

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 September 2025

DOCKET NUMBER: AR20240006833

APPLICANT REQUESTS: correction of her spouse's (deceased service member (SM)) records to show he was retired due to medical disabilities.

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

- DD Form 149 (Application for Correction of Military Record)
- applicant's 4-page statement
- counsel's 13-page statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Third-party statement
- 360 pages of medical records

FACTS:

1. In a 4-page statement, the applicant states:

a. The SM joined the Army National Guard (ARNG) as a military police (MP) officer. He was deployed to Iraq for 15 months where he helped train Iraqi police officers. There were many instances where he experienced combat, including mortars and improvised explosive devices. She knows that the SM was exposed to very traumatic experiences. He was 19 years old, and he never forgave himself. In 2008 she became pregnant with their first born son. When she was seven months pregnant, they found out their son had a life-threatening condition. Her son was born with jejunal ileal atresia, which ultimately caused him to have short bowel syndrome for the rest of his life.

b. The SM realized their son required better health insurance and stable income so he transferred to the Regular Army in April 2009 and they were stationed at Fort Myers, VA. The SM seemed to be doing fine; however, she noticed that he worked out a lot and used the gym as a coping mechanism for his war traumas. In 2012, the SM volunteered to go to Qatar for an MP mission for 12 months so their family could stay in the Washington DC area. Their son was doing well with his medical provider and they did not want to leave the area yet. When he returned, he received orders to Fort Lewis, Washington.

c. Throughout this time the SM was showing signs of insomnia. He did not give it much thought, but his symptoms worsened throughout the years. At first, she gave him sleepy time tea and melatonin, however, that stopped working. While working as an MP, the SM's shifts rotated and they attributed his insomnia to that. In 2014, they had their second son. In 2016, the SM volunteered for recruiting duty to advance his military career. After he completed recruiting school, they relocated to the Richmond, Virginia area. During this time, she started to see a major change in his mental health. He came home extremely stressed and exhausted from the long hours of recruiting. In order to cope with the added stress, and to sleep, he began to drink nightly. After about a year, she began to notice bruises on his body. She asked him about the bruising but he could not remember the origins.

d. On 4 July 2017, she realized the severity of the SM's post-traumatic stress disorder (PTSD). In the middle of the night she woke up to the SM talking to himself. He began to say "No, I don't want to shoot. Please don't make me shoot him." He was crying and squeezing his arms tightly. She woke him up gently and talked to him, but he did not want to talk about his nightmare. Over the next few years, she tried to get the SM help but he refused. He was worried about his career and did not want to get kicked out of the Army. He told her that he only had five years left until he could retire, and after he retires, he will get help and treatment for his PTSD. As the years passed, his condition continued to worsen.

e. In 2019, they had their third son. During the COVID-19 pandemic, the SM's condition continued to decline because he was working from home and the gyms were closed. His only outlet for his PTSD was the gym and when they were closed, he became suicidal. She had to hide the weapons in the house and watch him closely. He made her promise never to say anything because it would affect their marriage and his career. He only wanted to keep peace in their home, and he did the best he could.

f. In October 2020, they had their first daughter and moved to Florida where the SM was assigned as deputy station commander. However, his station commander noticed something was not ok with the SM's mental health and asked him to seek help. On Veteran's Day 2021, the SM was involved in an alcohol related motor vehicle crash around their neighborhood. His recruiting station found out and she took this opportunity to try and get him help. Over the next 13 months, the SM was in and out of several rehabilitation facilities for alcohol and PTSD. However, the facilities did not help him with his PTSD so when he returned, he relapsed because of his underlying trauma.

