

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 January 2025

DOCKET NUMBER: AR20240004649

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show he was medically retired due to incurring post-traumatic stress disorder (PTSD) in the line of duty.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Health Record (601 pages)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 his supervisor informed him that he was offered to buy back his time spent in the military so it could be added to his service time as a federal government employee because he has PTSD, the same condition the applicant has. It was then that the applicant realized that the fact that his diagnosed condition of PTSD incurred as the result of an instrument of war should be documented in his record due to his deployment to Afghanistan.
3. On 4 April 2003, the applicant enlisted in the Regular Army in the rank/pay grade of private first class/E-3 for a period of 6 years. Upon completion of training, he was awarded military occupational specialty 25B (Information Technology Specialist).
4. The applicant's Enlisted Record Brief (ERB) shows he served in a variety of assignments in Belgium, Israel, Romania, and Bulgaria.
5. On 28 August 2009, the applicant extended his period of enlistment for an additional 3 months in order to meet the service remaining requirement for promotion to staff sergeant (SSG)/E-6. He was promoted to SSG/E-6 on 1 September 2009.

6. The applicant's record is void of the specific facts and circumstances surrounding his separation.

7. The applicant's annual DA Form 2166-8 (Noncommissioned Officer (NCO) Evaluation Report) rendered for the period from 1 November 2008 through 31 October 2009 shows:

a. His principal duty title was Supreme Allied Commander-Europe (SACEUR) Communications NCO. His duties included, in part, deploying as personal communicator providing forward communications support to the SACEUR/Commander, U.S. European Command.

b. His areas of special emphasis included, in part, North Atlantic Treaty Organization support to Operations Enduring Freedom and Iraqi Freedom.

c. His rater stated the applicant traveled in support of a four star officer and performed flawlessly as a personal communicator to the SACEUR on seven missions spanning 63 days.

d. His rater noted the applicant had a physical profile imposed on 15 September 2009 which prevented him from taking the Army Physical Fitness Test and stated the applicant's profile did hinder duty performance. As a result, he was reassigned to the Warrior Transition Unit (WTU).

8. The applicant's ERB shows he was assigned to the WTU in Landstuhl, Germany on 24 November 2009. He was reassigned to the WTU at Fort Riley, KS on 6 April 2010.

9. Orders 158-0008 issued by Headquarters, 1st Infantry Division and Fort Riley, Fort Riley, KS on 7 June 2011 show, in part:

a. The applicant was released from assignment and duty because of physical disability incurred while entitled to basic pay and under conditions that permitted his retirement for permanent physical disability.

b. His effective date of retirement was to be 30 August 2011 and he was to be placed on the retirement list on 31 August 2011.

c. His percentage of disability was 60 percent. His retirement type was permanent with allotment code 10.

d. He was to be credited with 8 years, 4 months, and 27 days for the purposes of calculation his retired pay.

e. His orders contain the following entries:

(1). "Disability is based on injury or disease received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by law: No."

(2). "Disability resulted from a combat related injury as defined in [Title] 26 USC [U.S. Code] [Section] 104: No."

(3) "Significant awards: Not applicable."

10. The applicant's DD Form 214 shows he was retired in the rank/pay grade of SSG/E-6 on 30 August 2011 under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), Chapter 4. The narrative reason for his separation was "Disability, Permanent (Enhanced)." His service was characterized as Honorable. Item 18 (Remarks) shows, in part, his retired rank/grade is SSG/E-6 and he completed his first full term of service. There are no entries in Item 18 regarding deployment locations and/or durations. However, the Global War on Terrorism Expeditionary Medal is listed among the applicant's authorized decorations.

