IN THE CASE OF: [redacted]

BOARD DATE: 20 December 2024

DOCKET NUMBER: AR20240004108

APPLICANT REQUESTS:

- reconsideration of his prior request for physical disability retirement in lieu of honorable administrative discharge due to completion of required active service
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Counsel's brief
- Power of Attorney
- applicant's statement
- JPS Health Network Emergency Department (ED) Notes, 11 December 2012
- DD Form 214 (Certificate of Release or Discharge from Active Duty) covering the period ending 27 March 2013
- Secretary of Defense memorandum, 3 September 2014
- Department of Veterans Affairs (VA) Rating Decision, 13 December 2014
- Office of the Under Secretary of Defense memorandum, 25 August 2017
- Army Board for Correction of Military Records (ABCMR) letter, 4 November 2020
- ex-wife's statement
- mother's statement

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 AR20170001837 on 27 February 2020.

2. Counsel states:

a. Counsel has been retained to represent the applicant regarding his request for a medical disability retirement. This is a request for reconsideration of the ABCMR's decision dated 20 November 2023. This request contains significant new and material evidence and arguments that the ABCMR has not previously considered. In accordance

with the Kurta and Hagel memoranda he ABCMR should give liberal consideration to Mr. [redacted] evidence and arguments because this request involves severe service - connected PTSD that the Anny failed to recognize before the expiration of his term of service (ETS). In accordance with the Hagel memorandum, time limits to reconsider decisions will be liberally waived for applications related to PTSD.

b. Counsel respectfully requests the following relief:

(1) Grant the applicant a medical disability retirement at no less than 100 percent and retroactively compensate him at the date commensurate with his initial discharge from service; or in the alternative,

(2) Refer him to the Disability Evaluation System (DES) so his unfitting medical conditions can be evaluated, and a proper disposition can be reached.

c. This case is an extremely egregious example of the Army 's ignoring a Soldier's unfitting mental health problems. As one example. while on active duty. The applicant had a PTSD-related flashback at his mother's house and shot multiple rounds of ammunition through her doors and walls; yet, inexcusably, the Army simply assessed him as fit for duty and wholly failed to refer him to the DES. Although all records indicate the command understood that this PTSD induced episode was a mental health crisis and not misconduct, the Army failed the applicant by simply letting him stay home from duty and reach the expiration of his ETS. Indeed, this honorable Board should consider the applicant’s case as the quintessential type of situation that spurred the Kur/and Hagel memoranda. If the applicant had been properly referred to the DES while in service, then he would have been medically retired. The Board's action should correct the error and injustice of failing to medically retire the applicant.

d. The applicant’s most extreme behavior happened on 11 December 2012, while he was still serving on active duty. That evening, he had consumed some alcohol and was having a flashback, during which he completely disassociated and came to believe that enemies were trying to enter his parent’s house. To protect them from these enemies, he shot several rounds of ammunition through his parents’ door and walls. He was then involuntarily taken to the emergency room and was committed to a psychiatric facility with the diagnosis of psychotic disorder and PTSD. The applicant’s ETS was only approximately 3 months after his inpatient psychiatric stay. His command did not help him get any other help following the 11 December 2012 incident; rather, they did the bare minimum to get his through to the date of his ETS, when he would no longer be their problem.

e. Shortly after his ETS, the VA rated the applicant’s PTSD at 70 percent disabling. Then, based on evidence that he presented on 19 August 2014, the VA increased his rating for PTSD to 100 percent., along with providing ratings for five other service-

connected diagnoses. On page 5 of the VA letter, the VA describes the symptoms that qualified the applicant's PTSD for a 100 percent rating, which closely match the descriptions of the applicant's symptoms while he was still on active duty as described in his personal statement and the statements of his ex-wife and his mother. The symptoms include:

- Intermittent inability to perform activities of daily living
- Total occupational and social impairment
- Intermittent inability to perform maintenance of minimal personal hygiene
- Obsessional rituals that interfered with routine activities
- Difficulty in establishing and maintaining effective work and social relationships
- Panic attacks more than once a week
- Impaired short- and long-term memory
- Impaired judgment

f. The following authorities are binding on the Army:

(1) Department of Defense (DOD) Instruction (DoDI) 1332.18 (DES Manual: Processes) requires medical authorities to refer a service member into the DES when further recovery is relatively predictable and when one or more medical conditions may prevent the service member from reasonably performing the duties of their office, grade, rank, or rating.

(2) DoDI 6130.03 Volume 2 (Medical Standards for Military Service: Retention) sets forth medical retention standards and states in pertinent part the following conditions, as defined using the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders, unless otherwise stated, are not compatible with retention and the service should initiate appropriate medical and personnel actions upon diagnosis. Included in the list are other behavioral health conditions, including, but not limited to anxiety disorders, depressive disorders, or eating or feeding disorders will be considered on a case-by-case basis, and disqualifying conditions should be either referred to the DES or processed for administrative separation, based on whichever is appropriate for that condition, if despite appropriate treatment they:

- require persistent duty modifications to reduce psychological stressors or enhance safety; or
- impair function so as to preclude satisfactory performance of required military duties of the member's office, grade, rank, or rating

(3) Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), paragraph 5-1 conforms to the DoD guidance and provides that a "Soldier will be considered unfit when the preponderance of the evidence establishes that the

Soldier, due to disability, is unable to reasonably perform the duties of their office, grade, rank, or rating."

