

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 October 2024

DOCKET NUMBER: AR20240007377

APPLICANT REQUESTS: upgrade of his under other than honorable conditions discharge to honorable, to be considered for disability for mental health, and a personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Medical records
- Social Security Administration (SSA) letter, 18 May 2018
- SSA decision, 18 May 2016

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states he would like his discharge upgraded to honorable and be considered for disability for mental health reasons, specifically schizophrenia, which he was diagnosed with while at his permanent duty station, Camp Darby 4th Ranger Training Battalion at Fort Benning. He was diagnosed at the time of service and he is presently receiving disability benefits. It has been more than 15 years because he has spent that time trying to obtain his Army Mental Health Records to no avail. The Federal Judge overseeing his disability hearing also tried to get them but also was unable to. In 2021, someone at the Department of Veterans Affairs saw he was being prescribed a medication from Psychiatric which proves he was seen by them. Recently he was able to obtain copies of his medical records from [REDACTED] the local Veterans Service Officer. Upon further review it is documented that he was being prescribed Adderall, Wellbutrin, and Risperdal. The Wellbutrin and Risperdal shows a date of 24 August 2000. None of this was addressed at his discharge and it has taken him over a decade to do this himself. The evidence showing mental health treatment was discovered recently. He was awarded disability back in 2018 by the State [REDACTED] and the Federal Judge

tried to get his Mental Health Records from the Army as it was pertinent to the case and showed a date of initial onset of symptoms.

3. The applicant enlisted in the Regular Army on 23 September 1999.

4. His duty status was changed:

- From present for duty (PDY) to absent without leave (AWOL) on 5 September 2000
- From AWOL to dropped from the rolls (DFR) on 5 October 2000

5. On 20 December 2000, apprehension efforts were terminated when he was apprehended by civilian authorities in [REDACTED] for civilian charges of possession of marijuana and no seat belt and was confined [REDACTED] Jail pending disposition of charges.

6. On 18 January 2001, he completed an admission of AWOL for administrative purposes.

7. DD Form 458 (Charge Sheet) shows court martial charges were preferred on 18 January 2001, for the charge of AWOL and the specification of on or about 5 September 2000, without authority, absent himself from his organization, and did remain so absent until on or about 23 December 2000.

8. On 18 January 2001, he voluntarily requested discharge in lieu of trial by court-martial under the provisions (UP) of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), chapter 10. He understood that he may request discharge because he is guilty of one or more of the charge(s), which authorize(s) the imposition of a bad-conduct or dishonorable discharge. He had the opportunity to consult with counsel who has fully advised him of the nature of his rights under the UCMJ, the elements of the offense with which he was charged, any relevant lesser included offense(s) thereto, and the facts that must be established by competent evidence beyond a reasonable doubt to sustain a finding of guilty; the possible defenses which appear to be available at this time; and the maximum permissible punishment if he was found guilty.

a. He understood that, if his request for discharge is accepted, he may be discharged under conditions other than honorable.

b. He had been advised and understood the possible effects of an Under Other Than Honorable Discharge and that as a result of the issuance of such discharge, he will be deprived of many or all Army benefits, that he may be ineligible for many or all

benefits administered by the Veteran's Administration, and that he may be deprived of his rights and benefits as a veteran under both Federal and State law.

c. He also understood that he may expect to encounter substantial prejudice in civilian life because of an Under Other Than Honorable Discharge.

9. On 2 December 2001, his chain of command recommended his discharge request be approved and his character of service be under other than honorable conditions.

10. On 13 December 2001, the separation authority approved the requested discharge in lieu of trial by court-martial. He directed his character of service be under other than honorable conditions and he be reduced to the lowest enlisted grade.

11. Accordingly, he was discharged under the provision of AR 635-200, chapter 10 on 14 January 2002, under other than honorable conditions. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 2 years and 3 days net active service this period. It also shows:

- Item 28 (Narrative Reason for Separation): In Lieu of Trial by Court-Marital
- Item 29 (Dates of Time Lost During this Period): Under 10 USC 972: 20000905 – 20001222 (5 September 2000 – 22 December 2000).

12. On 10 September 2010, the Army Discharge Review Board (ADRB), after careful consideration of his military records and all other available evidence, determined he was properly and equitably discharged. Accordingly, his request for a change in the type and nature of his discharge was denied.

13. The applicant provides:

a. Medical records in support of his claim.

b. SSA letter, 18 May 2018, showing he received a fully favorable decision. (The entire letter is available in documents for the board's review).

c. SSA decision, 18 May 2016, showing he was found disabled from 1 September 2015. He had medical impairments of schizophrenia, depression, and borderline personality disorder which significantly limited his ability to perform basic work activities. (The decision is available in its entirety for the Board's review.)

14. 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.

