

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 June 2025

DOCKET NUMBER: AR20240008046

APPLICANT REQUESTS: with counsel, in effect, to correct her DA Form 199 (Physical Evaluation Board (PEB) Proceedings) to show her post-traumatic stress disorder (PTSD) and major depressive disorder (MDD) were combat-related.

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

- DD Form 149 (Application for Correction of Military Record)
- 3-page Counsel Brief
- 3-page Spouse Statement
- 4-page Applicant Statement
- Enlisted Record Brief
- Timeline of Events
- Medical Records and Progress Notes from 22 December 2014 to 2 August 2022
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), , 19 January 2023
- Order D 058-05, Headquarters, U.S. Army Physical Disability Agency (USAPDA), 27 February 2023

FACTS:

1. Counsel states, in effect:

a. The applicant began her active-duty service in the U.S. Army in July 2010. She deployed to Afghanistan in February 2011. While in Afghanistan, she was exposed to the constant threat of rocket attacks, vehicle-borne explosive device attacks, and other improvised explosive device attacks. In addition to these traumatic combat-related experiences, she was subjected to sexual harassment and sexual assault. She returned home from Afghanistan in April 2012 and began seeking psychotherapeutic intervention in early 2014. After the birth of her daughter, she was prescribed and began taking antidepressants in December 2014. On 6 May 2015, she reported suicidal ideations to her provider and discussed trauma related to the deployment. The records indicate that she reported anxiety and sleep disturbances.

b. A careful review of the medical records reveals that deployment-related trauma was reported in 2015 and that she was experiencing symptoms related to trauma from the deployment in 2014 prior to the sexual assault that occurred in Virginia in 2017. Although the DA Form 199 specifically states, " (t]his condition is attributed to the stressors of occupational and personal traumatic stressors while deployed to Afghanistan in 2011-2012," the Board failed to indicate that the rating should be considered combat related.

c. Pursuant to 10 U.S. Code § 1413a5, the term "combat-related disability" means a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that-

(1) is attributable to an injury for which the member was awarded the Purple Heart; or

(2) was incurred (as determined under criteria prescribed by the Secretary of Defense)

(a) as a direct result of armed conflict;

(b) while engaged in hazardous service;

(c) in the performance of duty under conditions simulating war; or

(d) through an instrumentality of war.

d. A careful review of the available evidence indicates that the applicant began suffering from the effects of trauma directly related to her service in Afghanistan. These symptoms were present and noted in medical records before the sexual assault that occurred in 2018. Although the nondeployment-related sexual assault served as a triggering event for additional treatment, the record clearly shows that the symptoms that ultimately led to medical retirement began as a result of her deployment to Afghanistan. In accordance with 10 U.S. Code§ 1554, it is clear that the injury was a direct result of armed conflict and occurred while the applicant was engaged in hazardous service.

2. The applicant states, in effect:

a. She does not remember on what day it happened, but she remembers it like it happened yesterday. A few days prior to the incident, their Security Forces Assistance Team (SFAT) had issued the Afghanistan National Police (ANP) regional staff a parking lot full of Ford Rangers. They taught them how to operate the vehicles, how to drive them, how to check the vehicles for explosives, and how to check basic

maintenance. It was a short course but at the time the training was adequate for the suspense date they had to deliver on these vehicles. They were not prepared for what would happen.

b. They were called to the ANP General's office where there were quite a few people in the office, one much older gentleman sitting in front of the General's desk. He was a resident of Kandahar City and had walked all the way to the Joint Regional Afghanistan Compound (JRAC) carrying his young son's lifeless body. The boy was about 6-8 years old and had been run over by some of the ANP Soldiers with a Ford Ranger. The father was obviously distraught and wanted justice, but he seemed to be so exhausted he couldn't show all the emotions he was feeling. She remembers the look he gave them when they were explaining to them what happened. He looked at them as if they were the enemy, as if they caused the death of his son. He held everyone in that room responsible for the tragedy.

c. The father was given livestock and some monetary compensation for his son. She looked at him and he was not satisfied, nothing could compensate for his son, and her heart broke for him. That boy would be around 20-22 years old today. She believes they could have done a better job; they could have taken more time to teach them basic rules of the road; they could have taught them that driving within residential areas should be conducted with caution, they could have saved that boy's life if they had done a more thorough job. She does not know what that includes but she feels personally responsible for what happened. To this day, she still sees the father's face, she still sees the boy's face. She dreams about him regularly, sometimes he's just lying there gray, not moving, the obvious look of a body without a soul. Other times, the boy will open his eyes, sit up, and ask her why. Flashbacks happen anytime she hears a vehicle's brakes squeal, anytime she hears about a child passing away, or reads an article about a child being mistreated or when she is completely overwhelmed. She carries that boy with her every day, everywhere, like an anchor that constantly holds her down. It's a haunting reminder of the result of her failure.