g. Throughout this entire time, the SM was in and out of hospitals and rehabilitation facilities where he was diagnosed with liver issues. He was diagnosed with alcoholic hepatitis. In June 2022, they found a program in Florida that deals with PTSD to help the SM. He did very well, however he could not finish the program because he was scheduled for a separation physical. He attended the separation physical and over the

course of his physical, his vitals became unstable and he was rushed to the emergency room at Fort Stewart, GA, where he was diagnosed with COVID and the doctors indicated there was alcohol in his system despite his last drink being 26 hours before. In hindsight, the reason for the alcohol in the SM's liver was because his liver was not filtering the alcohol out properly. After returning from the hospital, the SM's command sent him home and she referred him back to Heroes' Mile for another admission. During his admission, his command had a virtual call with him and gave him the choice of being separated or receiving a medical board. He chose to be separated. He told her that he just wanted to be done with everything and that the stress was too much for him. He could not stand to wear his uniform because it reminded him daily of his trauma.

h. The SM returned home on 14 October and he continued his medical treatment and went for a liver FibroScan. They waited months for the results but they never checked up on the results because he was not in the right frame of mind to call the hospital. Prior to his liver scan, he was diagnosed with high ammonia levels in his blood which clouded his judgment. During this time the SM became suicidal. He constantly harassed her for his gun because she always hid it from him. He expressed to her that he did not want to live anymore. It broke her heart to know that her husband, the father of their children, did not want to live anymore.

i. On 22 November, the SM's commander called to notify them that the SM's DD Form 214 was dated for 23 November. The commander and the first sergeant (1SG) went to Fort Stewart to sign him out because they believed it was not safe for the SM to travel. Everything was done over the phone. The SM was put on transition leave for 60 days. After the SM's discharge, she hoped that things would get better because he could manage his PTSD. However, on 1 December, he did not get paid. She called his 1SG to ask him about transition leave and he told her that it was cashed out. She realized that their only income was her part time job. They lost insurance for their entire family, including their special medical needs child.

j. The SM felt awful and decided he was done drinking and wanted to take control of his life. He started detoxing from home. Over the next few days, he continued getting ill from detoxing, which was normal for him and he refused to go to the hospital on many occasions. On 50 December, the SM was in so much pain that he could not walk. After begging him all day to go to the hospital, he finally agreed to go. She called her boss and informed them she had to leave work and proceeded to leave to take him to the hospital. After a couple of minutes, her son called her to tell her the paramedics were at the house "trying to get daddy breathing again." The paramedics managed to bring the SM back 6 times on the ambulance ride to the hospital. The doctors informed her that his liver failed and bled into his abdomen. Their whole lives changed that day.

k. She and her family will forever be broken. The SM was their entire world and now it is shattered. She watched the SM decline mentally and physically over the years from

his PTSD. He was not capable of making rational decisions. He had clouded judgment, and his ammonia levels were always so high that he could not make rational decisions. He was on so many medications for his PTSD as well as insomnia medications that stopped working as well as two different medications to control his ammonia levels. Recently, in the last few weeks, she went to the hospital where he had the liver scan done and she requested his medical records. He was found to have stage four liver failure with portal hypertension in October 2022 before his passing and before he was separated from the Army. They just never received the results.

1. The SM could no longer perform as a Soldier because his PTSD from his combat deployment was out of control and he should have been medically retired. The commander was wrong for offering him an option knowing that he could not make rational decisions because of his PTSD. Thank you for considering her husband's case. She is hopeful that this Board will reach the right decision.

2. In a 13-page statement, counsel states, in part:

a. The applicant respectfully requests that the SM's military record be changed to reflect medical disability retirement for PTSD at no less than 100%. This petition is made upon medical evidence that the SM could no longer reasonably perform the duties of his rate/ rank or military occupational specialty (MOS). His combat-related PTSD contributed to his alcohol use disorder and instead of administratively separating him, medical professionals and the chain of command should have referred him to the Disability Evaluation System (DES) for medical evaluation. This error led to a great injustice against the SM and his family. The SM would have been entitled to continued Tricare benefits to address his PTSD and alcohol use disorder. Because of his erroneous discharge, his family is stripped of the much-needed medical attention they would have been entitled to had the SM been properly discharged.

