

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2025

DOCKET NUMBER: AR20240006678

APPLICANT REQUESTS: reconsideration of his previous request:

- authorized the Purple Heart
- advancement on the retired list to sergeant first class (SFC/E-7)
- a personal appearance

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

- DD Form 149 (Application for Correction of Military Record)
- Enlisted Record Brief (ERB) – reflective of the applicant's pertinent personnel information to include awards, assignments and promotion history
- Orders Number 023-0002, 23 January 2019 – reflective of the applicant's reassignment for separation processing on 3 April 2019 at the rank of sergeant (SGT/E-5)
- Orders Number 329-14, 25 November 2013 – reflective of the applicant's promotion to staff sergeant (SSG/E-6) effective 1 December 2013
- Department of Veterans Affairs (DVA) letter, 28 November 2022 – reflective of the applicant's summary of benefits
- Memorandum – Subject: Consideration of Discharge Upgrade Request Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI), 24 February 2015 – reflective of information pertaining to liberal consideration of upgrade request for persons previously diagnosed with PTSD or TBIs
- Military Personnel Message Number 09-067 (Consolidated Army Transition Center Policy and Procedures for Disability Evaluation System (DES)) Separation Processing, 25 March 2009 – reflective of information pertaining to the promotion of personnel retired for disability -
  - Enlisted personnel who are on the promotion list at the time of separation will be promoted to the designated grade effective the day before being placed on the retired list

- U.S. Army Human Resources Command (AHRC) letter, 20 September 2021 – reflective of the applicant being entitled to Combat Related Special Compensation (CRSC) for multiple injuries to include PTSD and TBI
- Military Occupation – Wheeled Vehicle Repairer – reflective of information pertaining to the related civilian occupation(s), duty descriptions etc.
- Rental Agreement – reflective of the applicant's lease agreement
- Medical documents – reflective of the applicant's healthcare received for various conditions to include an intracranial injury/TBI; complained of headaches and dizziness after being struck in the head on or about 20 December 2017 while he was sitting on his balcony; history of four previous TBIs
- DA Forms 3349 (Physical Profile Record) – reflective of the applicant being issued a permanent performance limiting profile for: Knee Pain, Demyelinating Disorder and Anxiety Disorder
- Fiscal Year 2017 Sergeant First Class Considered Selected (Select Train Educate and Promote) – reflective of the applicant's placement on the SFC promotion list
- Email communication – pertaining to the processing of the applicant's Medical Evaluation Board (MEB); reflected as being a promotable SSG on the Integrated Disability Evaluation System (IDES) intake worksheet
- DA Form 2627 (Record of Proceedings Under Article 15, Uniform Code of Military Justice (UCMJ) – reflective of the applicant's receipt of non-judicial punishment for violating Article 86 and 107 of the UCMJ; reduced to SGT effective on or about 4 June 2018; his appeal of the decision was denied
- Memorandum – Subject: Information Paper on Headquarters Department of the Army (HQDA) Flag-Delay of or Removal from Selection List(F), 25 October 2017 – Human Resources Command will initiate a flagging action on a promotable Soldier who has a flag initiated at the unit level; HQDA is the only organization authorized to remove a flagged Soldier on the promotion list
- ERB – reflective of the applicant's date of rank to SGT being 4 June 2018
- Miscellaneous information – reflective of various military topics to include indefinite reenlistment program and involuntary discharges
- Orders Number 257-0006, 14 September 2018 – reflective of the applicant being reassigned to the transition point
- CRSC Payment Statement, 1 September 2023 – reflective of the applicant's CRSC entitlements
- Retiree Account Statement, 23 April 2019 – reflective of the applicant's retirement pay entitlement
- CRSC Program – reflective of information pertaining to CRSC
- Orders Number 023-0001, 23 January 2019 – reflective of Orders Number 257-0006 being rescinded
- Memorandum – Subject: Affidavit to Remain on Active-Duty Beyond Expiration Term of Service (ETS), 14 November 2018, reflective of the applicant voluntarily

remaining on active duty beyond his ETS for the purpose of receiving medical care

