

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 September 2024

DOCKET NUMBER: AR20230013950

APPLICANT REQUESTS:

- medical retirement vice being medically unfit for service in the Army National Guard
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored statement and two third-party statements
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period 14 September 2017 to 12 January 2018
- DD Form 214 for the period 12 August 2019 to 28 October 2020
- DD Form 215 (Correction to DD Form 214)
- amendments to deployment orders
- Army National Guard (ARNG) discharge orders
- 32 pages of medical records

FACTS:

1. The applicant states he should have been medically retired because of his behavioral health diagnosis. He is continuing care for his behavioral health conditions. He would like to see doctors out of the VA system and Tricare would help.

2. In a self-authored statement the applicant further states:

a. He is writing in hopes to get to the fact that he has been dealing with behavioral health issues since his deployment in 2019. He believes that he should have been medically retired because of these issues. He has tried different medications in an effort to help with his depression, but it has just not been working. He has issues where some days he must have his spouse drive him to and from appointments. This has been extremely challenging. At first, he was very hesitant to say how he was really feeling about his depression. He spoke with his former supervisor some time ago and was told to "suck it up." He cannot do that anymore and he needs help.

b. He has been seeing professionals and that have helped him with saying how he has been feeling since his deployment but has also brought some serious depression to the surface. If it was not for prayer and his wife, he does not know how he would have dealt with this. He thought when he got out of the military things would get better, but they have not. He does not really like taking medication, but he has been because he needs help, and his wife pushes him to. He knows that he should have been medically retired because of his depression brought on because of the incident(s) that he had to deal with while he was deployed. Because of his culture and the culture in his unit, he just did not have the courage to say anything.

c. He is only speaking now because he needs help. He thought that by now he would feel better after he was medically discharged. Instead, he is getting progressively worse, and he feels as though no one is really listening except his wife. His wife has encouraged him to write to the Army Board for Correction of Military Records. I did not want to do this because he did not want, it to be on his record, but he truly needs help, and he is ready to come forward so that he can get some help. He should have been medically retired because of my behavioral health issues, and he is asking that his case be looked at and considered. Thank you for your time and consideration.

3. The applicant enlisted in the ARNG on 11 May 2017.

4. His DD Form 214 shows he attended initial active duty for training from 14 September 2017 to 12 January 2018. He completed training for award of military occupational specialty 11B, infantryman.

5. Orders issued on 26 June 2019 ordered the applicant to active duty as member of his unit in support of Operation Spartan Shield with a report date of 12 August 2019.

6. The applicant's second DD Form 214 shows he entered active duty on 12 August 2019 and was released from active duty on 28 October 2020 in accordance with chapter 4 of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) due to completion of his required active service. The DD Form 214 shows his overseas service/deployment in support of Operation Spartan Shield as follows:

- Kuwait from 16 October to 28 November 2019
- Saudi Arabia from 29 November 2019 to 21 May 2020
- Kuwait from 22 May to 22 August 2020

7. The applicant's available records in the U.S. Army Human Resources Command Interactive Personnel Electronic Records Management System (iPERMS) do not contain his separation proceedings.

8. Orders published on 10 May 2022 directed the applicant's involuntary discharge from the ARNG effective 8 July by reason of medical, physical/mental condition retention.

9. The applicant's National Guard Bureau Form 22 (National Guard Report of Separation and Record of Service) shows he was discharged from the ARNG on 8 July 2022 under the provisions of National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management), paragraph 6-35l(8) (medically unfit for retention per Army Regulation 40- 501 (Standards of Medical Fitness)) by reason of medical, physical or mental condition retention.

10. The applicant provided:

a. Medical records showing he was diagnosed with other specified trauma and stressor-related disorder, chronic, severe, triggered by stressors he experienced during his service in Saudi Arabia.

b. Statement from his spouse stating, in part, the applicant suffers daily due to his experiences while deployed. Most nights he is restless and will awake from a nightmare screaming, gasping for air, or thrashing round. During the day he suffers from almost constant anxiety from flash backs, and it has severely limited the places that they can go. In addition to the stress and anxiety, he suffers with crippling depression to the point that she must groom him and get him ready for the day. *The complete statement was provided to the Board for their review and consideration.*

c. Statement from a member of his former ARNG unit explaining the applicant's negative changes in attitude since deployment and how the deployment affected him. *The complete statement was provided to the Board for their review and consideration.*

11. MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) and the VA's Joint Legacy Viewer (JLV). Essentially, the applicant requests medical disability processing for his BH (behavioral health) diagnosis. He indicated PTSD is related to his request.

