ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 28 August 2025

DOCKET NUMBER: AR20240005102

APPLICANT REQUESTS: a retroactive finding of in the line of duty (LOD) for injuries he received while serving on active duty (AD).

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

- DD Form 149 (Application for Correction of Military Record), 22 April 2024
- Applicant's timeline and summary of events, October 2019 to April 2024
- Applicant summary of current medical concerns
- Applicant's radiological studies
- Appointments list neck, back, shoulder, calf, and ankle treatment 2020-2022

FACTS:

1. The applicant states:

a. He was never given the medical care for injuries he sustained while serving. His unit and G-1 were telling him he would receive care once he coordinates it himself after he leaves the military. He deserves care for his LOD injury.

b. If he pursued it while he was a Soldier, he would have to pay for it out of pocket to include spine surgeries he needs. He has fought for everything since the accident including submitting for the medical evaluation board (MEB) multiple times. His unit would not support it.

c. He goes to a civilian emergency room (ER) often and they are adamant he needs care soon or he will suffer a shorter lifespan for his untreated injuries.

2. The applicant provides:

a. A timeline of events outlining his injuries and actions he took in response.

- October 2019, he began One Station Unit Training
- November 2019 a drill sergeant broke his finger slamming a bathroom stall door on it

- February 2020, he fell in a hole and during a patrol and twisted his knee and he had a reaction to a meal ready to eat
- May 2020, he fractured his shoulder during Airborne training
- July 2020, he tore ligaments in his shoulder during special forces training, transferred to medical hold and removed from training
- August 2020 an MRI of his shoulder showed further damage and told to do physical therapy
- February 2021, he injured his back while performing squats at the gym
- March 2021, his hips were shifting after his back injury, he received his last injection for his shoulder
- May 2021, his back pain worsened, and a spine imaging showed two slipped discs; both his feet began problems with dual ankle pain
- November 2021, his back pain worsened, dropped from special forces training
- February through March 2022, his back pain worsened
- April 2022, he completed special forces training with multiple injuries and his commander tells him he will not support him getting support
- May 2022, he was forced to reenlist because of his injuries
- June 2022, he was told to get care from the Department of Veterans Affairs (VA)
- July 2022, he was told to take the Army Physical Fitness Test or provide proof his injury was legitimate
- August 2022, he was told to report to drill and accused of malingering
- September 2022, he was told to go the ER for mental health and told nothing was wrong but got stuck with the bill with no insurance
- October 2022, he went to Fort Bragg to collect documents but told he was past the point of help from the ortho-spine doctor; his unit said they had no resources to help him
- November 2022, he slipped and received a back spasm, and his left hip cracked; went to ER but was told he was faking it
- January 2023, begins process for the MEB
- February 2023, he submitted a VA claim
- March 2023, he had an MEB over the phone; is given a traumatic brain injury determination
- October 2023, he received surgery to reattach his hip to his spine
- November 2023, he received 100% VA disability compensation
- December 2023, his MMSO was extended due to the lack of care opportunity

b. A list of medical concerns outlining his concussion, back pain, hip injury, hypertension, shoulder pain, and wrist pain.

c. A list of radiological studies and a list of his appointments and dates.

3. A review of the applicant's service record shows the following:

a. On 5 March 2019, he underwent a medical prescreen for the purpose of enlistment. He reported good health.

b. On 13 May 2019, he enlisted in the North Carolina Army National Guard (NCARNG) for 3 years. On the same date he gave a report of medical history and noted a history of spinal meningitis with hospital admission and treatment.

c. On 28 October 2019, he reported to Fort Benning for OSUT.

d. On 26 April 2022, the commander, 60th Troop Command, NCARNG, granted his voluntary request to extend his enlistment by 1 year.

e. On 1 August 2022, he was honorably released from AD by reason of completion of required active service. He completed 2 years, 9 months, and 4 days of active service.

f. On 26 April 2023, his commander, requested he be extended by 1 year to complete the MEB process.

g. On 13 February 2024, an Informal Physical Evaluation Board (IPEB) found him physically unfit and recommended a combined rating of 80% disability and his disposition be permanent disability retirement. The Board found the following medical conditions to be unfitting:

- depressive disorder due to medical conditions with major depressive-like features, 70% disability rating
- lumber degenerative disc disease other than IVDS, lumbar intervertebral disc syndrome, 40% disability rating

h. On 6 March 2024, a representative for the Secretary of the Army approved the findings of the IPEB.

i. On the same date, Order D 066-02 issued from the U.S. Army Physical Disability Agency released him for assignment and duty under conditions that permitted his retirement for permanent physical disability. His effective date to be placed on the retired list was 6 April 2024.

j. On 22 March 2024, the USAPDA revoked Order D 066-02.

k. On 19 April 2024, he voluntarily extended his enlistment is commander, extended his enlistment under National Guard Regulation 600-200 (Enlisted Personnel Management), Table 8-1, Rule M.

l. On 13 February 2024, an IPEB found him physically unfit and recommended a combined rating of 80% disability and his disposition be permanent disability retirement. The Board found the following medical conditions to be unfitting:

- depressive disorder due to medical conditions with major depressive-like features, 70% disability rating
- lumber degenerative disc disease other than IVDS, lumbar intervertebral disc syndrome, 40% disability rating

m. On 29 August 2024, he met with the PEB liaison officer, concurred with the findings of the IPEB, and waived a reconsideration of his VA ratings.

n. On 30 August 2024, a representative for the Secretary of the Army approved the findings of the IPEB.

o. On 30 August 2024, the USAPDA notified him he was permanently retried with a Department of Defense disability rating of 80%. He was advised to seek benefits with the VA.

p. On 30 September 2024, the ARNG retired him and placed him on the Permanent Disability Retired List.

