

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2025

DOCKET NUMBER: AR20240006213

APPLICANT REQUESTS: reconsideration of his prior request for discharge upgrade and/or, in effect, physical disability discharge in lieu of administrative discharge due to misconduct.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) covering the period ending 23 January 1992
- Faith 1st Initiative Program letter, 24 January 2017
- Write-Way Prison Ministries letter, 3 August 2021
- QTC Medical Services letter, undated
- Department of Veterans Affairs (VA) letter, 7 June 2023
- Fort Worth VA Medical Center (VAMC) prescriptions
- VA North Texas Healthcare System letter, 4 March 2024
- Dallas VAMC letter, 8 March 2024
- 22 Certificates of Achievement and Completion
- two letters of support

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 AR20100020846 on 10 February 2011.

2. The applicant states:

a. He is requesting to have his discharge upgraded to the next available level so he can receive some type of ratings for compensation and additional medical benefits. He was granted service-connection for post-traumatic stress disorder (PTSD) and tinnitus for treatment purposes.

b. After serving in a war zone, when he got back he didn't get the proper evaluation for his PTSD, tinnitus, and mental health issues before his discharge. He was also

sexually molested when he first got to Germany and all of this illness caused him to not be able to hold a job, distance himself, lose family, isolate, experience anxiety, stress, depression, and homelessness.

c. He tried seeking help once he got out, but he couldn't stay focused due to his mental capacity. His life changed once he got back from Desert Storm and suppressed the sexual assault in his mind. He couldn't cope and couldn't get help. He tried in the past by filing for disability, but to no avail. He needs more than treatment; he needs to be able to live. He has enclosed numerous certificates to prove he is trying, but his mental illness keeps him homeless so he can't hold a steady job and receives no benefits.

d. The applicant has marked the boxes on his application indicating he is requesting disability discharge and upgrade. He has additionally marked the boxes indicating that PTSD, other mental health, and sexual assault/harassment are issues or conditions related to his request.

3. The applicant enlisted in the Regular Army on 13 September 1988 and was awarded the Military Occupational Specialty (MOS) 13B (Cannon Crewmember).

4. A Headquarters, Fort Carson and Headquarters, 4th Infantry Division (Mechanized) memorandum, 6 May 1991, informed the applicant's immediate commander that the applicant's installation driving privileges were suspended due to having been apprehended by the Colorado Springs Police Department on 24 April 1991 for driving while under the influence (DUI).

5. Two DA Forms 4187-E (Personnel Action (Electronic)) shows the applicant's duty status changed from present for duty (PDY) to absent without leave (AWOL) on 15 August 1991, and from AWOL to PDY on 21 August 1991.

6. A DA Form 4187 shows effective 28 August 1991, the applicant was reduced in rank/grade from specialist (SPC)/E-4 to private first class (PFC)/E-3 effective 29 August 1991, per the Uniform Code of Military Justice (UCMJ), Article 15 section.

7. Two DA Forms 4856 (General Counseling Form) show:

a. The applicant was counseled on 11 October 1991, for failure to repair (Article 15) on 31 May 1991; AWOL (Article 15) from 14-29 August 1991; and failure to repair (Article 15 Summarized Proceedings) on 8 October 1991. He was informed that because of his constant UCMJ violations, to include citation for DUI, he would receive a general discharge.

b. He was counseled on 17 October 1991, for being absent from his place of duty on the date of the counseling.

8. A DA Form 2627 (Record of Proceedings under Article 15, UCMJ) shows the applicant accepted non-judicial punishment (NJP) under Article 15 of the UCMJ on 28 October 1991 for absenting himself without authority from his unit from 15 August 1991 through 21 August 1991. His imposed punishment included reduction in rank/grade to private (PV2)/E-2.