d. Throughout the entire deployment, the acting First Sergeant (the Senior E-7) would regularly harass her about giving him sexual favors. He would constantly tell her that if she would have sex with him or perform oral favors, he could protect her, and he would keep her from having to do certain tasks or even travel to other provinces when they would have to fly to another location for KLEs (Key Leader Engagement). He would make sure that she was his TC when they went on convoys, he would call her into the office in the evenings and it would just be the two of them in the room, and he would want to talk to her at night, alone, in her room, with the door shut. For the height and weight, they conducted in country, she usually would have to get taped, and he told her in a very suggestive tone that he would be the one conducting her tape if she failed weight. She starved herself for a few months and worked out two, sometimes three times a day to lose weight

so she did not have to get taped. She only had to lose about 16 pounds but due to all the stress and anxiety she began making herself throw up anything she ate. She ended up losing 30 lbs before height and weight. At the beginning of the deployment, she was 165 lbs, by the end of the deployment she was 120 lbs. These uncomfortable situations occurred throughout the entire year in country.

e. While his advances were extremely uncomfortable his demeanor was worse. The nickname given to him by the lower enlisted Soldiers was "ticking time bomb" because we never knew when he would have an outburst. Right before redeployment he assaulted one of the male soldiers with a coffee mug full of freshly brewed coffee. The Soldier filed a complaint and sworn statements were taken from most of the lower enlisted personnel. She was initially asked to submit a sworn statement by one of the SPC on their team. She declined because she wanted to get home to her children who she had been away from for two years at that point. The day before they were supposed to fly out, she was called to the RAOC and she spoke to the Investigating Officer over a SIPR line. He threatened to keep her in Afghanistan if she did not submit a sworn statement. She sat down in the RAOC conference room preparing to complete the sworn statement, when the 1SG walked in, sat down next to her, and asked her what she was going to write about him. She quickly stood up, crumbled the paper, said, "Nothing Top," and she walked out and into another room with a cipher lock and sat down to write. She wrote everything he did on that sworn statement. She provided all the incidents she could remember and submitted them to the IO. Once they got back CONUS she was assigned to the BDE S4 shop. After a while, she noticed the E-7 was always in the BDE S3 shop which was located on the left-hand side once you entered the BDE HQ building. She had to walk by him every day, sometimes he watched her walk by which was extremely uncomfortable and terrifying.

f. This afternoon most of the team had gone on a convoy to Kandahar City for a KLE. Because she had the task of picking up hot chow at FOB Lindsey, she was exempt from this trip. She was lying in her room with the door open in case she was called to do work. One of the head interpreters who was the ANP General's interpreter and was assigned to their SFAT Commander, walked into her room. She was watching a movie on her laptop that was sitting on her desk across the room and he asked to sit down and watch. She never had any issues with this interpreter, and she still believed her door was open (her wall locker was preventing her from seeing her door from where she was sitting at the head of her bed) so she allowed it. A few minutes later this interpreter jumped on top of her and began aggressively kissing and biting her. She could feel his hands rummaging across her pants as he was trying to take them off. She pushed, screamed, and fought back. She remembers there was a noise that scared him, and he ran out of the room. When she looked down at herself, he had successfully taken her pants and underwear off and pushed them to her calves. Her bra was ripped, and her lip was bleeding. She had bruises scattered across her body. She reported the incident to another Senior NCO. Later she was told that it was brought up to their

commander and he dismissed her claim. Sometime later, the same interpreter, who she had to sit next to at every end-of-day meeting, offered her a gift. It was a ring and bracelet with white and red flowers on it. She respectfully declined the gift, and she was quickly reprimanded by her commander in front of all the mentors on their team, that she had to accept the gift, or he would be insulted. Uncomfortable as it was, she took the gift to prevent further reprimand. Over time other issues began to arise with the interpreter and she believes it was his retaliation of her rejection. He was never reprimanded for any of his actions.