b. They respectfully contend that the SM's discharge was in error. His PTSD was caused by his combat deployment to Iraq and it was further aggravated by his demanding job as a recruiter. He abused alcohol to cope with his condition. He was able to mask his symptoms well while in the Army performing the duties of a recruiter. However, everything began to fall apart after the COVID-19 pandemic caused him to self-isolate at home, which increased his drinking. Eventually, he was involved in an alcohol-related motor vehicle incident which brought to light his drinking problem. The SM's command ordered him into rehabilitation. Regretfully, his condition was so unstable that his efforts to rehabilitate were unsuccessful. Because his condition was related to his service to the Army, medical professionals should have referred him to the DES for medical evaluation.

c. Before his discharge, the SM underwent a physical health assessment during which his vitals dropped and he was rushed to the emergency room. He never finished

his final physical; however, the medical provider signed off on his physical as if an evaluation was completed. Also, the Substance Use Disorder Clinical Care (SUDCC) counselor, who was likely not credentialed to complete a mental status evaluation, wrongfully completed the SM's DA Form 3822 (Report of Mental Status Evaluation), failing to check the proper boxes which would have triggered referral to the DES under Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations). The SM signed off on his separation paperwork; however, it is clear that he was incapable of voluntarily signing his discharge paperwork and his counsel committed an error by allowing him to be separated without a referral to the DES. The SM did not think about the collateral consequences of his choice, and in less than two weeks, he passed due to gastrointestinal bleeding and cardiac arrest related to his alcohol use and PTSD. All of the aforementioned individuals share responsibility for the SM's early passing.

d. The SM served honorably in the Army before his discharge on 23 November 2022. He suffered from injuries while deployed to Iraq that should have resulted in a medical disability retirement long ago, but his command and medical staff failed to properly refer him to the medical evaluation board (MEB). The SM is entitled to a medical disability retirement at no less than 100% for injuries he received in the line of duty. The Failure to refer him to an MEB upon discovery of his unfitting conditions is a direct violation of AR 40-501 (Standards of Medical Fitness). The SM was suffering from severe PTSD that was caused by his combat deployment. Medical providers and his command were aware of this and the effects they had on his ability to perform his assigned duties. The failure to promptly refer him to the appropriate medical board upon discovery of his medical conditions constitutes a breach of duty and is in direct violation of Army Regulations.

e. This Board must determine whether an obviously sick service member with diagnosed PTSD should receive a medical disability retirement or whether he should have been discharged without benefits. The SM was clearly unfit for duty. His PTSD caused alcohol abuse, which became so out of control that he lost himself in the process and died within weeks of being discharged. His command was complicit in the process and used falsified medical records to justify his discharge. The SM never completed his physical, his PTSD was never fully evaluated by medical personnel although it is clear that his PTSD contributed to his alcohol abuse. This is not how commands should discharge service members who sacrificed so much for our country.

f. A postmortem psychological evaluation was conducted on the SM by Dr. E who is qualified to render expert opinions on this matter. In his expert opinion, the SM suffered from PTSD which was caused and aggravated by military service. The SM's alcohol use was secondary to his PTSD and instead of separating him for failure to rehabilitate, he should have medically retired. It is likely that if the SM was medically retired, his symptoms would have been alleviated because he would have received Tricare benefit for himself and his sick child, and he would not have continued to be exposed to the

stressors of recruiting and military service. Quite possibly, the SM could have recovered and preserved his life. Instead, because of this injustice, he succumbed to his PTSD. His family, including his sick child, is without health care coverage and is in complete shambles left to pick up the pieces. This is the kind of injustice this Board exists to correct. Doing so will not only correct the SM's discharge, but will bring much needed help and assistance to his family who have suffered since his death. Therefore, this Board should grant relief. *The complete 13-page statement was provided to the Board for their review and consideration.*

3. Following service in the ARNG, which includes service in Iraq from 21 October 2006 to 11 October 2007, the FSM enlisted in the Regular Army on 9 April 2009. His military awards include the Combat Action Badge.