11. The applicant's record contains a U.S. Army Human Resources Command, Fort Knox, KY letter Subject: Army Combat-Related Special Compensation (CRSC) Decision Letter, (Claim # -----), dated 18 April 2024. This letter shows the applicant's claim for CRSC had been reviewed and approved in accordance with current program guidance.

a. The letter shows his diagnosed condition of Tinnitus was assigned a disability rating of 10 percent effective November 2017 and was determined to be combat-related due to an instrumentality of war. His total combat-related disability rating was determined to be 10 percent effective November 2017.

b. The letter shows his diagnosed condition of Anxiety Disorder, claimed as PTSD was assigned a disability rating of 30 percent and it was determined there was no documentation in his claim that establishes personal exposure to armed conflict in accordance with CRSC guidelines.

c. The DD Form 2860 (Claim for CRSC) submitted by the applicant on 24 October 2023 shows the applicant provided the following justification in support of his claim for disability due to PTSD in Item 13 (Disability Description) j (In your own words, describe the events surrounding the disability and how it meets the guidelines of combat-related):

"Stressor # 1 : [The applicant] indicated that he was sent to Afghanistan in support of General Craddock in 2009. He was there approximately two weeks and during that time they would convoy from the Kabul airport to headquarters

(approximately 15 minute drive). He stated that he was bothered because he had recently seen pictures of a child who had been blown up. He stated that civilians would walk across the street in front of the convoys all the time and this bothered him. One time he saw a child by the side of the road who was on crutches and bandaged up. He felt this child had probably been injured by an IED [Improvised Explosive Device]. He was about the same age as [the applicant's] adopted son and reminded him of him. I was in Kabul and there was a bomb that went off in the middle of the road the week before, the team I was on was telling me about the hole in the road, we had danger everywhere and I was in the middle of it and all of the people who were hurt were everywhere and they all look my son. Yes we are at war and driving from the airport to KABUL headquarters I saw a lot of bad stuff! would rather not have seen."

12. The applicant provides his 601-page VA Health Record which shows, in part, he was diagnosed and treated for PTSD and numerous other medical conditions.

13. Army Regulation 635-8 (Separation Processing and Documents) provides instructions for the preparation of separation documents and corrections. The regulation does not provide for the recording of medical diagnoses and/or how medical conditions were incurred on the DD Form 214.

14. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting correction of his DD214 to reflect being medically retired due to incurring PTSD while on active duty. He contends he experienced a BH injury in the line of duty, specifically PTSD.

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:

- The applicant enlisted into the Regular Army on 4 Apr 2003.
- The applicant was assigned to the Warrior Transition Unit (WTU) at Landstuhl, Germany and subsequently the WTU at Fort Riley on 6 Apr 2010. The WTU was due to a physical profile imposed on 15 September 2009 which prevented him from taking the Army Physical Fitness Test and stated the applicant's profile did hinder duty performance.
- The applicant was released from assignment and duty because of physical disability incurred while entitled to basic pay and under conditions that permitted his retirement for permanent physical disability.
- The applicant was retired Honorably on 30 Aug 2011, and he was credited with 8 years, 4 months and 27 days of net active service. He was to be placed on the retirement list on 31 August 2011.

c. Review of Available Records: The Army Review Boards Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts his diagnosed condition of PTSD incurred as the result of an instrument of war should be documented in his record due to his deployment to Afghanistan. The application contained 601 pages VA records which were primarily medical-specific records with a much smaller portion being behavioral health notes documenting post-service treatment. Applicant reported in a therapy session (19 Feb 2008) that his daughter had some issues and that a referral to a clinician at Landstuhl, Germany was being considered. On 1 Jul 2011, an initial evaluation note identified applicant as a "non-severely, non-battle injury" soldier who was with WTB. A history of headaches under neurologist care and Crohn's disease were his primary medical issues and he was referred to outpatient primary care. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The VA's Joint Legacy Viewer (JLV) which includes medical and mental health records from DoD and VA was also reviewed and showed the applicant initiated behavioral health treatment in 2008 through family therapy related to problems with his daughter. In December 2009 there is documentation of an evaluation as the applicant was evaluated as part of his transition to the WTU, and it was noted that he denied current stressors or need for behavioral health. While engaged with the WTU, the applicant was seen for supportive counseling, and documentation on 15 Jun 2010 showed he was evaluated and records were reviewed as part of an MEB. It was noted that there were "no significant limitations in duty related to MEB-ratable mental health diagnoses" and "the service member does not have a psychiatric condition that warrants disposition through medical or administrative channels." No diagnosis was rendered. Final case management documentation on 26 August 2011 showed the applicant denied any problems but requested a refill of a sleep medication.