(4) The Kurta memorandum provides clarifying guidance to Military Discharge Review Boards and Board of Correction of Military Records considering requests by veterans for modification of their discharge due to mental health conditions and its purpose is to account for "invisible wounds" for which there are limited records for boards to consider. It shows "Liberal consideration will be given to veterans petitioning for discharge relief when based in whole or in part on matters relating to mental health conditions, including PTSD and TBI…" Evidence of such a mental health condition may come from sources other than the veteran's military service records, including statements from family members and hospital records. A determination by the VA that the veteran's mental health condition is connected to military service is persuasive authority to the ABCMR that the mental health condition existed during military service.

(5) The Hagel memorandum provides supplemental guidance to Military Boards for Correction of Military Records considering discharge upgrade requests by veterans claiming PTSD and is binding on this Board. The memorandum requires special consideration to be given to VA determinations which document PTSD or PTSD-related conditions connected to military service and requires liberal consideration of cases in which "civilian providers confer diagnoses of PTSD or PTSD-related conditions, when case records contain narratives that support symptomatology at the time of service, or when other evidence which may reasonably indicate that PTSD or a PTSD-related disorder existed at the time of discharge."

g. Additional persuasive authority includes prior decisions of the ABCMR, while not controlling, they should serve as persuasive authority for this honorable Board.

(1) In Docket No. AR20170000508, this Board voted in favor of referring a service member to the DES after evidence was presented showing the applicant "met criteria for PTSD and traumatic brain injury (TBI) during his time in service" and that the applicant suffered from "social and occupational impairment." In that case, the Board determined that the applicant's PTSD and TBI were not "appropriately considered during separation processing" even though the applicant "was deemed medically acceptable" during his separation physical.

(2) In Docket No. AR20150000040, this Board referred the applicant to IDES as a matter of equity after determining that the applicant 's PTSD called into question his ability to perform 1s military duties prior to the applicant's transfer to the Retired Reserve. In that case, the applicant "was diagnosed with several medical conditions, including PTSD, prior to or near the date of his transfer to the Retired Reserve. However, the VA concluded that his PTSD was not likely to have been incurred, or

caused by the claimed in-service injury, event, or illness. The VA later amended their decision and granted the applicant a 70 percent service-connected disability rating for PTSD effective 22 June 2012." In explaining their decision, the Board indicated that because the applicant was displaying symptoms associated with a PTSD diagnosis, to include depression, loss of energy/fatigue, irritability, and anger, coupled with an in-service traumatic event and subsequent VA rating decision , equity, and good conscience mandated relief.

h. The Board should grant the applicant's request for a medical retirement at no lower than 100 percent, or in the alternative, refer him to the DES, because during the time of his active duty service, his symptoms from PTSD severely limited his ability to perform military duties. In this case, the evidence establishes by more than a preponderance of the evidence that his PTSD symptoms caused him to be unable to reasonably perform his duties since 2011, at the latest. The Board should give liberal consideration to the evidence that the applicant is providing, and the Board should not narrow the consideration of that evidence by overly weighting the absence of military service records discussing his symptoms. Rather, information from the VA, civilian medical records. and letters from family are compelling evidence that he suffered from debilitating PTSD for years while on active duty but as never properly referred to the DES.

i. In accordance with the Kurta memorandum, the VA determination that the applicant's PTSD is service-connected should receive liberal consideration as persuasive evidence that he had PTSD on active duty. Further. the Hagel memorandum requires special consideration of the VA 's determination that the applicant's PTSD is service-connected. As such, the Board should follow both the Kurta memorandum and the Hagel memorandum in interpreting the VA's determination to mean that the applicant had PTSD during his period of active duty service. Further, the Board should give special and liberal consideration to the reasons for the VA's determination that his service-connected PTSD was 100 percent disabling, as well as the timing of the VA's determination. Indeed, the fact that the VA rendered its opinion only months after the applicant's ETS is especially compelling evidence that he suffered the same symptoms while on active duty as he did just months after his ETS. It would strain credulity for the Board to come to any conclusion other than that the applicant had disabling PTSD symptoms while on active duty and that those symptoms included inability to perform activities of daily living, total occupational and social impairment, inability to perform maintenance of minimal personal hygiene, obsessional rituals that interfered with routine activities, etc.

j. In accordance with the Kurta memorandum, the Board must accept civilian hospital records as a valid source of evidence concerning the applicant's circumstances. Further, in accordance with the Hagel memorandum , the Board must give liberal consideration to a civilian medical provider's diagnosis of PTSD. Here, the

applicant provides records from JPS Health Network, the hospital system to where he was involuntarily transported following the 11 December 2012 incident at his mother's house. On page two of the medical records, Dr. [redacted] MD specifically diagnosed the applicant with PTSD as one condition among his "Current Problem(s)." As such, in liberally considering the record of Dr. [redacted] diagnosis, the Board should conclude that on I1 December 2012, while still in an active duty status, the applicant was suffering from PTSD. Further, the Board should, note that his symptoms were so severe that he lost track of reality and fired several rounds of ammunition at nonexistent enemies; the severity of this episode is clearly incompatible with continuing military service .

k. In accordance with the Kurta memorandum, the Board must liberally consider the applicant's statements concerning the onset of his PTSD and its effects. As such, giving liberal consideration, the Board should conclude that the applicant has PTSD that was caused by experiences on active duty, that he had this PTSD while on active duty, and that his PTSD severely limited his ability to perform his military duties.