4. The SM's records contain a U.S. Army Recruiting Command (USAREC) Form 190- 4.2 (Incident Report Information) showing the following entries:

a. On 16 November 2021, the SM was command-referred to the Army Substance Abuse Program (ASAP) after self-referral proved to be ineffective. On 13 December 2021, the Company Command Team (CCT) was notified that the SM was slotted for a 30-day in-patient care program at Fort Gordon, GA, beginning 21 December 2021.

b. As of 1 April 2022, the unit reports the SM has since been discharged from the in-patient program and returned to duty. The SM is a Substance Use Disorder Clinical Care rehabilitation failure. On 28 March 2022, he reported to the company headquarters incoherent with the smell of alcohol on his breath. Separation paperwork on the SM will be submitted.

5. A DA Form 4856 (Developmental Counseling Form), dated 5 April 2022, shows the SM was counseled and informed that involuntary separation proceedings against him were initiated under the provisions of AR 635-200, chapter 9 (Separation for a Substance Use Disorder).

6. A second DA Form 4856, dated 8 September 2022, shows the applicant was again counseled regarding separation proceedings and contains the following entry:

You are currently going through the process of involuntary separation [in accordance with] AR 635-200, chapter 9. You have been ordered to stay sober throughout the separation process. During your Phase II Separation Physical at Fort Stewart, GA on 25 August 2022, you were sent to the emergency room as a result of your elevated vitals and excessive vomiting. After you were stabilized at the hospital and the medical personnel ran their tests, they determined you were experiencing significant withdrawals from alcohol. You spent 30 days at the Heroes' Mile PTSD in-patient center and were discharged around 25 July 2022, so you should have already

overcome significant withdrawals. The test results indicate you continue to drink even after being ordered by multiple officers and non-commissioned officers to cease alcohol use.

7. A DD Form 2808 (Report of Medical Examination), dated 26 August 2022, shows the applicant underwent a medical examination for the purpose of separation. The examining physician indicated the SM was suffering from anxiety and tremors from alcohol withdrawal and acute alcohol withdrawal. The examining physician also indicated the SM was not qualified for service.
8. On 28 September 2022, the SM was officially notified by his immediate commander that he was initiating action to separate him under the provisions of AR 635-200, chapter 9. The commander states the reason for the proposed separation action was the SM's failure to complete mandatory substance abuse treatment. The SM was also advised of his rights to consult with legal counsel, to request a hearing before and administrative separation board, and to submit statement in his own behalf. .
9. On 13 October 2022, the SM consulted with legal counsel and he was advised of the basis for the contemplated action to separate him for substance use disorder under the provisions of AR 635-200, chapter 9, its effect, and of the rights available to him. He waived consideration of his case by an administrative separation board and elected not to submit statements in his own behalf.
10. On 21 October 2022, the separation authority approved the separation action under the provisions of AR 635-200, chapter 9, with an honorable characterization of service.
11. The SM DD Form 214 shows he was honorably discharged on 23 November 2022 by reason of alcohol rehabilitation failure.
12. The applicant/counsel provided a third-party statement from the FSM's former recruiting station commander, describing the SM's negative changes in his behavior during his assignment to their recruiting station. *The complete third-party statement was provided to the Board for their review and consideration.*

MEDICAL REVIEW:

a. The applicant (deceased service member's wife) is applying to the ABCMR requesting a change of the service member's (SM) honorable discharge to a medical discharge with eligibility for a permanent medical retirement. As a part of the narrative reason for this change, the applicant contends that the SM experienced PTSD related to the applicant's request for the SM's medical discharge and ultimate medical retirement. 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: 1) On 09 April 2009, the