2. The ABCMR ROP summarized the applicant's available record and circumstances surrounding the case—the separation proceedings were not available for review. The applicant enlisted in the ARNG 11May2017. His MOS was 11B, Infantryman. He was deployed in Kuwait 20191016 to 20191128; Saudi Arabia 20191129 to 20200521; and Kuwait 20200522 to 20200822. He was released from his final period of active service on 29Oct2020 not by reason of physical disability. His separation proceedings were not

available for review. Orders indicated that he was involuntary discharged from the ARNG effective 08Jul2022 by reason of medical, physical/mental condition retention. The reenlistment eligibility 4.

3. Summary of medical records and related while in active service

a. 11May2017 Report of Medical History (DD 2807-1) and Report of Medical Examination (DD Form 2808) did not reveal any significant ongoing medical or mental issues prior to service.

b. 15Aug2019 Pre-Deployment Health Assessment (DD Form 2795). He denied suicide/homicide ideation. PHQ-9=0, GAD-7=0, PCL-5=0. There were no medical/BH issues. Disposition: He was cleared for medical/BH.

c. 19Jun2020 Theatre Note. This was a PHA (Periodic Health Assessment, DD Form 3024) visit. He did not have a current profile, and no current acute injuries. His BH screening was negative (no symptoms or treatment reported). He was fit for duty.

d. 13Aug2020 Report of Medical History (DD Form 2807-1) for separation. The applicant reported right shoulder pain: "Does not affect military duties". The Report of Medical Examination (DD Form 2808) showed a 'normal' upper extremity examination.

e. 14Aug2020 BRNG TMC. The applicant presented for SHPE (separation history and physical examination). There were no complaints or concerns.

f. 07Sep2020 Post-Deployment Health Assessment (DD Form 2796). He was deployed in Kuwait/Saudi Arabia for 10 months (so far). PTSD, Depression and Alcohol Abuse Screenings were negative. He was medically and behaviorally cleared.

4. Summary of medical records after release from active service October 2020

a. 13Jan2021 Primary Care Consult, VAMC. The claimant reported a 1.5 year history of right shoulder pain. He had tried shoulder exercises with improvement of pain. He did not endorse any problems with mood. He denied depression, anxiety, and insomnia. He also denied suicide/homicide ideation. He was working in construction.

b. 13Jan2021 Nursing Intake Interview VAMC. The applicant was establishing care with the VA. His PTSD, Depression, MST, and Suicide Risk Screenings were negative.

c. 03Dec2021 PHA (DD Form 3024). BH treatment in the prior 12 months was denied. Although the PTSD, Depression and Suicide Screenings were negative, he did endorse some symptoms suggestive of depression as well as an interest in scheduling an appointment for assistance with a 'stress, emotional, or alcohol concern'. He stated

that in the prior 2 weeks, for a 'few days or several days', he had 'little interest or pleasure in doing things' and was 'feeling down, depressed or hopeless'. He was referred for BH services. His individual medical readiness disposition was 'Partially Medically Ready' due to immunizations not being complete.

d. 13Jan2022 General MH Outpatient Clinic Consult, VAMC. He was referred for individual therapy by his private provider after completing couples' therapy. He reported anger and irritability. He also reported having had a panic attack after he started training as a police officer. He discontinued Police Academy training. The PHQ-9 score 20 indicated severe depression. PC-PTSD-5 score 5 (positive screen). Diagnoses: Severe MDD, single episode, and PTSD. He began treatment.

e. 25Mar2022 MH Consult Note, VAMC. He complained of irritability, aggression, less patience with people and mundane situations. He had decreased enjoyment of things he used to enjoy, felt drained, and was not motivated. Life felt so mundane, he just wanted to be away from people and things. Symptoms began after he returned from deployment. Childhood history: There was physical domestic violence perpetrated by his parents against each other. However, he denied that this still bothered him. Social History: He was engaged; however, he had few friends. Diagnoses: Severe MDD, single episode and PTSD. He chose to use CITC (Veteran Centered Care in the Community) for therapy, and the VA for medication management.

f. 29Mar2022. VAMC Psychiatry Assessment: 26-year-old with exam consistent with MDD (major depressive disorder), trauma related disorder, and rule out PTSD. While he denied any actual combat experiences, he was in stressful situations where he felt threatened and exposed. He did report trauma related symptoms. He reported depressive symptoms continuously since his return. He began psychotropic medication (sertraline and trazadone).