4. On 13 February 2025, the NGB provided an advisory opinion recommending disapproval of his requests in response to his issues. This advisory includes two VA disability rating determinations reflecting the applicant is receiving 100% combined disability benefits. The advisory reads, in part:

a. The applicant claims that he was never given the opportunity to seek medical care for injuries sustained to his neck, shoulder, back, and ankles during period of active duty, and in addition requests an exception to policy to DoDI 1241.01 (dated 19 April 2016), enclosure 3, 2a (2) that states a Soldier “has 180 days after completion of the qualified duty status to request consideration for an in-LOD determination”.

b. While activated for airborne training in May 2020, he claims he injured his shoulder and was initially denied medical services due to COVID. He also claims he injured his shoulder and ankle while doing special forces training in July 2020. He was later forced to take an Army Physical Fitness Test, where he further damaged his shoulder and was removed from training and transferred to medical hold.

c. The applicant reports in his claim that he has been seen several times by medical professionals for the injuries referenced above while in service, however no documents for those visits were part of his claim, and therefore cannot be confirmed. He was seen by the Physical Evaluation Board (PEB) and determined to be unfit for retention and was permanently disability retired with 80% disability. The PEB found his back (Lumbar Spine), and depressive disorder to be not fitting for military service.

d. This office recommends that the Board disapprove an exception to policy requesting for the initiation of a LOD for injuries to his neck, back, shoulder, and ankle. The applicant provides times and dates for when he was seen by a medical provider but does not provide any medical documentation that can substantiate those injuries. This office additionally does not support his claim, because he has already been evaluated by the PEB and was found unfit for military service due to injuries to his back, and depressive disorder. The decision by the PEB and the VA findings during their medical exam allows the applicant to get medical treatment for those conditions found to be service connected at any VA Medical Treatment Facility.

5. On 25 February 2025, the applicant was provided a copy of the NGB advisory opinion and given 30 days for an opportunity to respond to its recommendations. He did not respond.

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 record, the Board concurred with the advising official finding no evidence to support the LOD for injuries to his neck, back, shoulder, and ankle. The applicant provided times and dates for when he was seen by a medical provider but does not provide any medical documentation that can substantiate those injuries. The Board found, based on a preponderance of the evidence, there was insufficient evidence to reflect his disability was received in the line of duty while on active duty. Therefore, the Board denied relief.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	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. C., Section 1556 requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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.

2. Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations), currently in effect, prescribes policies and procedures for investigating the circumstances of injury, illness, disease, or death of a Soldier. It provides standards and considerations used in making line of duty (LOD) determinations.

a. Paragraph 2-3d Benefits affected by line of duty investigation. Disability retirement and severance pay. Soldiers who sustain permanent disabilities while on active duty must meet requirements of the applicable statutes to be eligible to receive certain retirement and severance pay benefits. One of these requirements is that the disability must not have resulted from the Soldier’s misconduct or gross negligence and must not have been incurred during a period of AWOL.

b. Paragraph 2-4. Standards applicable to line of duty determinations.

(1) A Soldier’s injury, illness, disease, or death is presumed to have occurred in the line of duty unless rebutted by the evidence.

- injury, illness, disease, or death proximately caused by the Soldier’s misconduct or gross negligence is “not in line of duty-due to own misconduct"
- simple negligence, alone, does not constitute misconduct and is, therefore, still considered to be in line of duty

(2) Standard of proof. Unless another regulation or directive, or an instruction of the appointing authority, establishes a different standard, the findings of investigations governed by this regulation must be supported by a greater weight of evidence than supports a contrary conclusion (such as, by a preponderance of the evidence). The weight of the evidence is not determined by the number of witnesses or volume of exhibits, but by considering all the evidence and evaluating factors, which as a whole, shows that the fact sought to be proved is more probable than not.

- consider all the evidence
- all direct evidence, that is, evidence based on actual knowledge or observation of witnesses
- all indirect evidence, that is, facts or statements from which reasonable inferences, deductions, and conclusions may be drawn to establish an unobserved fact, knowledge, or state of mind
- no distinction will be made between the relative value of direct and indirect evidence
- in some cases, direct evidence may be more convincing than indirect evidence. In other cases, indirect evidence may be more convincing than direct evidence (for example, statement of a witness)
- evaluate factors such as a witness's demeanor, opportunity for knowledge, information possessed, ability to recall and relate events, and relationship to the matter to be decided

c. Section II. Terms. Gross negligence is failure to exercise even the slightest amount of care; it is a conscious and voluntary disregard of the need to use reasonable care. Gross negligence is likely to cause harm or injury to persons, property, or both, and includes the deliberate disregard of another person's safety. Gross negligence is considered misconduct for the purposes of this regulation.

3. National Guard Regulation 600-200 (Enlisted Personnel Management) prescribes the criteria, policies, processes, procedures and responsibilities to classify; assign; utilize; transfer within and between states; provides Special Duty Assignment Pay; separation; extension/reenlistment, and appoint to and from Command Sergeant Major, Army National Guard (ARNG) and Army National Guard of the United States (ARNGUS) enlisted Soldiers.

a. Table 8-1, Basic eligibility standards, authorized periods of extension and waiver authority.

b. Rule M. Applies to: Medically Non-Deployable per Army Directive 2018-22. In order to be eligible for extension Soldiers must maintain medical readiness, health, and dental assessments. Soldiers who are not deployable upon reaching their scheduled ETS date, will only be extended for the minimum period required to resolve the restriction. Soldiers who are currently in the IDES process will be allowed to extend for an estimated period until a final determination is made.

//NOTHING FOLLOWS//