22 November 1976 to 23 November 1976. The form shows he was previously discharged on 25 March 1977, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations), paragraph, 5-37. Paragraph 5-37 (Expeditionary Discharge Program) provided for the discharge of enlisted personnel who demonstrated they could not or would not meet acceptable standards required of enlisted personnel in the Army because of the existence of one or more of the following conditions: poor attitude, lack of motivation, lack of self-discipline, inability to adapt socially or emotionally, or failure to demonstrate promotion potential. The regulation provided that no individual would be discharged under this provision unless the individual voluntarily consented to the proposed discharge. Individuals discharged under this regulation were issued either an honorable or a general discharge.

k. On 6 November 1980, he enlisted in the Regular Army, and on 22 December 1981, he reenlisted in the Regular Army. He held MOS 82C, Field Artillery Surveyor. He served in Germany from May 1982 to April 1983.

l. On 18 January 1983, the applicant underwent a psychiatric evaluation and was diagnosed with mixed personality disorder. The evaluation report stated the applicant's appearance was slovenly. His eyes were downcast. Psychomotor behavior was mildly slowed. Mood was mildly depressed. Affect was blunted however he displayed occasional appropriate smiles. Speech was coherent and meaningful. There was no evidence of a thought disorder; however, he was overly focused on the issue of running and physical training. He stated if he had to kill himself in order to get out of his unit, he would.

m. The applicant's separation package is available for review; however, on 10 March 1983, an authorized official approved the request for the applicant's separation under the provisions of AR 635-200, paragraph 5-13. He directed the applicant be transferred the individual ready reserve (IRR) and be given an Honorable Discharge Certificate.

n. A Report of Medical History, dated 22 March 1983, shows the applicant indicated he was in good health. The report shows the applicant indicated he was previously discharged from Army due to having trouble with Army life and a suicide attempt.

o. On 7 April 1983, the applicant was honorably discharged from active duty under the provisions of AR 635-200, paragraph 5-13, due to a personality disorder, Separation Code JFX/JMB and Reenlistment Code 3. He completed 2 years, 5 months, and 2 days of net active service this period.

5. On 6 March 1995, the Army Discharge Review Board (ADRB) denied the applicant's request to change the reason for his discharge.

6. On 19 May 2020, the Board denied the applicant's request for a medical discharge.

a. Prior to rendering its decision, the Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's medical records. The medical provider stated with regards to a medical discharge, there is insufficient evidence of impairment due to a medically disqualifying psychiatric condition. Rather, the applicant continued serving with promotions in 1986, 1988, 1989, and 1991. Accordingly, a medical discharge is not recommended. However, although not specifically requested, the Board could change the separation to a Chapter 5-17, Condition, not a Disability.

b. 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, counsel's petition, the military record, a medical advisory opinion, and regulatory guidance were carefully considered. The Board concurred with the advisory official finding there is insufficient documentation to support a medically boardable

psychiatric condition existed at the time of service. The Board further noted the applicant continued serving with promotions in 1986, 1988, 1989, and 1991. The applicant is advised the DD Form 214 shows circumstances as they were on the date prepared. Based upon a preponderance of the evidence, and notwithstanding the recommendation of the advisory official, the Board determined there is insufficient evidence that shows a medical retirement was warranted.

7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting reconsideration of his previous request to be medically retired. He contends he warrants a medical discharge for PTSD, which he experienced during his active service. 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 21 October 1968; 2) He served in Vietnam from September 1971 to September 1972 and in Panama from January 1972 to April 1973; 3) On 12 June 1975, the applicant was honorably released from active duty due to expiration term of service. On 11 June 1976, the applicant entered active duty in the Regular Army. He was again honorably discharged on 25 March 1977; 4) On 17 July 1977, the applicant enlisted in the Illinois Army National Guard (ILARNG) and on 16 July 1978, he was honorably discharged from the ILARNG; 5) On 22 December 1981, he reenlisted again in the Regular Army; 6) On 18 January 1983, the applicant underwent a psychiatric evaluation and was diagnosed with mixed personality disorder; 7) On 7 April 1983, the applicant was honorably discharged from active duty under the provisions of AR 635-200, paragraph 5-13, due to a personality disorder; 8) On 6 March 1995, the Army Discharge Review Board (ADRB) denied the applicant's request to change the reason for his discharge; 9) On 19 May 2020, the Board denied the applicant's request for a medical discharge.