l. The applicant gives a compelling account of reasons why his military records do not contain more evidence of PTSD. When the Board gives liberal consideration to these reasons, the Board should conclude that more likely than not that the applicant experienced PTSD symptoms that started while he was deployed to Iraq; that his PCS schedule in part hampered his ability to get immediate treatment for PTSD upon redeploying; that he did not feel safe with trying to get treatment at Fort Hood; that he tried to get help during bereavement counseling but was rebuffed; and that ultimately his final unit at Fort Sam Houston did not even require him to report for duty instead of properly trying to get help for him.

m. Further, the Board should honor the Hagel memorandum's intent to "ease the application process for veterans who are seeking redress. As applied to this case, the Board has no reason not to accept the applicant's statements that he felt like he brought the war home with him and that it created "a perfect storm of isolation, paranoia, flashbacks, nightmares, insomnia, sleepwalking, disassociation, and struggling even to maintain relationships with his family." Moreover, the Board should accept as more likely true than not that by 2012 the applicant's symptoms made him unable to take care of himself, much less perform his military duties.

n. In accordance with the Kurta memorandum, the Board must liberally consider letters from family members, such as Ms. [redacted] affidavit and Ms. [redacted] letter. In other words, it is appropriate to consider the assertions in the affidavit as true. Ms. [redacted] provides this Board a glimpse into what life was like with the applicant before and after his 15-month deployment to Iraq . Ms. [redacted] describes how the deployment changed the applicant from a high-functioning, confident Soldier into a paranoid, disabled person who could not perform basic activities of daily living, much less meet

the obligations of military service. Importantly, Ms. [redacted] notes that when she had the applicant served with divorce papers, he was not living in San Antonio but rather was staying with his parents in Fort Worth – this corroborates the applicant's account that he was living in Fort Worth, away from his duty station in San Antonio, and that his unit did not require him to show up for duty at Fort Sam Houston.

o. Likewise, Ms. [redacted] letter corroborates that the applicant was living with her in Fort Worth in December 2012. Her letter describes a PTSD-induced event that occurred on 11 December 2012, a Tuesday-there was no expectation that the applicant would report for duty in San Antonio the next day. Further, the description Ms. [redacted] gives of her son's dissociated state of shooting at non-existent enemies in her house belies any assertion that his mental state was compatible with continued service. There is simply no reasonable way to conclude that on 11 December 2012 and afterward that the applicant was fit for service.

p. The evidence is overwhelming that by 12 December 2012, the applicant's command certainly knew of his mental health struggles. First, even before the event on 11 December 20 2, the command did not require him to report for duty. Second. there is no possibility that the command did not learn of the 11 December 2012, event and understand its severity. Still, the command responded by simply letting time pass until his ETS. The Army knew or should have known that the applicant 's condition would not soon improve. The then-available evidence. which was even greater than a preponderance of evidence, required the Army under Army Regulation 635-40 to determine that the applicant was unfit because he was unable to reasonably perform the duties of any military position. More than a preponderance of the evidence would have established, if considered by the Army, that the applicant had an unfitting mental health condition as described by DoDI 6130.03 , Vol. 2. And because the applicant had such an unfitting condition that could not have been expected to improve at an adequate rate, the command should have followed, but did not follow, DoDI 1332.18 by referring him to the DES.

q. This Board has granted relief in cases with similarly situated veterans and should similarly grant relief to the applicant. Like in Docket Number AR20170000508, the applicant has produced evidence that he met criteria for PTSD during his time in service and that he suffered from "social and occupational impairment." Just like the applicant in Docket Number AR20170000508 who did not have his PTSD adequately considered and simply was deemed medically acceptable, in the applicant's case, he was repeatedly deemed medically acceptable despite overwhelming indications of PTSD and decreased ability to function; indeed, his command simply had him stay at home instead of addressing his condition.

r. Further, this Board should follow its example in Docket Number AR20150000040, where it determined that equity and good conscience mandated relief. Like in the

previous case, in this case the applicant was displaying symptoms associated with a PTSD diagnosis coupled with an in service traumatic event and subsequent VA rating. In the previous case, the Board referred the applicant to IDES, which in this case would be appropriate alternative relief if the board does not decide to medically retire the applicant.

s. Given the liberal consideration mandated by the Kurta and Hagel memoranda, this Board should find that the applicant suffered trauma during his deployment to Iraq , that the trauma caused him to develop service-connected PTSD while he was still on active duty, and that his PTSD symptoms severely and negatively impacted his ability to perform his duties as a Soldier. In turn, the Board should find that the Army committed an error and injustice against the applicant by causing him to simply stay home from duty instead of directly addressing his mental health condition and unfitness for duty. If the Army had properly followed Army regulation and DoD requirements, then the command would have referred the applicant to the DES, which, like the VA, would have rated his PTSD as 100 percent disabling. Therefore, the Board should grant relief to the applicant by medically retiring him with a 100 percent rating or, in the alternative, the Board should refer his case to the DES.