15. Title 38, U.S. Code, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

16. Title 38, CFR, Part IV is the VA's schedule for rating disabilities. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

17. AR 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. Paragraph 3-2 states 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.

18. By regulation (AR 15-185 (ABCMR)), 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.

19. AR 635-200 sets forth the basic authority for the separation of enlisted personnel. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

20. In reaching its determination, the Board can consider the applicant's petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

21. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his under other than honorable conditions (UOTHC) discharge and to be considered for disability based on his mental health condition.

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 in the Regular Army on 23 September 1999.
- His duty status was changed from present for duty (PDY) to absent without leave (AWOL) on 5 September 2000 and from AWOL to dropped from the rolls (DFR) on 5 October 2000.
- On 20 December 2000, apprehension efforts were terminated when he was apprehended by civilian authorities in [REDACTED] for civilian charges of possession of marijuana and no seat belt and was confined [REDACTED] Jail, pending disposition of charges.
- DD Form 458 (Charge Sheet) shows court martial charges were preferred on 18 January 2001, for the charge of AWOL and the specification of on or about 5 September 2000, without authority, absenting himself from his organization, and did remain so absent until on or about 23 December 2000.
- On 18 January 2001, he voluntarily requested discharge in lieu of trial by court-martial under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 10.
- Applicant was discharged on 14 January 2002, under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), Chapter 10 with an under other than honorable conditions characterization of service. His DD Form 214 shows he was assigned separation code KFS and the narrative reason for separation listed as In Lieu of Trial by Court-Martial, with reentry code 4.
- On 10 September 2010, the Army Discharge Review Board (ADRB), after careful consideration of his military records and all other available evidence, determined he was properly and equitably discharged. Accordingly, his request for a change in the type and nature of his discharge was denied.

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 would like his discharge upgraded to honorable and considered for disability for mental health reasons, specifically schizophrenia, which he was diagnosed with while at his permanent duty station, Camp Darby 4th Ranger Training Battalion at Fort Benning. He was diagnosed with at the time of service and which he is presently receiving disability benefits for currently. It has been more than 15 years because he has spent that time trying to obtain his Army Mental Health Records to no avail. The Federal Judge overseeing his disability hearing also tried to

get them but also was unable to. In 2021, someone at the Department of Veterans Affairs in Montgomery saw he was being prescribed a medication from psychiatry which proves he was seen by them. Recently he was able to obtain copies of his medical records from [REDACTED] the local Veterans Service Officer. Upon further review it is documented that he was being prescribed Adderall, Wellbutrin, and Risperdal. The Wellbutrin and Risperdal shows a date of 24 August 2000. None of this was addressed at his discharge and it has taken him over a decade to himself. The evidence showing mental health treatment was discovered recently. He was awarded disability back in 2018 by the State [REDACTED] and the Federal Judge tried to get his Mental Health Records from the Army as it was pertinent to the case and showed a date of initial onset of symptoms”.

d. On his prior application to the ADRB, the applicant stated, “while doing my duties as a combat medic I found I was unable to handle the environment I was in and often left with other soldiers to [REDACTED] where illegal substances were consumed by me and my fellow soldiers. I have since been treated for substance abuse and my mental health issues. At the time that I was enlisted I had stopped taking my medication prescribed and did leave without returning until I reported to Fort Knox for my dismissal. Although I wanted to stay, I had charges pertaining to drug use in the state [REDACTED] that I was awaiting trial for and was counseled by the officer at Fort Knox that I needed to clear them up [REDACTED] before trying to further my military career. This has been something I have regretted for many years, and I wish that I could go back and do things differently, but I cannot, and I have suffered both financially and emotionally for this mistake”.

e. Due to the period of service limited active-duty electronic medical records were available for review, however, a medication list shows that in July 2000 the applicant was prescribed psychotropic medication (risperidone and bupropion). In addition, the applicant submitted hardcopy medical documentation indicating he was prescribed Adderall, Wellbutrin, and Risperdal while in service.

f. The VA’s Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is not service connected, likely due to the characterization of his discharge. The applicant was assessed by social work on 26 April 2018 and found to be ineligible for service due to his discharge status. During that encounter, the applicant reported a history of hospitalization, being on the wait list for a substance abuse program, and homelessness since he was staying at the Salvation Army. The applicant also submitted a Social Security Administration Office of Disability Adjudication indicating the applicant has been disabled since 1 September 2015 and has been diagnosed with Schizophrenia, Depression, and Borderline Personality Disorder. A summary of the medical evidence used for the determination indicates the applicant has a history of psychiatric treatment for depression and hospitalizations for suicide attempts. Even with continued treatment and therapy, the applicant evidenced little improvement and was dismissed from

treatment due to non-compliance and attempting to bring drugs into the treatment center.

g. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence the applicant had a behavioral health condition during military service that mitigates his discharge. However, there is insufficient medical documentation to support a referral to the IDES process at this time. Although the applicant has been determined to be disabled by the Social Security Administration, the applicant's adjudication specifically cites his date of disability as 1 September 2015, over a decade post-military service. In addition, there is no evidence the applicant failed to meet Army retention criteria or had a ratable condition during the period of service. 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.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts a mitigating condition, OMH (Schizophrenia).

