

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 October 2024

DOCKET NUMBER: AR20240001248

APPLICANT REQUESTS: in effect -

- retirement due to combat related disability
- a personal appearance before the Board

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

- DD Form 149, Application for Correction of Military Record
- Personal statement
- Orders HR-7083-00016
- Orders 342-0521
- DD Form 214, Certificate of Release or Discharge from Active Duty
- Department of Veterans Affairs (VA) letter

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states, in effect –

a. He is requesting a review and subsequent correction of his military discharge record, specifically concerning Block 28, Narrative Reason for Separation, of his DD Form 214. The entry should reflect “Disability, Combat Related” due to the circumstances of his early return from active duty and subsequent medical discharge.

b. He was initially ordered to active duty for a 400-day deployment. However, his tour was prematurely concluded due to the onset of severe Post-Traumatic Stress Disorder (PTSD) symptoms, as recognized and acted upon by his command. Upon returning stateside, he immediately sought assistance from the VA and other medical professionals. During this period, he was unable to be present or provide a signature for his DD Form 214, as indicated on the document. Since returning back from deployment,

he has been officially diagnosed with PTSD and Military Sexual Trauma (MST). These conditions have not only profoundly impacted his mental health but have also led to the unfortunate dissolution of his 20-year marriage. He contends that the severity and direct connection of these conditions to his military service are evident and documented and directly led him to be medically retired.

c. The importance of this correction cannot be overstated. The VA, in its evaluation of his eligibility for Post-9/11 GI Bill benefits, has indicated that his current discharge status does not meet the criteria for 100% eligibility. The VA's decision is based on the narrative reason for discharge currently listed on his DD Form 214, which does not acknowledge his release from active duty was due to a service-connected disability. The current narrative is misleading and false as he did not complete the required active duty service and he was not present to sign the DD Form 214. He requests that the Board review the evidence and circumstances surrounding his early return from active duty and subsequent medical discharge and correct his DD Form 214 to reflect "Disability, Combat Related" as the narrative reason for discharge in order to accurately represent the reality of his situation. This change is not only crucial for the processing of his application for increased Post 9/11 GI Bill benefits but also for the truthful and fair representation of his military service and the sacrifices he made.

3. A review of the applicant's record shows he was appointed as a second lieutenant in the Regular Army on 1 December 2011. He was subsequently accepted an appointment in the U.S. Army Reserve as a second lieutenant on 9 April 2015.

4. The record contains, and the applicant provided:

a. Orders: HR-7083-00016, 24 March 2017, published by U.S. Army Human Resources Command, Fort Knox, Kentucky, which ordered him to active duty on 21 April 2017 for a period of 400 days.

b. Orders 342-0521, 8 December 2017, published by Headquarters, U.S. Army Garrison, Fort Bliss, Texas. These orders released the applicant from active duty, not by reason of physical disability effective 30 December 2017.

c. His DD Form 214, which he contends is in error, for the period 21 April 2017 to 30 December 2017. This form shows the applicant completed foreign service in Djibouti, Africa from 28 April 2017 to 30 November 2017. It further shows in:

- Block 2, Department, Component and Branch – ARMY/USAR/TC
- Block 21a, Member Signature – NOT AVAILABLE TO SIGN
- Block 23, Type of Separation – RELEASE FROM ACTIVE DUTY
- Block 26, Separation Code - MBK
- Block 28 - Completion of Required Service

5. The record is void of evidence to show the applicant was released from active duty early due to medical reasons.

6. On 10 June 2021, an Informal Physical Evaluation Board (PEB) convened to evaluate his PTSD, major depression. The applicant was serving in the USAR as a drilling member at the time the board convened. The PEB determined the applicant was physically unfit and recommended a rating of 70% and that he be permanently retired. The DA Form 199, Informal PEB Proceedings further shows:

a. In Section III: Medical Conditions Determined to Be Unfitting the entry "The officer first sought treatment for anxiety, sadness, numbness, vivid dreams with inability to sleep in January 2019 at [REDACTED] VA Medical Center. The condition was attributed to combat stressors of constant interaction with corpses and body parts (V1/V3 – Yes: Direct result of armed conflict) during deployment to Iraq in 2016 and Djibouti, Africa in 2017. The officer also experienced a traumatic personal stressor in Somalia. In accordance with Army Regulation 635-40, Personnel Separations-Disability Evaluation for Retention, Retirement, or Separation, this officer is unfit because the DA Form 3349, Physical Profile Record, Section 4, functional activity limitations associated with this condition make this Officer unable to reasonably perform required duties. The Officer is mentally competent for pay purposes and able to understand and participate in the Physical Evaluation Board proceedings. VASRD 4.129 does not apply for re-exam purposes, the Officer is not on active duty status."

b. The case was adjudicated as part of the Integrated Disability Evaluation System.

c. The PEB also found that although his condition had been determined to be combat related under the provisions of Title 26, U.S. Code, section 104 or Title 10, U.S. Code, section 10216, they may not qualify for Combat Related Special Compensation (CRSC) under Department of Defense (DOD) 7000.14-R, Volume 7b, chapter 63.

d. On 10 June 2021 the applicant concurred and waived a formal hearing of his case. He did not request reconsideration of his VA ratings.

7. He was retired due to permanent physical disability incurred while entitled to basic pay and under conditions that permit his retirement for permanent physical disability on 14 July 2021.