3. The applicant states:

a. He respectfully submits this affidavit to provide facts concerning his military service and how PTSD severely affected him even while he was still on active duty. He joined the Army at 17 years old as a split-option Soldier and joined active duty on 1 July 2003. He was so excited about his miliary career and his chance to serve the greatest nation on earth. He was in good mental and physical health, with no preexisting medical conditions and had a positive outlook on life and the future ahead of him.

b. In 2008, he deployed to Iraq on a 15-month rotation. In the Military Occupational Specialty (MOS) of 88M (Motor Transport Operator), one of his duties while deployed was to transport goods from one forward operating base (FOB) to another. He was also responsible for assisting with the drawdown and closing of FEBs in the theater.

c. Driving a truck outside the wire comes with significant dangers, especially from improvised explosive devices (IEDs). As such, they followed protocols to try to reduce the risk. They never drove above 30 miles per hour to ensure they could jam any incoming signal from a remote. They followed the tracks of the vehicle ahead of them so they would hopefully not trip anything that was outside those tracks. They were always alert and watched the road for any potential hazards, looking out for trouble before trouble found them. But despite all their efforts to remain safe, they ended up getting hit multiple times.

d. He does not have words to explain what it is like to be near an IED blast. What he can tell you is that each blast shook him to his core, and he has never recovered. At the time, he felt like remaining safe was a hopeless effort because, despite toing everything they were told to stay safe; they were still hit by IEDs. This caused him to question everything around him and become hypervigilant any time he does anything. To this day, he still feels like he must question everything around him, to scan everything. He feels like nowhere is a safe, good zone. The base safety equipment and the best procedures cannot protect him. No matter how hard you train or what you do, nothing is safe.

e. While deployed to FOB Speicher, even his time inside the wire was filled with terror. While at FOB Speicher, there was an active shooter event from one of their own. A Soldier had hit a breaking point and started shooting. He killed a contractor names [redacted] whom he knew from working out with hm at the gym. He felt like if one Soldier could kill any one of them for no apparent reason, then anybody he encountered could kill him. Everybody carried a weapon, so everybody and every moment was a risk to his life.

f. After the active shooter event, he avoided talking to anybody who was not in his truck with him. He stopped all socialization with anybody else for any reason. He tried his hardest to not let anybody come in close proximity to him because he did not trust anybody. He developed paranoid habits. For example, he could not just walk out of his containerized housing unit (CHU). He had to first look out the window and door, scan for threats, and then he could hesitantly walk out. If he had to walk around a corner, he would stop, peak around the corner, and then proceed cautiously. These habits have stuck with him even through today.

g. When he returned from Iraq and was still on active duty, it is like he brought the war home with him. Everything combined to create a storm of isolation, paranoia, flashbacks, nightmares, insomnia, sleepwalking, disassociation, and struggling to even maintain relationships with his family. Although he knew something was wrong, he did not understand what was wrong. He knew he needed help, but he did not know where to go for help and he did not know how to ask for help.

h. As part of reintegration when coming home from deployment, they had to speak with someone about how they were doing. What he remembers is that the person with whom he spoke said that he needed help, but that he would likely be unable to get an appointment because they were only 1 week away from block leave, and he was due to make a permanent change of station (PCS) move in 6 weeks. So, he did not schedule an appointment before that PCS.

i. When he arrived at Fort Hood, TX, it was right on the heels of the attack by Major (MAJ) [redacted] Even back in the United States, nowhere was safe. On top of that, there

seemed to be a strong stigma at Fort Hood against seeking mental health treatment. He did not feel safe with seeking mental health treatment at Fort Hood.

j. When he was stationed at Fort Sam Houston, TX, he did attempt to seek help multiple times. Especially when he was referred to bereavement counseling, he tried to bring up the issues he had been struggling with for years. For example, he mentioned that he barely slept, that any sleep he did get was jut a few hours at a time, and that he would wake up feeling like his life was in immediate danger, but he was told he was only there for bereavement counseling. He felt like nobody was willing to help him with the problems he was still experiencing from his deployment.

k. Without help, he was unable to find healthy ways to cope. After deployment, he was stationed at Fort Hood. He and his wife lived there where he was a training noncommissioned officer (NCO) for 1 year. His wife made sure, to the best of her ability, that he was able to function and that he was able to perform the tasks needed to be in good standing with the Army. He was then compassionately reassigned to Fort Sam Houston. By this time, his relationship with his wife was strained. As she became distant and stopped helping him, he began to cope by drinking alcohol. They divorced in 2011.

l. He did not have any specific job title at Fort Sam Houston. He was not trusted to do any specific job. He did not have any Soldiers under his supervision. He did not even have logon access to a computer, even though he worked in an office. By the end of 2011 and early 2012, he was sent home earlier and earlier in the duty day. By the middle of the year 2012, he was told to not even worry about coming in and to just be able to be reached by phone if anyone needed him.

m. When he was told not to worry about coming in anymore, his parents were concerned for his safety and did not want him to be alone, so he went to live with them at Fort Worth. He was living fulltime in Fort Worth while keeping his apartment in San Antonia just in case he needed to come back down for something. Although he had once been a completely independent Soldier who trained other Soldiers to be all they could be, in 2012, he could no longer care for himself. He was drinking heavily every day to try to cope. Drinking did not stop the flashbacks. No matter how much he drank, he would still have flashbacks and feel like he was in the middle of a warzone. But if he drank enough, then eventually he would black out so that the next day he would not remember what had happened. Then, he would start the cycle all over again.

