

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 June 2024

DOCKET NUMBER: AR20230012613

APPLICANT REQUESTS: the characterization of her service be upgraded from under other than honorable conditions (UOTHC) to honorable.

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

- DD Form 149, Application for the Review of Discharge
- Applicant's statement
- Medical documents
- Investigation documents
- Character references

FACTS:

1. The applicant indicates her request is related to post-traumatic stress disorder (PTSD), other mental health conditions and sexual assault/harassment. She states, in effect, that her discharge was inequitable because it was based on an isolated incident and there were no other adverse actions in her record. She contends that she had completed a Medical Evaluation Board (MEB) before action was initiated to involuntarily separate her. She further states:

a. She enlisted in the military right after graduating from high school. Her brother had suffered from leukemia from age 5 to age 17 and this led to a financial burden on her parents. Her goal was to become an oncologist and help cancer patients. She was awarded military occupational specialty 92A, logistic specialist.

b. During Basic Combat Training she injured her hip during a ruck march. She contends her command failed to take her injury seriously and after physical therapy failed to work, she ended up tearing her labrum, and then she started to lose cartilage. She had surgery almost two years later. It took about three months for her to start feeling better and while playing volleyball she tore her meniscus and ACL. This injury required a bone graft to move a piece of her tendon to repair the ACL. To this day she cannot stand over an hour, her knees crack, and she has numbness in her left leg because both of her surgeries were on the same side.

c. Her injuries left her unable to perform her duties as a Soldier; therefore, she was referred to an MEB. On the day she started her medical processing she found out she was under investigation. She admits to participating in a scheme to pay her rent and got scammed by someone she thought she could trust. She gave this individual half of the rent amount and her log in credentials for the payment portal. She contends that she thought the individual was hacking the system, she never thought the person was committing fraud by using other people's credit card information off the dark web. She did not physically commit the fraud; however, her spouse did participate in the scheme without her knowledge. He lost the money he paid the scammer and had to pay the full rent amount. Her command had the option to allow her to complete her medical processing, however, they decided to involuntarily separate her without regard to her mental health issues.

d. Beginning in 2021, her depression with anxiety with mixed moods and failure to adapt began to get worse. She had two surgeries four months apart while suffering from mental health conditions. She thought she was going insane the whole year. She was cutting and burning herself. She did not care because she felt like she was going to die soon. Around the time of the fraud incident, she began experiencing her first symptoms of PTSD. It started due to being harassed, assaulted, and bullied by the men in her company. She was the only black female in the unit, and the only female that worked in the motor pool. She contends that she was stalked on social media, tripped multiple times after her surgery, and had her crutches moved in order to make her hop on one leg to get them. She was called ugly and a nappy haired doll. She contends that the men in her unit would steal the candy bars that she planned to sell to raise money for cancer patients. In another incident, a man followed her up to the gate claiming she cut him off. He preceded to call her a black b---ch and sped up as if to rear end her. He was shining his bright lights on and off trying to run her off the road. She further contends that while on a telephone call with her hospitalized grandmother a noncommissioned officer thought she was ignoring him, and he placed his hand on her arm. He jerked her causing her to fall to the ground and leaving her arm bruised. She filed a report, but no action was taken.

e. Before the investigation, she was never in trouble and even received two coins for being proficient at her job. She now believes that during her entire period of service she was physically and mentally injured. She was traumatized and believed that if she had deployed with her unit that they would have done something to her, and she would not have come back.

f. After leaving the military her mental health has been better, but she still has days when she just cries thinking about her time in the military. She is enrolled in a nursing program, host Bingo at her grandmother's nursing home, and is active in church. She is not eligible for veteran benefits and has difficulty finding employment due to her characterization of service. She was young when this incident happened, not even an

adult. She made a mistake that impacted her life and goals. Her mental health prevented her from making smart decisions.