SM enlisted in the Regular Army following the completion of an honorable enlistment in the Army National Guard (ARNG) (12 March 2004 to 08 April 2009, activated service between 25 July 2006 to 18 November 2007), which included a combat deployment to Iraq from 21 October 2006 to 11 October 2007 in support of OIF and a reported deployment of unknown length to Kuwait in 2006; 2) In addition to his previous deployments, the SM deployed to Qatar from April 2012 to April 2013; 3) On 16 November 2021, the SM was formally counseled on a command-referral to the Army Substance Abuse Program (ASAP); 4) On 1 April 2022, the unit reported through a counseling statement that the SM was an alcohol use rehabilitation failure. Notably, on 28 March 2022, the SM was reported as attending work smelling of alcohol; 5) The SM was counseled again on 08 September 2022, due to his inability to remain sober despite the intervention of multiple medical and substance abuse treatment programs, as well as multiple direct orders to maintain sobriety during the course of his separation, resulting in a Field-Grade Article 15; 6) On an administrative separation packet, signed on 21 October 2022, the SM's command approved a Chapter 9 honorable separation for the SM; 7) The SM was discharged on 23 November 2022, AR 635-200, Chapter 9, by reason of: "alcohol rehabilitation failure." His character of service was honorable. He completed 13 years, 7 months, and 15 days of net active service this period.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service and medical records. The VA's Joint Legacy Viewer (JLV) and hardcopy VA and civilian medical records provided by the applicant were also reviewed. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts that the SM experienced PTSD, warranting a medical discharge and subsequent retirement. On 03 April 2008, the SM was initially diagnosed by a medical provider with alcohol abuse, headaches, and insomnia through the VA. On 18 August 2008, during a VA encounter, the SM additionally noted approximately fifteen uses of marijuana between March to April 2008 to assist him with sleep and was subsequently diagnosed with Adjustment Disorder, Unspecified. Following this encounter, on 26 August 2008, he was diagnosed and treated for poor sleep, as well as Alcohol and Cannabis Abuse by VA mental health, but failed to show for any additional scheduled mental health appointments. The SM did not attend any additional documented mental health appointments until a 24 February 2015 during a recruiter mental health evaluation where he explicitly denied previous psychiatric treatment and denied symptoms or diagnoses of PTSD, TBI, or problematic substance use, and was subsequently cleared to attend recruiting school. Similarly, during his 20 November 2015 post-recruiting school mental health evaluation through a 19 October 2021 PHA, the SM continued to deny mental health or substance use symptoms. On 16 November 2021, the SM was command-referred to mandatory substance abuse treatment following a motor vehicle accident on 11 November 2021. Following this accident, the

SM initially fled the scene before he could be drug tested. The SM denied being intoxicated during the time of the accident, but he disclosed to command that he had previously self-referred for alcohol detoxification at a civilian facility in September 2021 for two weeks of previously undisclosed treatment. On 24 November 2021, the SM attended his military substance abuse treatment intake and was diagnosed with Alcohol Use Disorder, Moderate. On 13 December 2021, the SM was notified that they would be slotted for a 30-day residential substance use program beginning on 21 December 2021 due to repeated difficulties in ceasing alcohol use. The SM completed residential substance use care on 18 January 2022. On 10 February 2022, the SM relapsed and was found intoxicated, resulting in an additional referral for residential civilian substance use care on 25 February 2022 for an additional 30-day residential program, which he completed on 22 March 2022. Shortly thereafter, on 31 March 2022, the SM was again suspected of relapse and did not attend his mandated substance use treatment appointments as scheduled. He reportedly refused any additional substance use appointments and was recommended for treatment failure, at that time. On 05 April 2022, the SM reported that he wished to re-start treatment and was subsequently admitted to another civilian residential substance abuse treatment for 14 days. On 25 April 2022, the SM attended an initial Embedded Behavioral Health (EBH) session, resulting in the diagnosis of Major Depressive Disorder, Recurrent, Mild and reported experiencing multiple recent deaths of friends and family members as well as previous trauma related to his previous combat deployments. He subsequently enrolled into trauma-resolution intensive outpatient program. However, the SM was unsure if he wanted to enroll at that time. Per a 26 April 2022 memorandum, the SM was formally enrolled in the 30-day intensive psychological day treatment program from 06 July 2022 to 02 August 2022 for PTSD and Major Depressive Disorder, Recurrent, Moderate. However, the SM failed to attend this program. On 07 June 2022, the SM presented to a community emergency facility with symptoms of alcohol withdrawal. He was hospitalized at a civilian hospital and scheduled to subsequently return to substance use residential treatment. He was hospitalized for residential substance abuse rehabilitation from 15 June 2022 to 24 July 2022. He was seen by his primary care medical provider on 10 August 2022 to assess the SM for a fitness for duty/MEB referral due to a previous diagnosis of PTSD and other physical disorders without any clear resolution. The SM was also seen by an EBH Provider again on 24 August 2022 for the treatment of Major Depressive Disorder, Recurrent, Moderate and PTSD, chronic. However, the SM's EBH provider(s) explicitly indicated that the SM was psychologically fit for duty and did not put the SM on a mental health profile of any kind. On 25 August 2022, the SM was documented by emergency department medical providers as continuing to engage in drinking 6 shots of vodka per day and was again admitted for acute alcohol withdrawal. On a 26 August 2022 report of medical examination for separation, the SM was reported as experiencing anxiety and tremors from alcohol withdrawal and was not qualified for continued service. He was admitted through the