e. The applicant initiated mental health treatment through the VA on 29 May 2012 and reported sleep difficulties, irritability, and difficulty adjusting to civilian life. He was diagnosed with Panic Disorder and Anxiety not otherwise specified (NOS) and was started on psychiatric medications. The Compensation and Pension evaluation on 16 Oct 2013 indicated applicant did not meet the criteria for a diagnosis of PTSD, but rather for "Anxiety NOS." The evaluation indicated he was in Afghanistan for two weeks and expressed being disturbed by seeing children who he assumed had been injured by an IED.. The main thrust of his VA visits in large part focused on his difficulties with anxiety to include panic symptoms and medication management. The C&P evaluation punctuated the clinical determination that his BH condition was primarily in the anxiety domain rather than PTSD, and that the severity level was in the moderate range.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that while the applicant is 30% service connected for Anxiety Disorder,

the documentation does not support that the applicant was psychiatrically unfit at the time of discharge for any boardable mental health condition as he did not have persistent or reoccurring symptoms requiring extended or recurrent psychiatric hospitalization or persistent and reoccurring symptoms that interfered with duty performance or necessitated duty limitations (AR 40-501, para 3-33c). BH treatment notes from his time in service showed he reported some sleep difficulty, but documentation from 15 Jun 2010 showed that his condition met retention standards and did not need to be included in his PEB.

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 lack of any unfitting conditions found within 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

X //SIGNED//

CHAIRPERSON

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. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body.
3. Army Regulation 600-8-22 (Military Awards) states the Global War on Terrorism Expeditionary Medal (GWOTEM) is authorized for award to members of the Armed Forces of the United States who deployed abroad for service in Global War on Terrorism operations on or after 11 September 2001 to a date to be determined. The general area of eligibility (AOE) encompasses all foreign land, water, and air spaces outside the fifty states of the United States and outside 200 nautical miles of the shores of the United States in operations approved by the Secretary of Defense. Initial award of the GWOTEM was limited to service members deployed abroad in Operations Enduring Freedom and Iraqi Freedom in the following designated specific geographic areas of eligibility (AOE): Afghanistan, Algeria, Bahrain, Bosnia-Herzegovina, Bulgaria (Bourgas), Chad, Crete, Cyprus, Diego Garcia, Djibouti, Egypt, Eritrea, Ethiopia,

Georgia, Hungary, Iran, Iraq, Israel, Jordan, Kazakhstan, Kenya, Kosovo (only specific GWOT operations not associated with operations qualifying for the Kosovo Campaign Medal), Kuwait, Kyrgyzstan, Lebanon, Mali, Mauritania, Niger, Oman, Pakistan, Philippines, Qatar, Romania (Constanta), Saudi Arabia, Somalia, Syria, Tajikistan, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Yemen, that portion of the Arabian Sea north of 10 degrees north latitude and west of 68 degrees longitude, Bab El Mandeb, Gulf of Aden, Gulf of Aqaba, Gulf of Oman, Gulf of Suez, that portion of the Mediterranean Sea east of 28 degrees east longitude and boarding and searching vessel operations, Persian Gulf, Red Sea, Strait of Hormuz, and Suez Canal.

4. Army Regulation 635-5 (Separation Documents), in effect at the time, established the standardized policy for preparing and distributing the DD Form 214. It stated the purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge.

5. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) Governs the evaluation for physical fitness of Soldiers who may be unfit to perform their military duties because of physical disability. The regulation does not provide for the recording of medical diagnoses and/or how medical conditions were incurred on the DD Form 214.

//NOTHING FOLLOWS//