g. About halfway through their deployment a new mentor was added to the team, a Captain. During this time our acting 1SG went on R&R and another E7 was put in charge of the team until his return. At that time, she was the Soldier to the acting 1SG and did not answer to any other NCO due to differences in duties/positions and conflicting personalities. During that time, an E-5 on the team who oversaw one of the PSD (personal security detail) teams did not agree with this setup. He constantly attempted to have her do additional details on top of being a mentor, a supply NCO, and the already assigned details she had as a lower-enlisted Soldier. When the 1SG went on R&R, this E-5 brought up his concerns with the new CPT and all the lower enlisted Soldiers, the E-5, the other two PSD NCOs, and this CPT sat her down in the conference room and continued to accuse her of not doing her job as a PSD Soldier. She was not given much of a chance to speak and sat there trying not to cry. Even the E-7 who was standing in for the 1SG was not aware of this meeting and was extremely upset when he found out about it, since he was tracking why she was assigned as the 1SGs Soldier. After the meeting she approached the CPT and asked to speak with him privately. She informed him of the reasons why she was assigned to the team, which was initially to be an escort for the female CPT they had at the beginning of the deployment; and also, to be the Supply NCO. Her duties changed when the G4 mentor redeployed due to a family emergency and the task was left to her since she was logistics. She was not a part of the PSD team and had multiple other duties that she couldn't even complete in one day. The CPT was very receptive of the information and promised to fix the problem since he was not made aware of those details prior to the meeting. About an hour after that conversation, she was in her room when the CPT knocked on her door to give her an update. He informed her that she would no longer have to worry about the PSD team and that she would now fall under his supervision until the 1SG returned. She was surprised but she accepted it, until the CPT proceeded to walk into her room, shut her door, and back her into the wall. He started touching her waist, hips, breasts and kissing her. She was frozen and could not move. This CPT already had power on the team, and he had just arrived. Nothing much happened after that, except an invitation to his room, which she did not respond to. The rest of the deployment was tense around this CPT.

h. Throughout her deployment she was treated horribly by her leaders. She was the only enlisted female Soldier attached to the team, they had a female officer for a short

time, but she left. The team Commander was harsh on her about her duties and responsibilities. It appeared he also had an issue with female Soldiers and non-infantry MOS Soldiers. He spoke to her in a condescending, irritable, and slightly disgusted tone. She was a Soldier straight out of AIT and did not know much about her job, so she was learning every day. She was constantly reminded that she was failing even though she could not control how the supply chain worked. She had provided the team with every essential required, as well as extravagant wants, to live in a comfortable environment considering where they were located; and yet it still was not enough. They had another officer, a major, who constantly tried to flex his rank on everyone else. He was not one many put their confidence in. He yelled quite a bit and when he did something wrong, he would throw anyone under the bus to save himself. She had several incidents with him where he yelled at her, slammed his fist on the table, and demanded his "respect". He was a person you had to be very careful around.

i. The acting 1SG, she mentioned before was a huge issue during the deployment, he had a nickname for her that all the lower enlisted Soldiers were familiar with. He referred to her as "the cunt". She became aware of this after being called to the office by one of the other Soldiers. This Soldier informed her of this nickname and how it had been circulating for quite some time. The 1SG never called her by the name in person; however, it created a very hostile work environment. Over time it created a negative reputation of her with the other Soldiers. Throughout the entire deployment, she had one friend, her husband who at the time was not her husband, out of the entire 21-man team. Every day she walked on eggshells afraid to upset one of the leaders for fear of reprimand or biased opinions. Everyone who had authority seemed to abuse it and as a PFC there was nothing, she could do to stop it. She made SPC the month prior to leaving Afghanistan. She was told that she had been promoted but no promotion ceremony was discussed. She had asked another NCO when she could wear the SPC rank, and he said she could now since they were in country and it had been some time since she made the rank. She put on the rank and was walking over to their TOC building where a few of the PSD team were standing near the door, when the 1SG saw her with the rank on. He walked over, violently ripped the rank off her chest, and threw it on the ground. He told her she could wear it when he said she could wear it. A couple of days later a promotion ceremony was planned where she stood in front of everyone and the SFAT Commander pinned her.

j. She mentored 13 Afghans in different logistical positions while she was deployed. One of the mentees was a man who managed the furnishings for the ANP. She would visit his office 2-3 times a week. She was familiar with the man, and she did not have any issues with him. One of the days she went to visit him, she went to his office, knocked on the door and walked in (something she did often). He had about 6 visitors, men in both the ANP uniform and in civilian clothes. When she walked in all the men stood up and began shouting. She could not understand what they were saying but her interpreter was arguing back with them. One of the men in uniform pulled out his

9mm that was holstered on his hip and pointed the weapon at her head. She immediately froze and could not move. She thought she was going to die. Her interpreter stepped in between her and the weapon and hastily pushed her out of the room. She stood in the hallway not exactly sure what was happening. A young ANP soldier was walking up with some chai and food and her interpreter stuck his head out the door, spoke to the soldier, then told her the soldier was going to walk her back to their building. Later that day, her interpreter came to her and explained what happened. He said that the man with the 9mm was extremely angry with the fact that a woman walked into the office without permission, without a hijab, and that was not allowed there. It took both her interpreter and the man she mentored to calm this other man down. She still dreams about that day. She still dreams of being frozen and sometimes watch from a third person perspective as he shoots her in the head. She will never forget that day, the day her children almost lost their only parent.