5. Summary of medical records after involuntary discharge from the ARNG 08Jul2022

a. 08Jul2022 TeleHealth Consult VAMC. The psychiatrist increased sertraline to 100mg. He was to continue community therapy.

b. 22Sep2022 TeleHealth Consult VAMC. Except for depressed mood, the Mental Status Exam was normal to include thought process/content. He denied suicide ideation. He did not note much efficacy with the sertraline but denied adverse effect. Diagnoses: MDD, Trauma Related Disorder, rule out PTSD. Sertraline was increased to 150mg. He did not tolerate the Trazadone— it was discontinued.

c. 19Jan2023 MH Note VAMC. Increased sertraline did not improve symptoms but did increase side effects- dry mouth and sexual side effects (mostly). He still reported significant depression with anhedonia, and low motivation. He was sleeping okay but

still had nightmares. He also reported intrusive memories, flashbacks, hypervigilance, and avoidance symptoms. Of import, they discussed his chronic suicide ideation, which he stated was present since his return from deployment. DSM V diagnoses: MDD, Trauma Related Disorder, rule out PTSD. Sertraline was discontinued. Venlafaxine was started as well as Hydroxyzine for anxiety as needed. He was referred to a VA therapist, as he did not “feel heard” in the community therapy with CITC.

d. 25Jan2023 Mental Disorders DBQ. The VA examiner of this exam also authored the ‘review of records’ note dated 09Jan2023. Symptoms included: Depression, anxiety, chronic sleep impairment with nightmares leading to irritability, fatigue, memory problems and disorganized thinking, all of which impacted functioning and relationships. Disturbed motivation impacted personal appearance and hygiene. He also had suicide ideation, obsessive rituals, impaired impulse control, and gross impairment in thought process or communication. He was currently working part time (24 hours/week) in construction since late 2020. While deployed in Saudi Arabia, he was a security guard for missile sites. Specific stressors noted: Drones and missiles would fly over; he was physically assaulted by Saudi soldiers; on patrol, his HUMVEE was boxed in by two Saudi trucks whose intentions were unclear. DSM-5 diagnosis: Other Specified Trauma and Stressor-Related Disorder. The examiner opined the level of occupational and social impairment due to this condition was total impairment (100% rating level).

e. 17Feb2023 Psychology Consult VAMC. This was his first session of psychotherapy at the VA. Of note, he reported that his wife was initiating his grooming, driving him to work, and taking care of the home and finances.

f. 17Apr2023 Initial PTSD DBQ. He worked fulltime in construction 2017 to 2019; then part-time in construction until late 2020; and finally, he had been working (about 24 hours/week) in security at a warehouse since November 2021. He was married since September 2022, the relationship was okay, but they argued a lot about his attitude. He maintained monthly contact by telephone and attended a gathering annually with fellow service members. He had dinner and spent time with family 1-2 times per month. DSM-5 Diagnosis (criteria/symptoms were listed): PTSD. Stressors: While on patrol, they were boxed in by two Saudi vehicles; and he reported exposure to rocket attacks. The examiner opined the level of occupational and social impairment was with reduced reliability and productivity due to this condition (50% rating level). Of note, he reported to this examiner that he was sick of the military, and his leadership was the main reason he got out of the military.

6. Orders indicated that the applicant was involuntary discharged from the ARNG under provisions of NGR 600-200 paragraph 6-35I(8) due to being medically unfit for retention per AR 40-501. Careful review of medical records did not reveal definitive documentation of a diagnosis related to the reason for his separation. While in service, medical records (and related) indicated the applicant reported most concerns about the

following conditions: Anxiety, headaches, and right shoulder pain. The record also indicated that the conditions had been profiled (at some point); but this review did not find a permanent P3 or P4 profile for any condition. The VA service-connected PTSD and Limited Motion of the Arm. The VA did not service connect the headache condition.

a. 19May2020 Theatre Note. The applicant complained of a history of headaches for 9 months, worse in the past 2 months. The headache pain was 4/10 (moderate) and located in the back of head. He did not have a headache at the time of the visit. He denied traumatic injury. When the headaches first started his head was painful to the touch in the occipital region. The pain did not stop him from working. He declined medication. *Of note, headaches were not reported during the 07Sep2020 PDHA.*

b. 04Dec2021 Functional Capacity Certificate Form. There were no physical limitations noted.

