

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 March 2025

DOCKET NUMBER: AR20240006551

APPLICANT REQUESTS: reversal of the U.S. Army Human Resources Command (HRC) denial of Combat Related Special Compensation (CRSC) for Post-Traumatic Stress Disorder (PTSD).

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's statement
- Self-written statement
- Orders Number 033-208, 2 February 2006
- Orders Number 033-290, 2 February 2006
- Orders Number 044-001, 13 February 2006
- Air Medal narrative
- Air Medal certificate, 13 May 2007
- Battalion commander memorandum, 24 July 2007
- Orders Number 227-0003, 15 August 2007
- Orders Number 228-239, 16 August 2007
- Joint Service Achievement Medal citation
- Joint Service Achievement Medal certificate, 22 August 2007
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 3 September 2007
- Veterans Affairs (VA) ratings decision letter, 4 August 2010
- DA Form 2173 (Statement of Medical Examination and Duty Status), 15 May 2011
- National Guard Bureau (NGB) Memorandum - Subject: Line of Duty Determination [Applicant], 27 May 2011
- HRC CRSC decision letter, 20 September 2021
- HRC CRSC decision letter, 3 December 2021
- CRSC Reconsideration Request Form, 17 October 2023
- Department of VA ratings decision letter, 17 October 2023
- Photocopy of Automated Entry Control Card
- Certificate of Appreciation

FACTS:

1. The applicant states he requests reconsideration of his CRSC claim for PTSD received from combat in Iraq because these events happened to him, affect him, and continue to greatly affect him to this day. He has been trying to work through the events that caused his PTSD with the VA. As they work through one set of events, another (repressed) becomes apparent. It has gotten worse over the years to the point the VA has recently increased his disability percentage and made it permanent. He is on four separate medications for just this disability just to keep himself from becoming one of the 22 a day.

2. A review of the applicant's official records show:

a. He enlisted in the Utah Army National Guard (UTARNG) on 28 December 2004. He served continuously through multiple extensions until he was medically retired.

b. On 22 March 2006, DD Form 214 shows the applicant was ordered to active duty in support of Operation Iraqi Freedom.

c. On 3 September 2007, DD Form 214 shows he was released from active duty and was transferred to the UTARNG. He completed 1 year, 5 months, and 12 days net active service this period.

d. On 10 December 2007, DD Form 214 shows he entered active duty.

e. On 30 September 2009, DD Form 214 shows he was released from active duty and was transferred to his ARNG unit. He completed 1 year, 9 months, and 21 days net active service this period.

f. On 12 June 2018, DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings) shows the Informal PEB found the applicant physically unfit for asthma and thoracic spine degenerative arthritis with chronic recurrent thoracic spasms and recommended a rating of 40 percent and his disposition be permanent disability retirement. He concurred and waived a formal hearing of his case. In pertinent part, the medical condition of "other specified trauma and stressor-related disorder" was determined not to be unfitting.

g. On 19 June 2018, the U.S. Army Physical Disability Agency published Order Number D 170-06, which placed the applicant on the Permanent Disability Retired List (PDRL), effective 24 July 2018.

h. On 23 July 2018, National Guard Bureau Form 22 (Report of Separation and Record of Service) shows the applicant was released from the Army National Guard by reason of placement on the PDRL and was transferred to the Retired Reserved.

i. On 27 July 2018, HRC CRSC decision letter shows his request for CRSC was reviewed and the Chief, Special Compensation Branch Army Personnel Records Division found the applicant currently did not meet eligibility requirements. In order to submit an eligible claim for CRSC, Department of Defense (DoD) guidelines required that he met the following requirements: (1) Receiving military retired pay (2) Have 10 percent or greater VA rated injury (2) Military retired pay is reduced by VA disability payments (VA Waiver). The applicant's claim could not be processed due to records showing he did not have a VA Waiver.

j. On 29 November 2018, HRC CRSC decision letter shows the applicant's claim for CRSC was unable to be verified as a combat-related disability for other specified trauma and stressor related disorder, asthma, and tinnitus.