9. Numerous Headquarters Fort Carson and 4th Infantry Division (Mechanized) memoranda, all dated 31 October 1991 and 6 November 1991, notified the applicant of the following dishonored checks:

- Check number 333, 17 October 1991, \$50
- Check number 352, 21 October 1991, \$50
- Check number 353, 21 October 1991, \$50
- Check number 354, 21 October 1991, \$50
- Check number 327, 25 October 1991, \$50
- Check number 326, 25 October 1991, \$50
- Check number 329, 30 October 1991, \$30
- Check number 330, 7 November 1991, \$50

10. A DA Form 4187-E shows the applicant's duty status again changed from PDY to AWOL effective 7 November 1991.

11. On 22 November 1991, the applicant was informed by his immediate commander of his initiation of action to separate him with an under other than honorable conditions discharge under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 14, for commission of a serious offense. The reasons for the proposed action were two periods of AWOL, one DUI, numerous bad checks, and failure to repair on two occasions. He was advised of his right to consult with counsel, request a hearing before an administrative separation board, receive representation by counsel, and present written statements in his own behalf.

12. On 22 November 1991, the applicant acknowledged having been advised by his consulting counsel on the basis of the contemplated action to separate him for commission of a serious offense under the provisions of Army Regulation 635-200, chapter 14, and the right available to him. He requested consideration of his case by an administrative board, personal appearance before an administrative separation board, counsel representation, and did not submit statements in his own behalf. He acknowledged understanding he may expect to encounter substantial prejudice in civilian life if he were issued a general discharge or discharge under other than honorable conditions.

13. On 22 November 1991, the applicant's battalion commander recommended approval of the applicant's discharge under other than honorable conditions under the provisions of Army Regulation 635-200, chapter 14, due to commission of a serious offense.

14. On 27 November 1991, the applicant's brigade commander recommended approval of the applicant's discharge under other than honorable conditions under the provisions of Army Regulation 635-200, chapter 14, due to commission of a serious offense.

15. A DA Form 3522-R (Report of Mental Status Evaluation) shows:

a. The applicant underwent mental status evaluation on 18 December 1991, where he was found to have the mental capacity to understand and participate in the proceedings, was mentally responsible, met the retention requirements of Army Regulation 40-501 (Standards of Medical Fitness), chapter 3, and needed further examination.

b. There is no psychiatric disease or defect which warrants disposition through medical channels and he was cleared for any administrative action deemed appropriate by his command.

16. A second DA Form 2627 shows the applicant again accepted NJP under Article 15 of the UCMJ on 23 December 1991, for failing to go at the time prescribed to his appointed place of duty on 22 October 1991, and for being AWOL from 18 October 1991 through 21 October 1991. Imposed punishments included reduction in rank and grade to private (PV1)/E-1.

17. On 9 January 1992, the applicant acknowledged having been advised by his consulting counsel of the basis for the contemplated action to separate him under the provisions of Army Regulation 635-200, chapter 14 for commission of a serious offense, its effects, the rights available to him, and the effect of any action taken by him in waiving his rights. The applicant indicated he now waived consideration of his case by an administrative separation board.

18. On 14 January 1992, the Staff Judge Advocate, Fort Carson and 4th Infantry Division (Mechanized) reviewed the elimination proceedings against the applicant and found the proposed elimination legally sufficient.

19. On 14 January 1992, the approval authority directed the applicant's discharge under other than honorable conditions under the provisions of Army Regulation 635-200, chapter 14, for commission of a serious offense. He also ordered the applicant's exclusion from the Fort Carson Military Reservation effective the date of his discharge.