n. His drinking to blackout during flashbacks became dangerous to him and others around him. The most obvious example happened on 11 December 2012. On that day, he had consumed some alcohol and was having a flashback. During the flashback, he completely disassociated, and, from his mother's account, he knows he was seeking to protect them while he believed they were under the threat of enemies entering the house. He shot several rounds of ammunition through his parents' door and walls.

o. During the 11 December 2012 incident, his mother called the police for help. He was involuntarily taken to the emergency room and then committed to a psychiatric facility for 6 days. His hospital paperwork states his current/active problems from that day were psychotic disorder and PTSD. This ETS was on 27 March 2013, just a few months after this incident. Although it was obvious he needed help for severe symptoms, nobody from the Army seemed willing to help him. Instead, they seemed to want to do the bare minimum to get him through to his ETS date when he would no longer be their problem. Looking back, his mistake was that he did not push harder for help when he was met with resistance or apathy, but at the time, he was still young with only a high school education. All he knew was the Army way of sucking it up and trying not to bother his superiors.

p. Writing this letter to the Board is like reliving the trauma all over again, and after the Board denied his last request, it is like he is back in the Army with people downplaying or ignoring the issues he had. The Board recognizes that he was diagnosed with sever service-connected PTSD in 2014, but the Board somehow ignores the common-sense conclusion that if he had PTSD shortly after his ETS, then he surely suffered from that same PTSD before his ETS. And of all he is written above, he has not even touched on the traumatic brain injuries (TBIs) he suffered while on active duty. Those TBIs are clearly documented in his military medical records, but again, his command and the Army were always content to let him try to Soldier on. Please give a fair consideration to the evidence that overwhelmingly establishes he had debilitating PTSD while on active duty, which continues to be debilitating.

4. The applicant enlisted in the Regular Army on 1 July 2003, and was awarded the MOS 88M.

5. The applicant deployed to Iraq from 26 July 2008 through 16 October 2009.

6. The applicant's DA Form 2166-8 (Noncommissioned Officer (NCO) Evaluation Report (NCOER)), covering the period from 15 December 2010 through 14 December 2011, rates the applicant in his duty tile of vehicle driver for that 12-month period. It shows he was rated "Success" in all portions of Part IV (Rater) Values/NCO Responsibilities) with comments that include:

- consistently scores 90 in each event on the Army Physical Fitness Test (APFT)
- exuded poise and discipline while always demonstrating stellar military bearing
- a take charge NCO; displayed strong leadership skills and initiative when given the most difficult tasks
- demonstrated outstanding leadership skills as a squad leader

7. JPS Health Network ED Provider Notes show:

a. The applicant was admitted to the ED on 11 December 2012, with a legal status of detention warrant. He denied suicidal ideation, homicidal ideation, audiovisual hallucination, or alcohol/drug use at this time. He was oriented to person, place, and situation.

b. Per the detention warrant, the applicant was at home and began imagining that a "bad guy" was coming through is door to get him and his mother. He grabbed a pistol and shot several rounds through the door. Nobody was hurt during the incident. He was very panicky during the episode. Later when questioned, he did not remember the incident. He is an Iraq war veteran and is currently on active duty in the Army. He presents on the detention warrant for psychosis and delusion.

c. Upon interview the next morning, he appeared calm, cooperative, guarded, and reported he did not know exactly why he fired 9-10 shots with his 9 millimeter Baretta. He thought his mother said someone was trying to break into the house, so he grabbed the gun and started shooting. He admitted he drank two 12 ounce beers prior to the incident, but denies he was drunk. He drinks once or twice per week 3-4 beers at a time. He was currently an active duty Soldier stationed in San Antonio and previously served in Iraq and Afghanistan. He was stationed in Germany and came back to the States to be a co-guardian/caretaker for his brother who was diagnosed with cancer.

d. He admits to hypervigilance when he hears tires pop or loud noises, he startles. He also feels anxious and cannot sit with his back against door entrances. He denies nightmares but does have frequent flashbacks of past events in combat and has trouble sleeping. He denies feeling depressed. When asked what the most violent think he has done in the past he said, "kill people; that's my job." He received counseling for PTSD and grief when his brother passed away in May 2011, from a rare form of sarcoma. He also reports his wife cheated on him with another man and had a child with that man 2 years ago, which led to their divorce.

e. He believes he just has a reflexive response to possible signs of danger and also attributes it to the effect of alcohol at the time of the incident. The police took away both of his guns. He would like to be released so he could attend his older brother's wedding the next day and was dismayed and frustrated when he was told he would be transferred and admitted to Millwood Hospital but was able to control his emotions.

f. His active problem list shows psychotic disorder and PTSD.

8. [redacted] Police Department records show on 11 December 2012, officers were dispatched the residence of the applicant's mother at 0219 hours after reports of him firing shots inside the residence and yelling at his mother to get down because someone was coming through the door to get her. His mother advised the officers she was concerned for her son's safety and his PTSD symptoms had been getting worse.

An application for mental detention was secured and he was taken to JPS for a psychiatric evaluation. His guns were taken and tagged. An arrest warrant was issued for the offense of discharge of firearm.

9. A second NCOER, covering the period from 15 December 2011 through 14 December 2012 rates the applicant in his duty tile of vehicle driver for that 12-month period. It shows he was rated "Excellence" or "Success" in all portions of Part IV with comments that include:

- scored a 288 on the APFT during the rating period
- consistently displayed tremendous mental and physical stamina during casualty collection point (CCP) and battalion field exercises
- trained Soldiers on battle drills and warrior skills developing enduring capabilities with his team

10. Headquarters, U.S. Army North (Fifth Army) Orders 361-0112, 26 December 2012, reassigned the applicant to the Fort Sam Houston Transition Center effective 6 February 2012 for discharge on 27 March 2013.