8. The applicant provides his denial from the VA regarding his dependent's education claim. The reason for denial was that he was not released from an active duty period due to a disability. In order to be 100% eligible for Post-9/11 GI Bill benefits without completing at least three years of aggregated qualifying active duty service, he must have been discharged from a period of active duty with a separation reason of disability

or awarded a Purple Heart on or after 11 September 2001. Reason for retirement or discharge from the Ready Reserve or Inactive Ready Reserve while not on a period of active duty is not a factor when considering his eligibility percentage from education benefits.

9. The VA defines a service-connected condition as an illness or injury that was caused by - or got worse because of – an individual's active military service.

10. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

11. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a correction of his military discharge record, specifically concerning Block 28, Narrative Reason for Separation to one of his DD Form 214s. He argues the entry should reflect "Disability, Combat Related" due to the circumstances of his early return from active duty and subsequent medical discharge. 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 which ordered to active duty on 21 April 2017 for a period of 400 days; 2) The applicant was released from active duty, not by reason of physical disability effective 30 December 2017; 3) His DD Form 214, which he contends is in error, for the period 21 April 2017 to 30 December 2017 shows the applicant completed foreign service in Djibouti, Africa from 28 April 2017 to 30 November 2017. He was reported not available to sign, but he had completed his required service; 4) On 10 June 2021, an Informal PEB convened to evaluate the applicant's PTSD and major depression. The applicant was serving in the USAR as a drilling member at the time the board convened. The PEB determined the applicant was physically unfit and recommended a rating of 70%, and he be permanently retired. He was retired due to permanent physical disability incurred while entitled to basic pay and under conditions that permit his retirement for permanent physical disability on 14 July 2021.

b. The Army Review Boards 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 VA documentation provided by the applicant were also examined.

c. There is evidence the applicant was seen for a Pre-deployment assessment before his Djibouti deployment on 24 April 2017. He denied behavioral health care in the last 12 months or a traumatic brain injury. He was screened for depression, anxiety, and PTSD. He denied experiencing any of these symptoms and was cleared to deploy.

There is insufficient evidence the applicant was seen for behavioral health concerns while deployed or evacuated out of Djibouti due to behavioral health symptoms. He was seen from 04-07 December 2017 for a Post-deployment assessment/ Demob after returning from Djibouti. He reported physical concerns aggravated during his deployment, but he denied any behavioral health symptoms. He declined any behavioral health referral, and there was insufficient evidence the applicant was medically evacuated from Djibouti for behavioral health concerns including PTSD.

d. A review of JLV provided evidence the applicant has been diagnosed with service-connected PTSD by the VA. He completed a Compensation and Pension evaluation after his Djibouti deployment and was diagnosed with PTSD. He was also medically retired in 2021 due to mental health conditions.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that the applicant has been diagnosed with service-connected PTSD by the VA after his deployment to Djibouti. However, there is insufficient evidence the applicant was reporting behavioral health symptoms during this deployment, was found medically unfit for continued service, or was medically evacuated from theater due to behavioral health symptoms. Therefore, there is insufficient evidence to change the narrative reason of his separation for his DD214 for this deployment at this time.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.
2. The Board carefully considered the applicant's contentions, the military record, and regulatory guidance. The Board considered the applicant's active duty service dates and the reason for his separation in 2017. The Board considered his post-deployment medical assessment, his medical retirement in 2021 and his VA disability ratings. The Board considered the review and conclusions of the medical reviewer. The Board concurred with the reviewer's conclusion that there is insufficient evidence of the applicant was reporting behavioral health symptoms during his deployment, that he was found medically unfit for continued service, or that he was medically evacuated from theater in 2017 due to behavioral health symptoms. Based on a preponderance of evidence, the Board determined that the applicant's reason for separation from active duty was not in error or unjust.

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.

4/28/2025

X

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CHAIRPERSON

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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, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. The U.S. Department of Veterans Affairs webpage contains the eligibility criteria to receive 100% of Post-9/11 GI Bill benefits. An individual is eligible for 100% of the full benefit if they meet at least one of these requirements:

- served on active duty for a total of at least 1,095 days (at least 36 months), or
- served on active duty and received a Purple Heart on or after 11 September 2001, or
- served on active duty for at least 30 continuous days (without a break), and we discharged you because of a service-connected disability

The VA defines a service-connected condition as an illness or injury that was caused by - or got worse because of – an individual's active military service.

3. Army Regulation (AR) 635-5-1, Personnel Separations-Separation Program Designator (SPD) Codes, in effect at the time, did not contain a "combat related" narrative reason for voluntarily release from active duty. The current version of this regulation contains "combat related" narrative reasons which apply when the individual is involuntarily discharged or retired.

4. AR 600-8-24, Personnel-General-Officer Transfers and Discharges prescribes policies and procedures governing transfer and discharge of Army officer personnel. Paragraph 2-7 provides the rules for processing voluntary release from active duty (REFRAD) due to expiration of active duty commitment. It states applications for REFRAD will be submitted not earlier than 12 months or less than 6 months before the desired release date or beginning date of transition leave, whichever is earliest. The officer's immediate (or Higher) commander/supervisor may waive the 6-month requirement if the needs of the Army are met through a change in mission requirement or the assignment of the replacement officer.

5. 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.

6. 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.

7. 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.

8. 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.

9. AR 15-185, Army Board for Correction of Military Records, 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. The ABCMR will decide cases on the evidence

of record. It is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//