20. On 16 January 1992, the applicant acknowledged receipt and understanding of the meaning and effect of the action by the Commanding General, to include the order not to reenter the Fort Carson Military Reservation.
21. The applicant's DD Form 214 shows he was discharged under other than honorable conditions on 23 January 1992, under the provisions of Army Regulation 635-200, chapter 14, due to misconduct – commission of a serious offense, with corresponding Separation Code JKO. He was credited with 3 years, 3 months, and 16 days of net active service this period, including lost time from 15 August 1991 – 20 September 1991; 18 October 1991 – 20 October 1991; and 7 November 1991 – 21 November 1991.
22. The applicant previously applied to the Army Discharge Review Board (ADRB) in August 1993, requesting an upgrade of his discharge and in 1996, the ADRB denied his request, determining his discharge was both proper and equitable.
23. The applicant also previously applied to the ABCMR in July 2010, requesting upgrade of his discharge and on 10 February 2011, the Board denied his request, determining the evidence presented does not demonstrate the existence of a probable error or injustice and the overall merits of his case are insufficient as a basis for correction of his records.
24. The applicant provided a Faith 1st Initiative Program letter, 24 January 2017, which shows he has been faithfully attending "Voyager" classes, a self-study, group facilitated program for personal development and improvement to assist offenders in reintegration into society, and was very active in group discussions.
25. A Write-Way Prison Ministries letter, 3 August 2021, shows the applicant achieved the 60 Unit Certificate, having studied many scriptural doctrines providing him a good foundation for his life.
26. An undated QTC Medical Services letter, informed the applicant that QTC was contracted to conduct the examination related to his VA claim and that he would be contacted by a scheduler to so schedule his exam.
27. A VA letter, 7 June 2023, advised the applicant that the VA made a decision on his claim and granted him service-connection for PTSD and tinnitus.
28. The applicant provided copies of multiple Fort Worth VAMC medication prescriptions from 16 February 2024, reflecting his prescriptions for Fluoxetine, Hydroxyzine, and Melatonin.

29. A VA North Texas Healthcare System letter, 4 March 2024, reminded the applicant of his Video Connect appointment for 26 March 2024, and a follow-up Dallas VAMC letter, 8 March 2024, notified him of the cancellation of that Video Connect appointment.

30. The applicant provided 22 Certificates of Achievement and Completion, which have been provided in full to the Board for review, and in pertinent part reflect his successful completion of numerous programs, including Veteran's Anger Management Program, Drug Education Changes 3 Program, Quest for Authentic Manhood, Overcomers 12-Step Program, and the Cognitive Intervention Program.

31. The applicant provided two letters of support, which speak to the applicant's respectful nature, willingness to work hard and help others, and involvement in the local community and church, which helps to manage his PTSD.

32. In the adjudication of this case, the Army Review Boards Agency (ARBA) requested a copy of redacted Criminal Investigation Division (CID) and Military Police (MP) reports pertaining to the applicant's sexual assault. CID responded on 6 February 2025, that a search of the Army criminal file indexes revealed no sexual assault investigation pertaining to the applicant.

33. 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.

34. MEDICAL REVIEW:

a. Background: The applicant is requesting reconsideration of his prior request for an upgrade of his under other than honorable conditions (UOTHC) discharge and/or physical disability discharge in lieu of administrative discharge due to misconduct. He selected MST, PTSD, and OMH on his application 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:

- The applicant enlisted into the Regular Army on 13 September 1988.
- On 22 November 1991, the applicant was informed by his immediate commander of his initiation of action to separate him with an under other than honorable conditions discharge under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 14, for commission of a serious offense. The reasons for the proposed action were two periods of AWOL, one DUI, numerous (8) bad checks, and failure to repair on two occasions.

- Applicant was discharged on 23 January 1992, under the provisions of Army Regulation 635-200, Chapter 14, with and an under other than honorable conditions characterization of service. His DD Form 214 shows he was assigned separation code JKO, his narrative reason for separation listed as “Misconduct – Commission of a Serious Offense,” with reentry code 4.
- Applicant previously applied to the Army Discharge Review Board (ADRB) in August 1993, requesting an upgrade of his discharge and in 1996, the ADRB denied his requests, determining his discharge was both proper and equitable.
- Applicant also previously applied to the ABCMR in July 2010, requesting upgrade of his discharge. On 10 February 2011 the Board denied his request.

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 states, he is requesting an upgrade of his discharge to the next available level so he can receive some type of rating for compensation and additional medical benefits. He was granted service-connection for post-traumatic stress disorder (PTSD) and tinnitus for treatment purposes. After serving in a war zone, when he got back, he didn’t get the proper evaluation for his PTSD, tinnitus, and mental health issues before his discharge. He was also sexually molested when he first got to Germany and all of this illness caused him to not be able to hold a job, distance himself, lose family, isolate, experience anxiety, stress, depression, and homelessness. He tried seeking help once he got out, but he couldn’t stay focused due to his mental capacity. His life changed once he got back from Desert Storm and suppressed the sexual assault in his mind. He couldn’t cope and couldn’t get help. He tried in the past by filing for disability, but to no avail. He needs more than treatment; he needs to be able to live. He has enclosed numerous certificates to prove he is trying, but his mental illness keeps him homeless so he can’t hold a steady job and receives no benefits.