2. A review of the applicant's military records shows she enlisted in the Regular Army on 8 July 2019.

3. The record contains a Law Enforcement Report-Investigation Plan, which shows that on or about 26 May 2022, the Criminal Investigation Division (CID) initiated an investigation into whether the applicant had used stolen debit/credit cards to pay rent totaling \$8879.10 between June-December 2021, as well as attempted to use other person's purchase cards in almost \$40,000 worth of denied transactions. The investigation plan further shows that the applicant admitted to using an online service to pay her rent. She acknowledged that it was a stupid mistake but at the time she was struggling to pay her rent and she knew of other individuals that had used the service. The investigation plan contains an entry stating that the applicant was undergoing medical separation processing at the time of the investigation. The investigation findings were provided to the local law enforcement agency on 31 August 2022.

4. On 26 October 2022 the applicant underwent a separation physical examination. The applicant reported having been diagnosed with depression. The applicant reported having hip and knee surgery since her last medical assessment/physical examination. On 28 November 22, the examining medical officer found the applicant was medically qualified for separation. The DD Form 2808, Report of Medical Examination, shows the applicant received a permanent physical profile "P3" for her lower extremities on that same date.

5. The applicant underwent a mental status evaluation on 10 November 2022. The DA Form 3822, Report of Mental Status Evaluation, which shows that she did not meet medical retention standards, had reached the medical retention determination point, and a Disability Evaluation System referral had already occurred. The applicant had a Behavioral Health (BH) diagnosis of adjustment disorder with mixed anxiety and depressed mood, chronic.

a. Section VI, Recommendations and Comments for Commander, of the DA Form 3822 shows the effects of PTSD and Traumatic Brain Injury (TBI) likely did NOT constitute matters in extenuation that relate to the basis for separation.

b. The examining health care provider stated the applicant had been found to have a BH condition that caused her to fail medical retention standards in accordance with Army Regulation (AR) 40-501, Medical Services-Standards of Medical Fitness. Prior to this evaluation, the applicant had already been referred for MEB for other medical conditions, and she reported that her MEB was completed as of June 2022 just prior to the start of AR 635-200, Personnel Separations-Active Duty Enlisted Administrative

Separations, chapter 14 process. The current evaluation affirmed BH information previously recorded in her medical record and that there has been no improvement or new diagnosis since her last date of treatment. The applicant was not cleared to continue with administrative separation process from a BH standpoint.

6. On 1 February 2023, court-martial charges were preferred against the applicant. The relevant DD Form 458 (Charge Sheet) shows she was charged with one specification of having devised a scheme to obtain money by means of fraudulent pretenses, transmit by means of wire communication in interstate commerce, writing for the purpose of executing said scheme, to wit: stolen credit card authorization information, between on or about 1 September 2021 and on or about 31 December 2021 near Joint Base Lewis McChord, WA.

7. On 2 February 2023, the applicant consulted with legal counsel and was advised of the basis for the contemplated trial by court-martial; the maximum permissible punishment authorized under the UCMJ; the possible effects of a UOTHC discharge; and the procedures and rights that were available to her.

a. Subsequent to receiving legal counsel, the applicant voluntarily requested discharge under the provision of AR 635-200, Chapter 10, in lieu of trial by court-martial. In her request for discharge, she acknowledged her understanding that by requesting discharge, she was admitting guilt to the charge against her, or of a lesser included offense that also authorized the imposition of a bad conduct or dishonorable discharge. She further acknowledged she understood that if her discharge request was approved she could be deprived of many or all Army benefits, she could be ineligible for many or all benefits administered by the Veterans Administration, and she could be deprived of her rights and benefits as a veteran under both Federal and State laws.

b. She indicated that she planned to submit documents related to her MEB processing.

c. She further indicated that she was NOT a victim of sexual assault for which an unrestricted report was filed within the past 24 months and that she did not believe that she suffered from PTSD or TBI as a result of deployment overseas in support of a contingency operation during the last 24 months.

8. On 2 February 2023, the separation authority approved the applicant's request for discharge, and directed that her service be characterized as UOTHC. The separation authority stated that having reviewed the medical examination and mental status evaluation, he determined that applicant's medical conditions DID NOT constitute matters in extenuation that relate to the basis for administrative separation or the overall characterization of service of the member.