(2) Did the condition exist or experience occur during military service? Yes. There are no medical documents evidencing a specific behavioral health diagnosis. However, given the medical documentation indicating he was prescribed Adderall, Wellbutrin, and Risperdal it is assumed the applicant was experiencing mental health symptoms.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. Based on the trajectory of Schizophrenia, the symptoms typically present in late adolescence or early adulthood which is consistent with the applicant's indication that he was experiencing prodromal symptoms of the disorder during military service. Prodromal Schizophrenia is the earliest stage or the initial signs of the illness, which typically occurs prior to the active stage of the disorder and presents with changes in personality and behavior. The symptoms often include dysregulated behaviors, nervousness, anxiety, depression, difficulty concentrating, isolation, lack of appropriate personal hygiene, bizarre behaviors, and conduct problems. It is likely the applicant was experiencing the prodromal stage of what was later diagnosed as Schizophrenia. However, given his extensive history of substance abuse, cited as the reason for his AWOL and evident during his disability adjudication, it is difficult to determine if his use of substances contributed or caused his symptoms of psychosis. Overall, the applicant was discharged due to one specification of AWOL. Given the nexus between Schizophrenia and dysregulated behaviors, it is likely the applicant's BH condition contributed to the behavior (AWOL) that led to his discharge.

BOARD DISCUSSION:

1. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.
2. The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, his record of service, the frequency and nature of his misconduct, and the reason for his separation. The Board considered the applicant's mental health claim and the review and conclusions of the ARBA Behavioral Health Advisor.
3. The Board concurred with the conclusion of the medical advising official his misconduct was mitigated by his mental health, but the evidence does not indicate the applicant had any conditions prior to discharge that would have been a basis for referring him to the Disability Evaluation System. Based on a preponderance of the evidence, the Board determined the applicant's character of service should be changed to under honorable conditions (general), but the reason for his discharge was not in error or unjust.

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 reissuing his DD Form 214 to show his character of service as under honorable conditions (general) and to show he held the rank/grade of private two/E-2 with an effective date of pay grade of 23 March 2000.

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 any relief in excess of that described above.

4/1/2025

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. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 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.

3. AR 635-200 (Personnel Separations-Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

a. Paragraph 3-7a (1) states an honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate. Only the honorable characterization may be awarded a member upon completion of his or her period of enlistment or period for which called or ordered to active duty or active duty for training, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

b. Paragraph 3-7b (1) states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Paragraph 3-7b (2) states a characterization of under honorable conditions may be issued only when the reason for the member's separation specifically allows such characterization. It will not be issued to members upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

4. 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 and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 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 an MEB; when they receive a permanent medical

profile rating of 3 or 4 in any factor and are referred by an MOS Medical Retention Board; 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 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.

5. AR 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. Paragraph 3-2 states 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. Paragraph 3-4 states 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. Paragraph 4-10 provides that Medical Evaluation Boards (MEBs) are convened to document a Soldier's medical status and duty limitations insofar as duty is affected by the Soldier's status. A decision is made as to the Soldier's medical qualification for retention based on criteria in Army Regulation 40-501 (Standards of Medical Fitness), Chapter 3 (Medical Fitness Standards for Retention and Separation, Including Retirement). If an MEB determines the Soldier does not meet retention standards, the board will recommend referral of the Soldier to a PEB.

d. Paragraph 4-12 provides that each case is first considered by an informal PEB. Informal procedures reduce the overall time required to process a case through the disability evaluation system. An informal board must ensure that each case considered is complete and correct. All evidence in the case file must be closely examined and additional evidence obtained, if required. In addition, in all informal cases, the PEB Liaison Officer of the medical treatment facility having control of the Soldier will be the counselor for the Soldier. As such, the PEB Liaison Officer is primarily concerned with the Soldier's interests. The Soldier will be made fully aware of the election options available to him or her, the processing procedures, and the benefits to which he or she will be entitled if separated or retired for physical disability.

6. Title 10, USC, Section 1201 provides for the physical disability retirement of a member who has either 20 years of service or a disability rating of 30% or greater.

7. Title 10, USC, Section 1203 provides for the physical disability separation of a member who has less than 20 years of service and a disability rating at less than 30%.

8. Title 38, USC, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

a. 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.

b. The VA does not have authority or responsibility for determining physical fitness for military service. The VA awards disability ratings to veterans for service-connected

conditions, including those conditions detected after discharge, to compensate the individual for loss of civilian employability. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform her duties. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

9. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

10. Section 1556 of Title 10, United States Code, 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//