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) was also examined.

c. The applicant asserts he incurred a psychiatric disability (PTSD), while he was on active service, which warrants a referral to IDES and medical discharge. On 18 January 1983, the applicant underwent a psychiatric evaluation and was diagnosed with mixed personality disorder. There is insufficient evidence the applicant was ever diagnosed with PTSD or another mental health condition beyond a personality disorder while on active service. In addition, there was insufficient evidence the applicant required inpatient psychiatric hospitalization or was placed on a duty limiting profile related to PTSD or another mental health condition beyond a personality disorder. In addition, there was evidence the applicant after his deployments was found to meet medical retention standards in order to reenlist, and he repeatedly promoted throughout his career.

d. A review of JLV provided evidence the applicant been diagnosed with Schizotypal Personality Disorder by the VA starting in 1998, and at times, he has been diagnosed with Psychosis or Schizophrenia. The predominance of his treatment has been focused on his Schizotypal personality disorder and the corresponding symptoms. Later in 2004, he was diagnosed with PTSD, and he has been awarded service-connected disability for PTSD at 100%.

e. Based on the available information, it is the opinion of the Agency BH Advisor that the applicant experienced a personality disorder, while on active service. Later, he was diagnosed with PTSD. However, there is insufficient evidence the applicant was ever placed on a psychiatric profile while on active, required inpatient psychiatric treatment, or was found to not meet retention medical standards from a psychiatric perspective for PTSD or another mental health condition beyond a personality disorder. Therefore, at the time of his active service, there is insufficient evidence his case warrants a referral to IDES to assess his suitability for a medical discharge at this time.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No, the applicant experienced a personality disorder, while on active service. Later, he was diagnosed with PTSD. However, there is insufficient evidence the applicant was ever placed on a psychiatric profile while on active, required inpatient psychiatric treatment, or was found to not meet retention medical standards from a psychiatric perspective for PTSD or another mental health condition beyond a personality disorder. Therefore, at the time of his active service, there is insufficient evidence his case warrants a referral to IDES to assess his suitability for a medical discharge at this time.

(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:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and medical review, the Board carefully considered the advising official finding insufficient

evidence the applicant was ever placed on a psychiatric profile while on active, required inpatient psychiatric treatment, or was found to not meet retention medical standards from a psychiatric perspective for PTSD or another mental health condition beyond a personality disorder. The opine noted the applicant after his deployments was found to meet medical retention standards in order to reenlist, and he repeatedly promoted throughout his career.

2. However, the Board determined based on the applicant’s skull fracture and behavioral health issues while on active there is sufficient evidence that warrants an evaluation by IDES. The Board understand his successful career and meeting the medical retention standards. The Board found the trauma to the applicant’s skull potentially could have a lasting effect on the applicant’s behavioral health. Therefore, the Board granted partial relief for referral to IDES.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by directing the applicant be entered into the Disability Evaluation System (DES) and a Medical Evaluation Board concerned to determine whether the applicant's conditions(s), met medical retention standard at the time-of-service separation.

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

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

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to the applicant's request for reconsideration of his previous request to be medically retired.

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

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

REFERENCES:

1. Army Regulation 635-200, in effect at the time provided the basic authority for the separation of enlisted personnel. Paragraph 5-13 provides that a Soldier may be separated for personality disorder, not amounting to disability under Army Regulation

635-40, which interferes with assignment to or performance of duty. The regulation requires that the condition is a deeply ingrained maladaptive pattern of behavior of long duration that interferes with the Soldier's ability to perform duty. Paragraph 5-37, provided for the discharge of enlisted personnel who demonstrated they could not or would not meet acceptable standards required of enlisted personnel in the Army because of the existence of one or more of the following conditions: poor attitude, lack of motivation, lack of self-discipline, inability to adapt socially or emotionally, or failure to demonstrate promotion potential.

2. Title 10, U.S. Code, 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 DOD Directive 1332.18 (Discharge Review Board (DRB) Procedures and Standards) and Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a Medical Evaluation Board (MEB); when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an Military Occupational Specialty (MOS) 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/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 either are 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 one-time 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 a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a

finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

3. Army Regulation 635-40 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. Disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in military service.

b. Soldiers who sustain or aggravate physically unfitting disabilities must meet the following line-of-duty criteria to be eligible to receive retirement and severance pay benefits:

(1) The disability must have been incurred or aggravated while the Soldier was entitled to basic pay or as the proximate cause of performing active duty or inactive duty training.

(2) The disability must not have resulted from the Soldier's intentional misconduct or willful neglect and must not have been incurred during a period of unauthorized absence.

4. Army Regulation 40-501 provides information on medical fitness standards for induction, enlistment, appointment, retention, and related policies and procedures. Soldiers with conditions listed in chapter 3 who do not meet the required medical standards will be evaluated by an MEB and will be referred to a PEB as defined in Army Regulation 635-40 with the following caveats:

5. 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//