9. The Physical Disability Agency administratively terminated the Integrated Disability Evaluation case pertaining to the applicant on 15 February 2023.

10. The applicant was discharged on 15 February 2023. The applicant's DD Form 214 confirms she was discharged under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial and her service was characterized as UOTHC. She is assigned Separation Code KFS and Reentry Code 4. She was credited with 3 years, 8 months, and 21 days of net active service.

11. A search of the Army criminal file index failed to reveal sexual assault records pertaining to the applicant.

12. The applicant provided:

a. Radiology/surgical images of her hip arthroscopy procedure, 2 March 2021; and radiology/surgical images of an unknown medical procedure, 27 July 2021.

b. BH records, 24 November 2021 which show the applicant was treated for depressed mood (adjustment disorder with mixed anxiety and depressed mood).and reported being bullied by the men in her work area. She had feelings of sadness and anger. Her symptoms had gotten worse since her hip surgery because running was a coping mechanism. She reported a history of sexual abuse when little, losing her brother to cancer, and some lack of validation from her parents. She also reported being bullied and wanted to be separated from the military but felt she would not be cleared because her chronic adjustment disorder.

c. BH records, 10 November 2022 which show the applicant was treated for depressed mood. She reported being bullied, and having one of the men in her unit grab her arm so hard it left a bruise. She had reported the incident and was being moved to another motor pool. She described feeling hopeless and praying for things to get better. As result of her symptoms, she had started cutting herself.

d. BH records, 15 December 2022, which shows the applicant reported two occasions of military sexual trauma (MST) – (1) being the only female in the motor pool and having an NCO grab her arm and bruise her. Since then, she did not like being around men and felt they oversexualized females (2) being followed onto base through gate. The medical provided noted that the applicant was being dual processed with a "reported" completed MEB as of June 2022 and now separation in accordance with AR 635-200, chapter 14. The applicant was not cleared to continue with administrative separation process from BH standpoint.

e. An extract of the Agent's Investigation Report (pages 2 and 3 of 4 pages) wherein the CID agent noted that the applicant was cooperative and accepted responsibility for her actions. The applicant appeared fearful of her spouse and he recommended that she obtain a protection or no-contact order against him. The report also shows that the agent contacted some of the credit card holders and note of them knew the applicant or had given her permission to charge her rent to their account.

f. A Buddy statement from a fellow Soldier that confirms having witnessed the applicant being treated poorly by her coworkers. The witness stated that this treatment broke the applicant as a person, and she was never the same mentally.

g. A statement from her spouse who stated that the applicant's injuries and financial hardship added to her stress and troubles and drove the applicant into a deep depression.

13. By regulation, enlisted Soldiers who are approved for discharge in lieu of trial by court-martial are ineligible for referral to the MEB and Physical Evaluation Board (PEB) phases of the Disability Evaluation System (DES). If the Soldier is in the DES process, their DES case will be terminated, and the Soldier is discharged in lieu of trial by court-martial.

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

15. Based on the applicant's contention(s) the Army Review Board Agency medical staff provides a written review of the applicant's medical records, outlined in the

16. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting an upgrade of her 15 February 2023 discharge characterized as under other than honorable conditions and reinstatement of her disability discharge. On her DD form 293, she has indicated that PTSD, Other mental health conditions, and sexual assault/harassment are issues related to her request. She states:

“My discharge was inequitable because it was based on one isolated incident with no other adverse action. I never got an Article 15 nor bad counseling my whole contract. Please see the supporting documents I sent in regarding. Medical documents, character references, and investigation summary.