c. 04Dec2021 Chronological Record of Medical Care (SF 600). The applicant stated he had experienced frontal headaches, daily since deployment. The worst headache pain was 9 out of 10. The headaches were usually relieved by ibuprofen. His shoulder pain "flares up weekly". The shoulder pain was 8 out of 10 at its worst.

d. 03Dec2021 PHA. His medical concerns at the time were stress, headaches, right shoulder, and left ankle pain.

e. 04Dec2021 Functional Capacity Certificate did not reveal any current limitations.

f. 14Dec2021 Chronological Record of Medical Care (SF 600). A Social Worker called and screened the applicant for BH issues. He endorsed that the unit situation was stressful, however there were no BH duty limitations. It was indicated that there were duty limitations for headaches. *The undersigned did not find a headache profile.*

g. 25Feb2022 Consultation Sheet Medical Record (SF 513). The applicant "self-reported a duty limiting Anxiety condition which started after deployment. BH symptoms included anxiety, a short temper, and low mood. He stated that his BH symptoms worsen when he attends drill. He was currently in treatment at the Vet Center. He was not taking any BH medications".

h. 14Mar2022 Chronological Record of Medical Care (SF 600). Email from command indicated the applicant "is unsatisfactory pending discharge request. He just started not showing up due to GOMOR".

i. 15Mar2022 Chronological Record of Medical Care (SF 600). They discussed his issues and how bad he was struggling with the military. He felt anxious when military training was approaching or when he received correspondence from leadership. He

also reported that his anxiety/anger showed towards family. He did not trust his unit leadership and had left IDTs because it increased his anxiety. He completed MED DQ packet and a permanent profile will be initiated.

j. 15Mar2022 Physical Profile Record (DA Form 3349). A temporary profile was issued for Anxiety Disorder which indicated the applicant was not physically and/or mentally able to carry and fire individual assigned weapon. The expiration date was 29Mar2022.

k. 16Mar2022 Chronological Record of Medical Care (SF 600). During a phone call, the applicant reportedly stated he had anxiety about the thought of going to IDT and dealing with his leadership. He was worried that he might overreact as he did not feel like he had anything to lose. He was feeling retaliated against. The writer asked him to work on getting his documentation from the Vet Center so that they can be reviewed for medical disposition.

7. Summary/Opinion

JLV search today showed that the applicant was service connected by the VA for PTSD at 70%. Review of performance records revealed the applicant completed Distributed Leader Course I given on 09Apr2020. He successfully completed Basic Leader Course which he attended from 20201030 thru 20201120. He 'exceeded standards,' and the instructor commented "he often possesses superior interpersonal characteristics that enhance command. He often exercises interpersonal tact by effectively interacting with peers by recognizing diversity and displaying self-control and stability". There were no reported BH symptoms and there was no BH treatment while the applicant was on active orders. Fifteen months after release from active duty, the record showed the applicant began BH treatment and he had endorsed some symptoms suggestive of depression during the 03Dec2021 PHA. Prior to discharge from ARNG, the applicant was diagnosed with MDD. He was also diagnosed with Other Specified Trauma and Stressor Related Disorder and PTSD due to combat related stressors. At the time of discharge from the ARNG, the applicant was in the beginning stages of treatment for PTSD—he had been in treatment 6 months. MRDP had not been met. There was no report of mania, psychosis, violence, suicide ideation/attempt, psychiatric hospitalization, substance abuse while he was in military service. One 2-week temporary profile in March 2022 was found for Anxiety Disorder. Based on evidence available for review, in the ARBA Medical Reviewer's opinion, there is insufficient evidence to support that the PTSD or other BH condition failed medical retention standards of AR 40-501 chapter 3 at the time of release from active duty in October 2020 or at the time of discharge from ARNG in July 2022.

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 and recommendations in the medical review, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's narrative reason for separation.

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, 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 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 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/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 or not 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.

c. 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.

2. 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.

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.

3. National Guard Regulation 600-200, paragraph 6-35l(8) states commanders, who suspect that a Soldier may not be medically qualified for retention, will direct the Soldier to report for a complete medical examination per Army Regulation 40-501.

Commanders who do not recommend retention will request the Soldier's discharge.

When medical condition was incurred in line of duty, the procedures of Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations) will apply. Discharge will not be ordered while the case is pending final disposition.

4. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) provides Department of the Army policy, criteria, and administrative instructions regarding an applicant's request for the correction of a military record. Paragraph 2-11 states applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

5. Section 1556 of Title 10, U.S. 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 ABCMR applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//