- Medical documents – reflective of information pertaining to varying medical conditions to include multiple sclerosis, clinically isolated syndrome etc.
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), 17 December 2018, reflective of the applicant being found physically unfit for continued military service, rank SGT
- DVA Letter, 13 December 2018 – reflective of the applicant being advised of the DVA rating related to his PEB
- DA Form 2166-9-1 (Noncommissioned Officer Evaluation Report) – reflective of the applicant's duty performance as assessed by members of his immediate leadership from 31 May 2017 – 30 May 2018
- Medical Documents – reflective of the applicant's receipt of medical care for generalized anxiety, multiple sclerosis etc.; commander's performance and functional statement and MEB Narrative Summary etc.
- Memorandum – Subject: Letters of Support (x4) – reflective of character statements submitted in support of the applicant's retention on active duty
- DA Form 1059 (Service School Academic Evaluation Report), 4 February 2013 - -reflective of the applicant's completion of the Advance Leaders Course on 4 February 2013
- Certificate – Army Commendation Medal – reflective of the applicant being recognized for his exceptional service from 22 February 2014 – 22 November 2014
- Orders Number BG-027-0299, 27 January 2014 – reflective of the applicant being ordered to proceed on temporary change of station on 26 February 2014 in support of Operation Enduring Freedom
- Memorandum – Subject: Matters for Article 15 Rebuttal, 15 June 2018, reflective of the applicant's Defense Attorney argument requesting that the finding of guilty associated with his Article 15 be set aside
- Orders Number 080-29, 21 March 2011 – reflective of the applicant being awarded the 91B1S (Wheeled Vehicle Mechanic) military occupational specialty
- DA Forms 2166-9-2/2166-8 – reflective of the applicant's performance as assessed by members of his immediate leadership between 1 June 2011 – 30 May 2016
- Miscellaneous documents – reflective of email communications, CRSC claims and entitlements etc.
- Orders Number 122-005, 2 May 2018 – reflective of the termination of the applicant's jump status on 25 April 2018
- Permanent Orders Number 76-3102, 17 March 2003, reflective of the applicant being authorized the Parachutist Badge
- DVA, Rating Decision, 20 April 2019 – reflective of the applicant's rated disabling conditions and the percentages awarded by the DVA

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 AR20210011825 on 28 February 2022.

2. The applicant states in pertinent part that he:

- He would like his date of rank to SGT adjusted to reflect 1 June 2011; review his records as if his ERB was never changed
- He contests that the infraction resulting in his reduction from SSG to SGT was predicated by the medical condition (TBI) for which he was ultimately medically retired for
- He contests that he was removed from the Senior Leaders Course (SLC) roster due to the medical condition that he was deemed to be unfit for continued military service
- Passed over for promotion because he had not completed SLC
- Incorrectly removed from the promotion list
- He erroneously reached his Retention Control Point as a SGT

3. A review of the applicant's available service records reflects the following:

- On 5 September 2002 – he enlisted in the Regular Army
- On 27 May 2011 (Orders Number 058-10) – he was promoted to SGT, effective 1 June 2011
- On 25 November 2013 (Orders Number 329-14) – he was promoted to SSG, effective 1 December 2013
- On 4 June 2018 – he was reduced to SGT
- On 17 December 2018 – he was found physically unfit for continued military service with a recommendation that he be permanently medically retired
- On 23 January 2019 (Orders Number 023-0002) – he was reassigned to the transition center pending separation processing; retired grade SGT/4 June 2018 date of rank – prior grade SSG/1 December 2013
- On 3 April 2019 - he was medically retired from military service at the rank of SGT; DD Form 214 reflects the following awards:
  - Army Commendation Medal (5th Award)
  - Army Achievement Medal (5th Award)
  - Army Good Conduct Medal (5th Award)
  - National Defense Service Medal
  - Global War on Terrorism Service Medal
  - Korea Defense Service Medal

- Afghanistan Campaign Medal (w/ 2 Campaign Stars)
- Iraq Campaign Medal (w/ Campaign Star)
- Noncommissioned Officer Professional Development Ribbon (2nd Award)
- Army Service Ribbon
- Overseas Service Ribbon (4th Award)
- NATO Treaty (2nd Award)
- Combat Action Badge
- Parachutist Badge
- Driver and Mechanic Badge – Mechanic
- Driver and Mechanic Badge – Special Equipment Operator Clasp

4. On 28 February 2022, Docket Number AR20210011825 the Board denied the applicant's requested relief. Regarding the award of the Purple Heart, the applicant provided no evidence that he was diagnosed with TBI at or near the date of the alleged concussive incident. Though he was seen for elbow, back, and buttock injuries following the incident on 12 April 2012, these injuries were not of sufficient severity to warrant award in accordance with Army Regulation (AR) 600-8-22 (Military Awards), 2-8, c., as these injuries did not require any treatment. Regarding his advancement to SFC, the governing regulation provides that at separation the service member's record will be used to enter accurate information when completing their DD Form 214. The Board concluded there was insufficient evidence of an error or injustice which would warrant a change to the applicant's rank.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and all available military records, the Board carefully considered the circumstances surrounding the requested relief. The Board found insufficient evidence to justify awarding the Purple Heart, as the documentation provided did not meet the regulatory criteria to establish that the applicant's injury was a direct result of enemy action.