I would like to try and upgrade for an honorable discharge. My MEB [Medical Evaluation Board] was completed and signed before they decided to pull my orders. I’m not entitled to VA benefits after my mental and physical challenges.”

c. The Record of Proceedings details the applicant’s military service and the circumstances of the case. Her DD 214 shows she entered the Regular Army on 8 July 2019 and was discharged on 15 February 2023 under the separation authority provided chapter 10 of AR 635-200, Active Duty Enlisted Administrative Separations (28 June 2021): Discharge in Lieu of Trial by Court-Martial

d. The applicant was entered into the Integrated Disability Evaluation System for left knee pain on 9 February 2022. She claimed 11 additional conditions, including PTSD. The MEB found her two have two conditions which failed the medical retention standards in chapter 3 of AR 40-501, Standards of Medical Fitness: “Left knee meniscal tear. Left anterior cruciate ligament tear. Status post left knee anterior cruciate ligament reconstruction and meniscal;” and “Left hip tom labrum. Status post left hip labrum surgery.” They determined twelve additional medial conditions met medical retention standards, including “Adjustment disorder with mixed anxiety and depressed mood - chronic.” The Board stated the applicant did not have a diagnosis of PTSD.

e. From the MEB narrative summary for her mental health condition:

“Adjustment disorder with mixed anxiety and depressed mood - chronic.

The soldier had a comprehensive review of the military medical record by the medical evaluation board psychologist, Dr. M.D’A. This comprehensive review of the military medical record was conducted on 12 April, 2022. According to this comprehensive review the military medical record the soldier does meet military retention standards for all behavior health conditions. This condition is not medically disqualifying because it has not required frequent medical care (no recent military medical notes) or interfered with military duty performance (no e-profiles above the 2 level).”

f. On 29 April 2019, the applicant concurred with the board and declined the opportunity to request an Impartial Medical Review (IMR) and/or to submit a written appeal. Her case was subsequently forwarded to a physical evaluation board (PEB) for adjudication.

g. On 26 May 2022, the informal PEB determined both referred conditions were unfitting for continued military service, and that the remaining thirteen medical conditions were not unfitting. They applied the VA derived disability ratings of 10% and 10% respectively for a combined military disability rating of 20% and recommended the applicant be separated with disability severance pay. On 26 May 2022, after being counseled on the Board's findings and recommendation by her PEB liaison officer, she concurred with the PEB, waived her right to a formal hearing, and declined the opportunity for the VA to reconsider her disability ratings.

h. A 1 February 2023 Charge Sheet (DD form 458) shows the applicant was charged with fraudulent activity:

“SPECIFICATION: In that Specialist [Applicant], U.S. Army, did, on one or more occasions, at or near Joint Base Lewis McChord, Washington, between on or about 1 September 2021 and on or about 31 December 2021, having devised a scheme to obtain money by means of fraudulent pretenses, transmit by means of wire communication in interstate commerce, writing for the purpose of executing said scheme, to wit: stolen credit card authorization information, in violation of 18 U.S. Code Section 1343, a crime not capital.”

i. On 2 February 2023, the applicant voluntarily requested discharge in lieu of trial by court-martial under chapter 10 of AR 635-200. The Commanding General of the 7<sup>th</sup> Infantry Division approved her request on 2 February 2023 with the directive she receive an under other than honorable characterization of service and be reduced to the lowest grade pursuant to paragraph 1-14d of AR 635-200.

j. The applicant's misconduct made her ineligible for referral to the DES without the approval of the General who had approved his chapter 10 request. From paragraph 4-3f(2) of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (19 January 2017):

“Approval and suspension of an AR 635-200 separation action is not authorized when the Soldier is pending both an AR 635-200 and AR 635-40 action. The GCMCA must decide which action to pursue (as described in AR 635-200). Soldiers continue to be eligible for these administrative separation actions up until the day of their separation or retirement for disability even though their PEB findings have been previously completed and approved by USAPDA for the SECARMY. In no case will a Soldier, being processed for an administrative separation for fraudulent enlistment or misconduct be discharged through the DES process without the approval of the GCMCA.”



k. Paragraph 4-9a of AR 635–40, Physical Evaluation for Retention, Retirement, or Separation (19 January 2017) states “Disenrollment from DES, or termination of the case for any other reason, will occur no earlier than prescribed below:

“Enlisted Soldiers with an initiated or approved administrative separation for misconduct or fraudulent enlistment will be disenrolled when the MEB is completed, the Soldier’s GCMCA has reviewed the MEB, and the GCMCA has directed in writing to proceed with the administrative separation. If the separation action was initiated after the Soldier’s MEB was forwarded to the PEB, the last level of approved PEB findings prior to initiation of separation will be provided to the GCMCA for consideration in their decision.”