11. The applicant's DD Form 214 shows he was honorably discharged on 27 March 2013, due to completion of required active service with corresponding separation code KBK. He was credited with 9 years, 8 months, and 27 days of active service.

12. The applicant's available service records do not contain a DA Form 3349 (Physical Profile), nor do they show he was issued a permanent physical profile rating.

13. A VA Rating Decision, 13 December 2014, shows the applicant was awarded the following service-connected disability ratings for the following conditions effective 19 August 2014:

- thoracolumbar degenerative joint disease with herniated disc and intervertebral disc syndrome, 20 percent
- radiculopathy right lower extremity, 10 percent
- radiculopathy of the femoral nerve, right lower extremity, 10 percent
- PTSD, currently 70 percent is increased to 100 percent
- migraine headaches, currently 30 percent, is increased to 50 percent
- TBI with memory loss is continued at 10 percent

14. The applicant previously applied to the ABCMR in November 2016, requesting medical retirement, due to untreated and undiagnosed PTSD symptoms that were clear and present at the time of his service.

15. In the adjudication of that case, a medical advisory opinion was provided by Army Review Boards Agency (ARBA) medical advisor on 30 January 2020, which has been provided in full to the Board for review, and in pertinent part shows the evidence supports the existence of a behavioral health condition at the time of his discharge; he did meet the medical retention standards of Army Regulation 40-501, and although it is acknowledged the VA granted him a 100 percent disability rating for PTSD, this does not mean that medical disability retirement is warranted.

16. On 27 February 2020, the Board denied the applicant's request, determining that the evidence presented does not demonstrate the existence of a probable error or injustice and the overall merits of the case are insufficient as a basis for correction of his records.

17. A statement from the applicant's ex-wife, Ms. [redacted] shows:

a. She was writing on behalf of her ex-husband and to explain what life with him was like before living with PTSD. She married him in December 2007 and thought she married a man who was capable of anything. He had a positive attitude that made it seem like he could accomplish anything. He got orders sending him to Germany, but she did not accompany him because he was training to deploy to Iraq 4 months later.

b. Everything started out fine when he was deployed, but as the deployment went on, it changed him. He used to talk to her about everything, but then suddenly he could not find the words to talk to her. He was always angry and quick tempered and no longer trusted anyone due to events of the deployment. The man who could find the positive in any situation now only saw danger, destruction, and death around every corner after he returned from deployment, and it did not get any better when he returned to the States.

c. Things got progressively worse when he got home. It got so bad that she knew she needed to leave or one day she might come home to a lifeless body. Shortly after his deployment ended, he was stationed at Fort Hood, and she felt more like a parent than a spouse. Everything had changed. She now had to make sure he was up for physical training (PT), his uniforms were cleaned and that he ate because he would not remember to do that on his own. Even though she was trying to help him because he would not take care of himself, they fought all the time.

d. She had to end up driving him to and from work because he kept having accidents due to thinking he was seeing IEDs on the road. Eventually, after their insurance ballooned, they were eventually dropped by their insurance company. Thinks continued to spiral when they left Fort Hood to go to Fort Sam Houston. His paranoia was now out of control. He always had guns with him; under the pillow, in the car, in the bathroom; he would not move without a gun. This was of great concern because he was

having flashbacks and nightmares with kicking and screaming if he did sleep. As much as she tried, she could not help him. His mind never left Ira and they only continued as he did not receive treatment. When he did seek treatment, they refused to help him, so he looked for a solution at the bottom of a bottle. She did not know who to turn to because he had already gone to mental health and his command was already aware of the situation.

18. A statement form the applicant's mother, Ms. [redacted] is of extremely poor quality, rendering it partially illegible, but has been provided in full to the Board for review. In pertinent part, she details the shooting incident from 11 December 2012, which was eventually filed as a medical military issue and not as a criminal assault or firearms violation. She states her son was a completely different person prior to his military service. It is evident he developed severe PTSD as well as head injuries during his multiple tours and missions. He should be afforded the opportunity to live without flashbacks, to have stability, and improve his psychological well-being.

19. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

20. Title 38, USC, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

21. MEDICAL REVIEW:

a. Background: The applicant is requesting reconsideration of his prior request for physical disability retirement in lieu of honorable administrative discharge due to completion of required active service. He contends PTSD as related to his request.

b. 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:

- Applicant enlisted in the Regular Army on 1 July 2003.
- Applicant deployed to Iraq from 26 July 2008 through 16 October 2009.
- Headquarters, U.S. Army North (Fifth Army) Orders 361-0112, 26 December 2012, reassigned the applicant to the Fort Sam Houston Transition Center effective 6 February 2012 for discharge on 27 March 2013.
- Applicant's DD Form 214 shows he was honorably discharged on 27 March 2013, due to completion of required active service with corresponding separation

code KBK. He was credited with 9 years, 8 months, and 27 days of net active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant's counsel states this case is an extremely egregious example of the Army 's ignoring a Soldier's unfitting mental health problems. As one example. while on active duty the applicant had a PTSD-related flashback at his mother's house and shot multiple rounds of ammunition through her doors and walls; yet, inexcusably, the Army simply assessed him as fit for duty and wholly failed to refer him to the DES. Although all records indicate the command understood that this PTSD induced episode was a mental health crisis and not misconduct, the Army failed the applicant by simply letting him stay home from duty and reach the expiration of his ETS. Indeed, this honorable Board should consider the applicant's case as the quintessential type of situation that spurred the Kurta/and Hagel memoranda. If the applicant had been properly referred to the DES while in service, then he would have been medically retired. The Board's action should correct the error and injustice of failing to medically retire the applicant.