emergency department at least once more related to alcohol use/withdrawal on 06 September 2022 in violation of his continued military order to cease drinking. On 24 October 2022 the SM attended his final orientation for a substance use treatment program, however, the SM failed to attend any subsequent sessions. The SM's diagnosis aside from his intermittent EBH appointments was solely for Alcohol Dependence. The SM was unable to maintain attendance/treatment recommendations from his mental health and substance use treating providers and was unable to maintain sobriety from alcohol.

d. A review of JLV did not reveal any encounters following his enlistment. According to the SM's certification of death, the SM's death occurred on 05 December 2022 and the cause of the SM's death was, "GI Bleed" and "Cardiac Arrest," with contributing conditions including: "Liver Failure" and "Renal Failure."

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence the SM was experiencing mental health conditions including PTSD and Major Depressive Disorder at the time of his active service as well as Cannabis Abuse and multiple alcohol use and abuse disorders including: Alcohol Use Disorder, Moderate, Alcohol Dependence, and Alcohol Abuse. However, despite the fact that the SM was offered a minimum of 4 residential treatments for substance use since his initial referral on 16 November 2021, as well as ongoing outpatient psychiatric and substance use treatment, he was unable to maintain compliance with treatment recommendations. In addition, during his psychiatric treatment encounters, he was explicitly found to meet medical retention standards for psychiatric purposes. The SM was evaluated for a MEB referral on 09 August 2022 without any reference to pursuing medical discharge. There was insufficient information regarding the disposition a previous MEB referral (if any) during his time in service. As a result, there is insufficient evidence that the SM was determined to have not met medical retention standards due to a mental health condition during his time in service. The SM did not attend more than six months of consistent mental health treatment without improvement, nor did he require any inpatient hospitalizations for psychiatric reasons, nor was he ever placed on a psychiatric permanent profile while on active service. As a result of a lack of these conditions prior to discharge, criteria were not met to recommend his referral to IDES.

f. Kurta Questions:

(1) Did the SM have a condition or experience that may excuse or mitigate the misconduct? N/A. The applicant is requesting a medical retirement of the SM.

(2) Did the condition exist or experience occur during military service? N/A. The applicant is requesting a medical retirement of the SM.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A. The applicant is requesting a medical retirement of the SM.

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 SM'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. The evidence of record shows the SM enlisted in the Regular Army on 9 April 2009; he had prior ARNG service in which he served in Iraq from 21 October 2006 to 11 October 2007. On 16 November 2021, the SM was command-referred to ASAP after self-referral proved to be ineffective. On 13 December 2021, the CCT was notified that the SM was slotted for a 30-day in-patient care program at Fort Gordon, GA, beginning 21 December 2021. As of 1 April 2022, the unit reported the SM was discharged from the in-patient program and returned to duty. The SM was deemed a Substance Use Disorder Clinical Care rehabilitation failure. Based on this, the Board determined the SM's narrative reason for separation was appropriate and a change to a physical disability retirement 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
XXX	XXX	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 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. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel. Chapter 9 (Separation for a Substance Use Disorder) provides the authority and outlines the procedures for discharging Soldiers for whom further rehabilitation are either not practical or will not result in a fully mission capable Soldier.

a. The Soldier is entitled to request a hearing before an administrative separation board if he or she has 6 years or more of total active and reserve military service.

b. Discharge is based upon alcohol or other substance use such as illegal, wrongful, or improper use of any controlled substance, alcohol, or other drug when:

(1) The Soldier is enrolled in mandatory substance abuse treatment program.