l. Because the applicant voluntarily requested separation in lieu of trial by courts-martial, this process was not implemented.

m. JLV shows the applicant has no service-connected behavioral health disorders but does maintain the diagnosis of adjustment disorder with mixed anxiety and depressed mood.

n. It is the opinion of the ARBA medical advisor that neither a discharge upgrade nor a referral of her case back to the DES is warranted.

o. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? YES: Adjustment disorder; and the applicant asserts PTSD, other mental health conditions, and sexual assault/harassment.

(2) Did the condition exist or experience occur during military service? YES: YES: Adjustment disorder; and the applicant asserts PTSD, other mental health conditions, and sexual assault/harassment were the result of and or incurred during her military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? NO: None of these conditions negatively affect one’s ability to differentiate right from wrong and adhere to the right and thus cannot mitigate the crimes which caused her to voluntarily request discharge in lieu of trial by court-s martial.

**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 request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests.

a. The applicant was charged with commission of an offense (devised a scheme to obtain money by means of fraudulent pretenses, transmit by means of wire communication in interstate commerce, writing for the purpose of executing said scheme - stolen credit card authorization information) punishable under the UCMJ with a punitive discharge. After being charged, she consulted with counsel and requested discharge under the provisions of AR 635-200, Chapter 10. Such discharges are voluntary requests for discharge in lieu of trial by court-martial and carry an under other than honorable conditions discharge. The Board found no error or injustice in his separation processing.

b. The Board considered the medical records, any VA documents provided by the applicant and the review and conclusions of the advising official. The Board concurred with the medical official's finding that although the record reflects the applicant's Adjustment disorder; and although the applicant asserts PTSD, other mental health conditions, and sexual assault/harassment, none of these conditions negatively affect one's ability to differentiate right from wrong and adhere to the right and thus cannot mitigate the crimes which caused her to voluntarily request discharge in lieu of trial by court-martial. Therefore, the Board determined neither a discharge upgrade nor a referral of her case back to the disability evaluation system is warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

[REDACTED]

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[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, Active Duty Enlisted Administrative Separations, sets forth the basic authority for the separation of enlisted personnel. This regulation states:

- a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may, submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

2. AR 635-40, Personnel Separations-Physical Evaluation for Retention, Retirement, or Separations, states

a. Enlisted Soldiers who are approved for discharge in lieu of trial by court-martial are ineligible for referral to the Medical Evaluation Board (MEB) and Physical Evaluation Board (PEB) phases of the Disability Evaluation System (DES). If the Soldier is in the DES process, their DES case will be terminated, and the Soldier is discharged in lieu of trial by court-martial.

b. Soldiers under processing for an administrative separation for fraudulent enlistment or misconduct remain eligible to be referred to the MEB. The Soldier's commander must notify the Soldier's PEB liaison officer in writing that administrative separation action has been initiated. The Soldier's completed MEB must be referred to the Soldier's General Court-martial Convening Authority (GCMCA) in accordance with AR 635-200 to determine whether the Soldier will be referred to the PEB. Approval and suspension of an AR 635-200 separation action is not authorized when the Soldier is pending both an AR 635-200 and AR 635-40 action. The GCMCA must decide which action to pursue (as described in AR 635-200). Soldiers continue to be eligible for these administrative separation actions up until the day of their separation or retirement for disability even though their PEB findings have been previously completed and approved by USAPDA for the SECARMY. In no case will a Soldier, being processed for an administrative separation for fraudulent enlistment or mis-conduct be discharged through the DES process without the approval of the GCMCA.

3. Title 38, U.S. Code, section 1110, General - Basic Entitlement: For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in

this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

4. Title 38, U.S. Code, section 1131, Peacetime Disability Compensation - Basic Entitlement: For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

5. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

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, Boards 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.

6. Section 1556 of Title 10, United States Code, 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.

7. AR 15-185, ABCMR, prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//