k. On 20 September 2021, HRC CRSC decision letter shows the applicant's claim for CRSC was unable to be verified as a combat-related disability (second disapproval) for the medical condition of other specified trauma and stressor related disorder. No new medical evidence provided to show combat-related event caused condition.

l. On 3 December 2021, HRC CRSC decision letter shows the CRSC program office completed processing the applicant's appeal. After carefully reviewing the available documentation, they were not able to award the applicant's Other Specified Trauma and Stressor Related Disorder (9411) claim. The documentation he submitted made no mention of a combat-related event in relationship to his disabilities listed above. The determination was final and if the applicant disagreed, he had a right to appeal to the Army Review Boards Agency.

m. On 7 May 2024, HRC CRSC decision letter shows the CRSC program office was unable to process the applicant's CRSC claim because of the missing VA Code sheet. The VA Code sheet is a critical document needed to process the applicant's claim.

n. On 6 February 2025, HRC CRSC decision letter shows the applicant's claim for CRSC was unable to be verified as a combat-related disability (final disapproval) for the medical condition of Other Specified Trauma and Stressor Related Disorder with Major Depressive Disorder (was 9411). No new medical evidence provided to show combat-related event caused the condition. The fact that VA established his diagnoses as service connected means they were incurred during his military career; not that they are combat-related. VA is not chartered nor authorized to make combat-related determinations. The applicant's application package did not establish that specific combat-related events caused his diagnosis/diagnoses.

3. In support of his petition to the Board, the applicant provides:

a. Self-written statement with attachments and photos clarifying his CRSC request regarding his military combat experiences that resulted in him being rated 70 percent for PTSD (now rated permanently as "other specified trauma and stressor related disorder with major depressive disorder" due to how long he has had it and its permanence. He outlines and provides the history of past CRSC submissions, appeals, and denials. He also describes his deployment history and combat events.

b. Orders Number 033-208 dated 2 February 2006, published by the UTARNG, which ordered the applicant to active duty for 365 days with a report date of 22 March 2006. The order was amended by changing the period of active duty to "not to exceed 555 days."

c. Orders Number 044-001 dated 13 February 2006, published by the UTARNG, which authorized the applicant to perform regular and frequent aerial flight crewmember duties, effective 10 February 2006.

d. Air Medal narrative and certificate dated 13 May 2007, showing he was awarded the Air Medal for service during air operations supporting Operation Iraqi Freedom.

f. Battalion commander memorandum dated 24 July 2007, which certified the applicant's period of service in support of Operation Iraqi Freedom (30 August 2006 – 31 August 2007). The commander also listed the awards, decorations, medals and ribbons the applicant was entitled to wear.

g. Orders Number 227-0003 dated 15 August 2007, published by the 1st Mobilization Brigade Transitions Section, Fort Carson, CO, which released the applicant from active duty and assigned him to the UTARNG, effective 3 September 2007.

h. Orders Number 228-239 dated 16 August 2007, published by the UTARNG, which amended Order Number 033-208, by changing the period of active duty to end on 3 September 2007, per DD Form 214 Release from Active Duty.

i. Joint Service Achievement Medal citation and certificate dated 22 August 2007, which shows he was awarded the Joint Service Achievement Medal for meritorious achievement as a UH-60 Crew Chief for a Joint Task Force in support of Operation Iraqi Freedom from 16 September 2006 to 14 August 2007.

j. VA ratings decision letter dated 4 August 2010, which shows he was awarded service-connected disabilities for PTSD rated at 50 percent, Asthma 30 percent, and Tinnitus 10 percent.

k. DA Form 2173 dated 15 May 2011, which shows his PTSD diagnosis was considered to have been incurred in line of duty.

l. NGB Memorandum - Subject: Line of Duty Determination [Applicant], dated 27 May 2011, which shows his PTSD that occurred during Operation Iraqi Freedom was approved in line of duty.

m. CRSC Reconsideration Request Form dated 17 October 2023, showing he submitted a reconsideration request to HRC based on "justification and causal relationship update and new VA rating for permanent disability at 70 percent.

n. VA ratings decision letter dated 17 October 2023, which shows his combined rating evaluation at 100 percent, effective 13 December 2022. In relevant part, the applicant's evaluation of other specified trauma and stressor related disorder with major depressive disorder was increased to 70 percent, effective 13 December 2022.

o. Photocopy of Automated Entry Control Card of himself, and a Certificate of Appreciation for his hard working and dedication during Operation Iraqi Freedom 2006-2007 and ensuring the success of the air assaults into target areas.