(2) The commander determines that further rehabilitation efforts are either not practical, or will not result in a fully mission capable Soldier. This determination will be made in consultation with the rehabilitation team.

c. A Soldier who is enrolled in mandatory substance abuse treatment program for alcohol/drug use may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program in one of the following circumstances:

(1) There is a lack of potential for continued Army service and rehabilitation efforts are no longer practical.

(2) Long-term rehabilitation is necessary and the Soldier is transferred to a civilian medical facility for rehabilitation.

(3) The chronic treatment required for the Soldier to maintain recovery degrades full mission readiness.

d. Initiation of separation proceedings is required for Soldiers:

(1) For whom rehabilitation efforts are considered no longer practical.

(2) Have another alcohol/drug incident within 12 months following successful completion of enrollment in mandatory substance abuse treatment program or during the 12 months following removal from the program for any reason.

2. AR 635-40 (Disability Evaluation for Retention, Retirement, or Separation) prescribes the Army Disability Evaluation System (DES) 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.

a. The objectives are to maintain an effective and fit military organization with maximum use of available manpower; provide benefits to eligible Soldiers whose military service is terminated because of a service-connected disability; provide prompt disability evaluation processing ensuring the rights and interests of the Government and Soldier are protected; and, establish the Military Occupational Specialty Administrative Retention Review (MAR2) as an Army pre-DES evaluation process for Soldiers who require a P3 or P4 (permanent profile) for a medical condition that meets the medical retention standards of AR 40-501 (Standards of Medical Fitness).

b. Public Law 110-181 defines the term, physical DES, as a system or process of the Department of Defense for evaluating the nature and extent of disabilities affecting members of the Armed Forces that is operated by the Secretaries of the military departments and is composed of medical evaluation boards, physical evaluation boards, counseling of Soldiers, and mechanisms for the final disposition of disability evaluations by appropriate personnel.

c. The DES begins for a Soldier when either of the events below occurs:

(1) The Soldier is issued a permanent profile approved in accordance with the provisions of AR 40-501 and the profile contains a numerical designator of P3/P4 in any of the serial profile factors for a condition that appears not to meet medical retention standards in accordance with AR 40-501. Within (but not later than) 1 year of diagnosis, the Soldier must be assigned a P3/P4 profile to refer the Soldier to the DES.

(2) The Soldier is referred to the DES as the outcome of MAR2 evaluation.

d. A medical evaluation board is convened to determine whether a Soldier's medical condition(s) meets medical retention standards per AR 40-501. This board may determine a Soldier's condition(s) meet medical retention standards and recommend the Soldier be returned to duty. This board must not provide conclusions or recommendations regarding fitness determinations.

e. The physical evaluation board determines fitness for purposes of Soldiers' retention, separation, or retirement for disability under Title 10, U.S. Code, chapter 61, or separation for disability without entitlement to disability benefits under other than Title 10, U.S. Code, chapter 61. The physical evaluation board also makes certain administrative determinations that may benefit implications under other provisions of law.

f. Unless reserved for higher authority, the U.S. Army Physical Disability Agency approves disability cases for the Secretary of the Army and issues disposition instructions for Soldiers separated or retired for physical disability.

g. Unit commanders will ensure medical profiles containing a P3/P4 or temporary (T) 3/T4 in one of the serial profile factors are reviewed according to the standards of AR 40-501. Among the duties required, a unit commander will provide a non-medical assessment by completing DA Form 7652 (DES Commander's Performance and Functional Statement).

3. Section 1556 of Title 10, U.S. Code, requires the Secretary of the Army to ensure that an applicant seeking corrective action by 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//