2. However, the Board also recognized that the applicant had a commendable record of service and consistently displayed leadership and professionalism as a noncommissioned officer. His disciplinary issues and decline in performance occurred only after the improvised explosive device (IED) incident and subsequent diagnosis of multiple sclerosis (MS)—both of which significantly impacted his health and conduct. Taking into account the totality of the record and evidence of the applicant's previously high standards of service, the Board determined that the nonjudicial punishment (NJP)

should be removed from his official military personnel file. Furthermore, the Board found it appropriate to retire the applicant in the rank of Sergeant First Class (E-7), reflecting his demonstrated leadership prior to the mitigating medical and combat-related factors. As such the Board granted partial relief with removal of his NJP and adjusting his retirement rank to sergeant first class with denial of award of the Purple Heart

3. The applicant's request for a personal appearance hearing was carefully considered. However, in this case, the evidence of record and independent evidence provided by the applicant was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
■	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

a. setting aside his DA Form 2627 (Record of Proceedings Under Article 15, Uniform Code of Military Justice (UCMJ), dated 4 June 2018,

b. promoting him to sergeant first class (SFC)/E-7 in accordance with the Fiscal Year 2017 Sergeant First Class promotion Board, and

c. amending orders 023-0002, dated 23 January 2019, to show his retired rank/grade as SFC/E-7 and a date of rank to SFC commiserate with the corrections noted in paragraph 1.b. above.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to awarding the Purple Heart.

7/10/2025

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. Army Regulation (AR) 600-8-22 (Military Awards), prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Purple Heart is awarded for a wound sustained while in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify that the wound was the result of hostile action, the wound must have required treatment by medical personnel, and the medical treatment must have been made a matter of official record.

b. A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed above. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the Service member's medical and/or health record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the Service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

c. When contemplating an award of the Purple Heart, the key issue that commanders must take into consideration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations are a necessary prerequisite, but is not the sole justification for award.

d. Examples of injuries or wounds that clearly do not justify award of the Purple Heart includes PTSD, hearing loss and tinnitus, mild Traumatic Brain Injury (TBI) or concussions that do not either result in loss of consciousness or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function.

2. Army Directive 2011-07 (Awarding the Purple Heart), dated 18 March 2011, provides clarifying guidance to ensure the uniform application of advancements in medical knowledge and treatment protocols when considering recommendations for award of the Purple Heart for concussions (including mild TBI and concussive injuries that do not result in a loss of consciousness). The directive also revised AR 600-8-22 to reflect the clarifying guidance.

a. Approval of the Purple Heart requires the following factors among others outlined in Department of Defense Manual 1348.33 (Manual of Military Decorations and Awards), Volume 3, paragraph 5c: wound, injury or death must have been the result of an enemy or hostile act, international terrorist attack, or friendly fire and the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound shall be documented in the Soldier's medical record.

b. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer provided a medical officer includes a statement in the Soldier's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

c. A medical officer is defined as a physician with officer rank. The following are

medical officers: an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101.

d. A medical professional is defined as a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants and other medical professionals qualified to provide independent treatment (for example, independent duty corpsmen and Special Forces Medics). Basic corpsmen and medics (such as combat medics) are not physician extenders.

e. When recommending and considering award of the Purple Heart for concussion injuries, the chain of command will ensure that the criteria are met and that both diagnostic and treatment factors are present and documented in the Soldier's medical record by a medical officer.

f. The following nonexclusive list provides examples of signs, symptoms or medical conditions documented by a medical officer or medical professional that meet the standard for the Purple Heart:

(1) Diagnosis of concussion or mild TBI;

(2) Any period of loss or a decreased level of consciousness;

(3) Any loss of memory of events immediately before or after the injury;

(4) Neurological deficits (weakness, loss of balance, change in vision, praxis (that is, difficulty with coordinating movements), headaches, nausea, difficulty with understanding or expressing words, sensitivity to light, etc.) that may or may not be transient; and

(5) Intracranial lesion (positive CT or magnetic resonance imaging (MRI) scan).

g. The following nonexclusive list provides examples of medical treatment for concussion that meet the standard of treatment necessary for award of the Purple Heart:

(1) Limitation of duty following the incident (limited duty, quarters, etc);

(2) Pain medication, such as acetaminophen, aspirin, ibuprofen, etc., to treat the injury;

(2) Referral to a neurologist or neuropsychologist to treat the injury; and

(3) Referral to a neurologist or neuropsychologist to treat the injury; and

(4) Rehabilitation (such as occupational therapy, physical therapy, etc.) to treat the injury.

h. Combat theater and unit command policies mandating rest periods or downtime following incidents do not constitute qualifying treatment for concussion injuries. To qualify as medical treatment, a medical officer or medical professional must have directed the rest period for the individual after diagnosis of an injury.

3. Title 10, United States Code (USC), section 1372 (Grade on retirement for physical disability: members of armed forces) states unless entitled to a higher retired grade under some other provision of law, any member of an armed force who is retired for physical disability under section 1201 or 1204 of this title, or whose name is placed on the temporary disability retired list under section 1202 or 1205 of this title, is entitled to the grade equivalent to the highest of the following:

a. The grade or rank in which he is serving on the date when his name is placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is retired.

b. The highest temporary grade or rank in which he served satisfactorily, as determined by the Secretary of the armed force from which he is retired.

c. The permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired, and which was found to exist as a result of a physical examination.

d. The temporary grade to which he would have been promoted had it not been for the physical disability for which he is retired, if eligibility for that promotion was required to be based on cumulative years of service or years of service in grade and the disability was discovered as a result of a physical examination.

4. AR 15-80 (Army Grade Determination Review Board (AGDRB) and Grade Determinations) states:

a. Paragraph 2-3 (Automatic Grade Determinations) state automatic grade determinations do not include cases where—(1) Reversion to a lower grade was, owing to misconduct, or punishment pursuant to Article 15, UCMJ, Article 15.

b. Paragraph 2-4 (Grade determination considerations) The AGDRB will consider each case on its own merits. Generally, determination will be based on the Soldier's overall service in the grade in question, either on active duty or other service qualifying

the Soldier for retirement, receipt of retired pay, or separation for physical disability. Circumstances pertinent to whether such service is found satisfactory include, but are not limited to, the following:

- Medical reasons, which may have been a contributing or decisive factor in a reduction in grade, misconduct, or substandard performance
- Compassionate circumstances
- Length of otherwise satisfactory service in the grade in question, before and after the misconduct

c. Paragraph 2-5 (Unsatisfactory service) Service in the highest grade or an intermediate grade normally will be considered to have been unsatisfactory when: Reversion to a lower grade was—(1) Owing to misconduct. (2) Caused by NJP pursuant to UCMJ, Article 15. There is sufficient unfavorable information to establish that the Soldier's service in the grade in question was unsatisfactory. One specific act of misconduct may or may not form the basis for a determination that the overall service in that grade was unsatisfactory, regardless of the period of time served in grade. Retirement in lieu of or as the result of elimination action will not, by itself, preclude retirement in the highest grade; however, the underlying misconduct and/or substandard performance can result in a determination that service in grade was unsatisfactory.

d. Paragraph 3-3 (Physical disability cases) states an enlisted Soldier being processed for physical disability separation or disability retirement, not currently serving in the highest grade served, will be referred to the AGDRB for a grade determination, unless the Soldier is entitled to a higher or equal grade by operation of law (see Title 10 USC, section 1212 and 1372). Title 10, USC, section 1212 and 1372 provide generally that a Soldier separated for physical disability will have retired or severance pay calculated based upon the higher of current grade, highest grade satisfactorily served (if not the current grade), or the grade to which one would have been promoted had it not been for the physical disability (that is, was on an approved promotion list).

5. AR 635-8 (Separation Processing and Documents) prescribes the transition processing function of the military personnel system. Source documents will consist of Servicemembers record brief, separation approval documents, separation order and any other document authorized for filing in the Army Military Human Resources Record. Item 4a; verify the active duty grade or rank, and pay grade are accurate at the time of separation. Item 11; enter the titles of all MOSs awarded and held for at least 1 year during the current period of service and include for each MOS the number of years and months held. For an enlisted Soldier, specify the first five characters of the military occupational specialty code (MOSC), which includes three characters of the MOS, the fourth character of skill and grade level in the MOS, and the fifth character of a special qualification identifier, if applicable. Enter "O" when not applicable.

6. AR 15-185 (Army Board for Correction of Military Records (ABCMR)) 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. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//