4. On 4 February 2025, the HRC, Chief, Special Compensations Branch provided an advisory opinion for this case and states:

a. The applicant submitted his initial CRSC application on 7 August 2018. He has requested consideration for Other Specific Trauma and Stressor Related Disorder. Their office was unable to verify a combat related event in relation to the other claimed conditions. The applicant is now at 70 percent with CRSC for Obstructive Sleep Apnea, Asthma, Tinnitus, and Sinusitis. His application has now been reviewed at the initial, reconsideration, and appeal levels and denied due to insufficient evidence.

b. An error was made by CRSC for claim 21949 dated 7 May 2024. The Special Compensations Branch sent the applicant an ineligible letter stating he did not have a VA waiver in place, and they could not process his claim for Obstructive Sleep Apnea, Asthma. The applicant did in fact have a VA waiver in place and the claim should have been processed.

c. An audit of the applicant's, claim number 27506 dated 6 February 2025, he was awarded the following conditions Obstructive Sleep Apnea; Asthma at 50 percent and Sinusitis at 30 percent. He should receive the new CRSC award letter within 10-15 business day.

d. While the applicant's Other Specific Trauma and Stressor Related Disorder (9410) was not awarded because the Special Compensations Branch found no award

recommendations (DA Forms 638), copies of combat badges, evaluations reports, and wartime chain of command letters corroborating exposure to armed conflict, duties and/or actions on his claim form. Wartime chain of command must be First Sergeant and/or Company Commander or higher.

5. On 12 February 2025, the applicant responded to the HRC advisory opinion and provided supporting documents that were submitted with his petition to the ABCMR and listed above. He also states, he would like to add, none of the previous information/documentation were included with the documents included in the board's decision [HRC CRSC]. He had included a whole packet of information in the email he submitted for reconsideration on 9 November 2023.

6. The applicant's supporting documents can be reviewed in their entirety within the labeled supporting documents.

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. In the applicant's application, he requests reconsideration of the portion of CSRC related to his PTSD condition only. In the HRC advisory opinion, HRC highlights a lack of corroborating evidence showing the applicant was exposed to armed conflict. In response to those findings the applicant provided multiple awards certifications and narrative summaries for the awards; all of which were in the applicant's military service record when HRC made the initial recommendation.

Based upon the above facts, the Board concluded there was insufficient evidence to award additional CRSC to the applicant based upon his PTSD conditions. The Board does recommend that the applicant attempt to obtain statements from peers and superiors who have knowledge of his military service while deployed so they can provide statements related to the applicant's exposure to armed conflict. If the applicant is successful in obtaining such evidence, the Board recommends the applicant submit a request for reconsideration based upon the newly obtained statements.

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.

//SIGNED//

X

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. The Department of Defense Financial Management Regulation, Volume 7B, Chapter 63: Combat-Related Special Compensation (CRSC), paragraph 6303 states, a member may not be paid CRSC unless he or she has applied for and elected to receive compensation under the CRSC program by filing an application on DD Form 2860, (Claim for CRSC), with the Military Department from which he or she retired. A member may submit an application for CRSC at any time and, if otherwise qualified for CRSC. The law states that a member eligible for both CRSC, under Title 10, United States Code (USC), section 1413a, and Concurrent Retirement Disability Pay, under Title 10, USC, section 1414, may not receive both, but must elect which compensation to receive.

a. Section 630502 states, a combat-related disability is a disability with an assigned medical diagnosis code from the VA Schedule Rating of Disabilities (VASRD). The Military Departments will determine whether a disability is combat-related based on the following criteria:

- as a direct result of armed conflict
- while engaged in hazardous service
- in the performance of duty under conditions simulating war, or
- through an instrumentality of war

b. The Department will record for each disability determined to be combat-related which of the circumstances provided qualifies the disability as combat-related. A determination of combat-relatedness (see section 6306) will be made with respect to each separate disability with an assigned medical diagnosis code from the VASRD. A retiree may have disabilities that are not combat-related. Such disabilities will not be considered in determining eligibility for CRSC or the amount of CRSC payable. An uncorroborated statement in a record that a disability is combat-related will not, by itself, be considered determinative for purposes of meeting the combat-related standards for CRSC prescribed herein. CRSC determinations must be made on the basis of the program criteria.

c. Section 6306 (Determinations of Combat Relatedness)

(1) Direct Result of Armed Conflict:

a. The disability is a disease or injury incurred in the line of duty as a direct result of armed conflict. To support a combat-related determination, it is not sufficient to only state the fact that a member incurred the disability during a period of war, in an area of armed conflict, or while participating in combat operations. There must be a definite causal relationship between the armed conflict and the resulting disability.

b. Armed conflict includes a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerilla action, riot, or any other action in which Service members are engaged with a hostile or belligerent nation, faction, force, or with terrorists.

(2) In the Performance of Duty Under Conditions Simulating War. In general, performance of duty under conditions simulating war covers disabilities resulting from military training, such as war games, practice alerts, tactical exercises, airborne operations, leadership reaction courses, grenade and live fire weapon practice, bayonet training, hand-to-hand combat training, repelling, and negotiation of combat confidence and obstacle courses. It does not include physical training activities such as calisthenics, jogging, formation running, or supervised sport activities.

(3) Instrumentality of War:

a. There must be a direct causal relationship between the instrumentality of war and the disability. It is not required that a member's disability be incurred during an actual period of war. The disability must be incurred incident to a hazard or risk of the service.

b. An instrumentality of war is a vehicle, vessel, or device designed primarily for military service and intended for use in such service at the time of the occurrence or injury. It may also include such instrumentality not designed primarily for military service if use of or occurrence involving such instrumentality subjects the individual to a hazard peculiar to military service. Such use or occurrence differs from the use or occurrence under similar circumstances in civilian pursuits.

c. A determination that a disability is the result of an instrumentality of war may be made if the disability was incurred in any period of service as a result of such diverse causes as wounds caused by a military weapon, accidents involving a military combat vehicle, injury or sickness caused by fumes, gases, or explosion of military ordnance, vehicles, or materiel.

d. For example, if a member is on a field exercise, and is engaged in a sporting activity and falls and strikes an armored vehicle, then the injury will not be considered to result from the instrumentality of war (armored vehicle) because it was the sporting activity that was the cause of the injury, not the vehicle. On the other hand, if the individual was engaged in the same sporting activity and the armored vehicle struck the member, then the injury would be considered the result of an instrumentality of war.

2. Title 10, United States Code (USC), section 1413a, "CRSC," states, in pertinent part, that the Secretary concerned shall pay to each eligible combat-related disabled

uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree. The monthly amount to be paid to an eligible retiree is the amount of compensation to which the retiree is entitled under Title 38 for that month, determined without regard to any disability of the retiree that is not a combat-related disability. The amount paid to an eligible combat-related disabled uniformed services retiree for any month may not exceed the amount of the reduction in retired pay that is applicable to the retiree for that month under sections 5304 and 5305 of Title 38.

3. Title 10, USC, section 1414, "Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation" states, in pertinent part, a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability is entitled to be paid both for that month without regard to sections 5304 and 5305 of Title 38. A person who is a qualified retiree under this section and is also an eligible combat-related disabled uniformed services retiree under section 1413a of this Title may receive special compensation in accordance with that section or retired pay in accordance with this section, but not both. The Secretary concerned shall provide for an annual period (referred to as an open season) during which a qualified retiree shall have the right to make an election to change from receipt of special compensation in accordance with section 1413a of this Title to receipt of retired pay in accordance with this section or the reverse, as the case may be. Any such election shall be made under regulations prescribed by the Secretary concerned subject to approval by the Secretary of Defense.

4. Title 38, USC, sections 1110 and 1131, permits the Department of Veterans Affairs (VA) to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered physically unfit for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by that agency.

//NOTHING FOLLOWS//