d. Due to the period of service no active-duty electronic medical records were available for review and the applicant only submitted hardcopy documentation of a mental status evaluation dated 18 December 1991. The evaluation states the applicant was found to have the mental capacity to understand and participate in proceedings, was mentally responsible, met retention standards, had no psychiatric illness, and was cleared for any administrative action deemed appropriate by his command.

e. The VA’s Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is service connected, for treatment purposes only, for PTSD. The record indicates applicant initially received services on 15 September 2022, while in prison, when he was provided an assessment and education regarding benefits and services available to eligible veterans once released from incarceration. The applicant participated in an intake session with the VA on 16 February 2024. He shared being released from prison on 7 February 2024 after serving 14-years. He reported living in a halfway house and being prescribed psychotropic medication in prison, for the previous several months, but

did not find it effective. He indicated prior Xanax use which he found helpful. The applicant further indicated a history of MST and requested MST related treatment. The applicant was provided with a same-day psychiatric evaluation, was started on medication, and diagnosed with PTSD. The applicant has been treated primarily via medication management due to the lack of available psychotherapy resources.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a behavioral health condition that partially mitigates his misconduct. However, there is insufficient evidence, at this time, to support a referral to the IDES process. The available medical record does not evidence any behavioral health condition during active duty. Although the applicant has been service connected for PTSD, for treatment purposes, 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.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts experiencing MST and serving in a war zone.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is service connected for PTSD for treatment purposes.

(3) Does the condition or experience actually excuse or mitigate the discharge? Partially. The applicant was discharged due to two periods of AWOL, one DUI, numerous (8) bad checks, and failure to repair on two occasions. The applicant is service connected for PTSD, for treatment purposes, and asserts experiencing MST. Given the association between PTSD and avoidant behavior, there is a nexus between the applicant's PTSD and his misconduct of being AWOL and his failure to repair. In addition, given the association between PTSD and the use of substances/alcohol to cope with the symptoms of this BH condition, his DUI is also mitigated. However, his repeated offense of issuing numerous bad checks is not mitigated. Research has shown that misconduct stemming from PTSD is typically based upon a spur of the moment decision resulting from temporary lapse in judgment; therefore, PTSD is not a likely cause for either premeditated misconduct or misconduct that continues for an extended

period of time. His misconduct of repeatedly issuing bad checks is not part of the natural history or sequelae of PTSD. And, even if PTSD symptoms were present at the time of his misconduct, they do not affect the ability to distinguish right from wrong and act in accordance with the right.

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 there is sufficient evidence to support the applicant had a behavioral health condition that partially mitigates his misconduct. However, there is insufficient evidence, at this time, to support a referral to the IDES process. 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 referral of his case to the Disability Evaluation System (DES) is not warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XX	:XX	:XX	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 amendment of the ABCMR decision rendered in Docket Number AR20100020846 on 10 February 2011.



X //SIGNED//

CHAIRPERSON
Signed by:

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 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.
2. 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 his/her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether or not a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. 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 his or her 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.

3. 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.

4. 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.

5. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) or (Personnel Separations – Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 14 (Separation for Misconduct) establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, use of illegal drugs, and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally considered appropriate for a Soldier discharged under this chapter.

b. Chapter 3 (Character of Service and Description of Separation) provides:

(1) An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct.

(2) A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory, but not sufficiently meritorious to warrant an honorable discharge.

(3) A discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial when the reason for separation is based upon a pattern of behavior that constitutes a significant departure from the conduct expected of Soldiers of the Army or when the reason for separation is based upon one or more acts or omissions that constitutes a significant departure from the conduct expected of Soldiers of the Army. Examples of factors that may be considered include the following:

- use of force or violence to produce serious bodily injury or death
- abuse of a special position of trust

- disregard by a superior of customary superior-subordinate relationships
- acts or omissions that endanger the security of the United States or the health and welfare of other Servicemembers
- deliberate acts or omissions that seriously endanger the health and safety of other persons

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.

//NOTHING FOLLOWS//