d. The active-duty electronic medical records available for review shows on 15 September 2005, the applicant had a behavioral health encounter due to reported symptoms of anxiety and depression. The note indicates he was previously seen for neuropsychological testing and follow-up between July to December 2004 due to a head injury and attention/memory problems. The note states, "he was in a car accident in May and left the scene of the accident and received UCMJ action". During this encounter he was diagnosed with Anxiety Disorder and Adjustment Disorder with Depressed Mood. He participated in two individual sessions on 22 and 27 September 2005 and reported improvement in his symptoms. On 26 February 2007, the applicant self-referred as a walk-in for an evaluation, six months after arriving at Ft. Hood. He presented with occupational stress, saying he was uncomfortable in his unit since they were not helping him resolve pay issues. He stated he missed being paid on two occasions and as a result was unable to pay his bills. During this encounter he was diagnosed with Adjustment Disorder. On 18 October 2009, he participated in a post deployment screening, no concerns noted. A note dated 21 October 2009, indicates issues related to familial circumstances. The applicant once again self-referred for services on 28 June 2011, he reported sad mood and sleep disturbance, which led to fatigue during the day and lack of motivation at work. He shared while he was deployed to Iraq, his older brother who was an intelligence analyst in the Navy was diagnosed with cancer. His brother reportedly died in May of 2011. The applicant did not meet criteria for a diagnosis and the session was labeled Phase of Life or Life Circumstance Problem. He was provided with weekly psychotherapy to support him with the loss of his brother and family circumstances. On 21 July 2011, he was diagnosed with Bereavement Without Complications and overall participated in 7 sessions until August 2011. On 18 December 2012, the applicant once again self-referred for counseling

services related to lack of sleep, anxiety, and loss of desire to socialize. He was diagnosed with Reaction to Chronic Stress, Bereavement without complications, and Phase of Life or Life Circumstance Problem. He was scheduled for a follow-up session on 17 January 2013 but did not show. In a session, dated 24 January 2013, he reported he was beginning his Terminal Leave at the end of March. He discussed a situation involving an NCOER that was pending and the session focused on decreasing his anxiety and stress.

e. The applicant submitted a note with his application to the Board regarding his hospital evaluation from 11 December to 12 December 2012. The note indicates he was brought by police via a Detention Warrant due to an incident where the applicant was at home and began imagining a "bad guy" was coming through his door to get him and his mother. He grabbed a pistol and shot several rounds through the door. Nobody was hurt during the incident, but he was very "panicky" during the episode and later when he was questioned did not remember the incident. The applicant denied suicidal ideation, homicidal ideation, and hallucinations. However, based on the incident and his history of deployment he was diagnosed with Psychotic Disorder, NOS, and PTSD. The record notes no prior history of treatment with medication. The applicant was started on psychotropic medication and there is evidence the family did not want this information in his military record. A safety plan was created, and the applicant was released to his mother's care since she did not want him to miss is older brother's wedding and she asserted he was not a danger to himself or others.

f. Overall, the applicant's available service record does not contain a DA Form 3349 (Physical Profile), nor does it evidence:

- he was issued a permanent physical profile rating
- he suffered from a medical condition, physical or mental, that affected his ability to perform the duties required by his MOS and/or grade or rendered him unfit for military service
- he was diagnosed with a medical condition that warranted his entry into the Army Physical Disability Evaluation System (PDES)
- he was diagnosed with a condition that failed retention standards and/or was unfitting

g. The applicant's DA Form 2166-8 (Noncommissioned Officer (NCO) Evaluation Report (NCOER)), covering the period from 15 December 2010 through 14 December 2011, shows the applicant was rated "Success" in all portions of Part IV (Rater) Values/NCO Responsibilities) with comments that included:

- consistently scores 90 in each event on the Army Physical Fitness Test (APFT)
- exuded poise and discipline while always demonstrating stellar military bearing

- a take charge NCO; displayed strong leadership skills and initiative when given the most difficult tasks
- demonstrated outstanding leadership skills as a squad leader

h. A second NCOER, covering the period from 15 December 2011 through 14 December 2012 shows he was rated "Excellence" or "Success" in all portions of Part IV with comments that included:

- scored a 288 on the APFT during the rating period
- consistently displayed tremendous mental and physical stamina during casualty collection point (CCP) and battalion field exercises
- trained Soldiers on battle drills and warrior skills developing enduring capabilities with his team

i. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 100% service connected for PTSD which also includes service-connection for other medical conditions and 10% for TBI. The applicant has participated in PTSD specialty treatment. The applicant was psychiatrically hospitalized from 5 February to 9 February 2015, due to suicidal ideation with intent and plan. Upon discharge he was diagnosed with Mood Disorder, NOS; PTSD; Alcohol Abuse; rule-out Cluster B Traits; and TBI. He participated in an inpatient substance abuse treatment from 22 July 2015 to 22 October 2015. The record shows he was once again hospitalized from 5 to 24 May 2018 for the purpose of stabilizing his medication. He was diagnosed with PTSD, Bipolar Disorder, and Alcohol Use. He endorsed ongoing significant PTSD symptoms including hypervigilance, nightmares, startle, and flashbacks.

j. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence, at this time, to support a referral to the IDES process. Although the applicant has been 100% service connected for PTSD, VA examinations are based on different standards and parameters; they do not address whether a medical condition met or failed Army retention criteria or if it was a ratable condition during the period of service. Therefore, a VA disability rating would not imply failure to meet Army retention standards at the time of service. A subsequent diagnosis of PTSD through the VA is not indicative of an injustice at the time of service. Furthermore, even an in-service diagnosis of PTSD is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. Based on the documentation available for review, there is no indication that an omission or error occurred that would warrant a referral to the IDES process.

k. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Not applicable.

(2) Did the condition exist or experience occur during military service? Not applicable.

(3) Does the condition or experience actually excuse or mitigate the discharge? Not applicable.

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 record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition, available military records, and the medical review, the Board concurred with the advising official finding that the applicant's Department of Veterans Affairs rating determinations are based on the roles and authorities granted by Congress to the Department of Veterans Affairs and executed under a different set of laws. Based on this, the Board determined a disability retirement or referral of his case to the Disability Evaluation System (DES) is not warranted.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
[redacted]	[redacted]	[redacted]	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.

3/26/2025

X [redacted]

CHAIRPERSON

[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. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations, and mitigating factors, when taking action on applications from former service members administratively discharged under other than honorable conditions, and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

2. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), sexual assault, or sexual harassment. Boards are to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based, in whole or in part, on those conditions or experiences.

3. 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 (DES) 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 (Physical 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 (MMRB); 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 their 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. 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 their 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.

4. 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.

c. The percentage assigned to a medical defect or condition is the disability rating. A rating is not assigned until the PEB determines the Soldier is physically unfit for duty.

Ratings are assigned from the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). The fact that a Soldier has a condition listed in the VASRD does not equate to a finding of physical unfitness. An unfitting, or ratable condition, is one which renders the Soldier unable to perform the duties of their office, grade, rank, or rating in such a way as to reasonably fulfill the purpose of their employment on active duty. There is no legal requirement in arriving at the rated degree of incapacity to rate a physical condition which is not in itself considered disqualifying for military service when a Soldier is found unfit because of another condition that is disqualifying. 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.

d. When a Soldier is being processed for separation or retirement for reasons other than physical disability, continued performance of assigned duty commensurate with their rank or grade until the Soldier is scheduled for separation or retirement, creates a presumption that the Soldier is fit.

e. The DES compensates disabilities when they cause or contribute to career termination. Service members who are pending retirement at the time they are referred for disability evaluation are presumed fit for military service as set forth below:

(1) Soldiers in the presumptive periods below are eligible to be referred to the DES when they have medical impairments that do not meet the medical retention standards according to Army Regulation 40-501. With the exception of unfit Soldiers approved for continuation, these Soldiers enter the PEB phase of the DES under the rebuttable presumption that they are physically fit.

(2) Presumptive period. The PEB will presume Soldiers to be pending retirement when the Soldier's date of referral to the DES is after any of the circumstances listed below:

- the Soldier's request for voluntary retirement has been approved; revocation of voluntary retirement orders for purposes of referral into the DES does not negate application
- an officer has been approved for selective early retirement
- an officer is within 12 months of mandatory retirement due to age or length of service
- an officer or enlisted is within 12 months of their retention control point (RCP) or expiration term of service (ETS) and will be eligible for regular retirement
- a Reserve Component member is within 12 months of mandatory removal date from active status and qualifies for a 20-year letter at the time of referral to the DES

- the Soldier is a retiree recall, to include those who transferred to the Retired Reserve, with eligibility to draw retired pay upon reaching the age prescribed by statute unless they incurred or aggravated the medical condition while on their current active duty orders
- the Soldier has been approved for retirement under a Temporary Early Retirement Authority (TERS) so long as the Army guidance allows Soldiers to accept such offer while pending DES evaluation or before the outcome of the DES is known

(3) Overcoming the presumption of fitness rule. Soldiers may overcome this presumption by presenting a preponderance of evidence that they are unfit for military service. The presumption of fitness rule may be overcome (rebutted) when:

- within the presumptive period, an illness or injury occurs that would prevent the Soldier from performing further duty if they were not retiring or not a retiree recall
- within the presumptive period, a serious deterioration of a previously diagnosed condition, to include a chronic condition, occurs and the deterioration would preclude further duty if the Soldier were not retiring or not a retiree recall
- the condition for which the Soldier is referred is chronic and a preponderance of the evidence establishes the Soldier was not performing duties befitting their office, grade, rank, or MOS before entering the presumptive period; the ability to perform further duty is not a consideration

5. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10, U.S. Code, section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating of less than 30 percent.

6. Title 38, U.S. Code, section 1110 (General – Basic Entitlement) states 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.

7. Title 38, U.S. Code, section 1131 (Peacetime Disability Compensation – Basic Entitlement) states 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.

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. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Paragraph 2-11 states applicants do not have a right to a formal hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//