k. Not long before they were supposed to redeploy, several of the civilian contractors and one of their team members were injured in an ambush at the exit gate outside Kandahar Airfield (KAF) and one was killed in the fight. These were men they lived with for a year. They leaned on them for help, and they leaned on them. It was probably one of the roughest days in country.

l. After the ANP were given the trucks, she spoke about earlier, there were a series of accidents that occurred. One accident occurred right next to their barracks building. Five ANP Soldiers were driving in one of the Ford Rangers and entering the base, like any normal day. The driver decided to accelerate while making a sharp turn on the gravel road near our building. This resulted in the driver losing control and the vehicle rolling in their LZ. They did not witness the actual accident; however, they witnessed the cleanup. All five ANP Soldiers were killed. The three riding in the back of the bed were standing when the vehicle rolled and were tossed from the vehicle, slamming into the ground. The driver and the passenger were stuck in the cab of the truck and were crushed. They watched as the Afghans rummaged thru the wreck to pull out the driver and passenger and collect the bodies of the other Soldiers who were ejected from the vehicle. She had never seen a body that had been so violently killed before until that day. It's a sight, even a smell, that never leaves you.

m. They had multiple threats during their time there. Most of the rocket attacks happening were into KAF but they could feel the aftermath of them. The blasts from the rockets would always make their barracks building rock or sway. There was one rocket that landed into their compound but was meant for KAF. The whole right side of the compound suffered surface damage and reminded them not to get too complacent. Towards the beginning of their time on the JRAC they had even more threats of Vehicle-Borne Improvised Explosive Devices and Suicide Vests on the compound. They would hunker down into the barracks building which wasn't structurally safe, but it was a

building. They were instructed to remain in the building until the threats were cleared. There were times they hunkered down all night, taking shifts watching the doors.

n. When they returned home, she was told by one of the NCOs that when they sit down and they talk to her about the deployment, that she should not report any issues because then she could be admitted for them. She made her way through the screening to get back to regular life. Her priority was getting her children back with her. After which, she went into survival mode. After getting her children to New York, they shortly started planning a PCS move. She also became pregnant with her youngest son. She started experiencing Post-Partum Depression (PPD) and while she wasn't sure that she was, she was told by her providers that she was showing signs. Her pregnancies have always been difficult, and not only was she dealing with unaddressed issues from the year before, she now was also dealing with being depressed without knowing why. After she had her son, she immediately became pregnant with her daughter. The PPD was still evident, and this pregnancy made it even worse. After having her daughter, she began scheduling Behavioral Health appointments. The struggle of dealing with everything that was on her mind, the things she carried with her, she couldn't handle anymore. She could not separate and suppress her feelings, she couldn't focus on what needed to be done, and she was constantly spiraling in and out of severe episodes. She and her husband began having serious relationship problems because she was out of control emotionally and mentally. She did not know how to deal with everything. She began having suicidal thoughts and even planned one attempt; however, she would think of her children and wouldn't be able to execute the plan. During this time, she was prescribed anti-depressants. The prescription she was taking began to work and she was able to focus and find the motivation to go back into work and succeed. Today, she still takes medication; she takes four different medications: an anti-depressant, a sleep inducer, a dream suppressant, and psychotropic. She takes one day at a time and does her best to try to make the right choice, not based off her feelings but based off logic. She's not always successful, there are days she is dragged back into that hell, and she sees it all again. There are days she remembers being terrified there or in Fort Belvoir and it's as if she is reliving it all over again. She cannot be in small spaces, crowded places, loud areas, and she is extremely alert around men. She is constantly afraid that the man who hurt her, will find her and hurt her again. Many would not consider these issues as combat-related; however, they were constantly on alert while stationed on the JRAC. There was no assurance that anyone there was an ally. Having a weapon pointed at her face would suggest otherwise. She has never been the same since that deployment. Every person in her family has remarked on the change in her, to include her parents and children.

3. The applicant enlisted in the Regular Army on 12 July 2010. She served in military occupational specialty 92Y (Unit Supply Specialist).

4. On 4 December 2018, the applicant was honorably discharged under the provisions of chapter 4 of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) for completion of required active service. She completed 8 years, 4 months and 23 days of net active service during this period with no time lost. Evidence shows she served in Afghanistan from 6 March 2011 to 11 March 2012.

5. Prior to her discharge, she enlisted in the U.S. Army Reserve on 27 November 2018.

6. Her records contain DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings) which convened on 19 January 2023. The Board found the applicant physically unfit and recommended a rating of 50% and that her disposition be permanent disability retirement.

a. The medical condition determined to be unfitting was PTSD and MDD, recurrent, moderate, without psychotic features. The applicant first sought treatment for this condition at Fort Huachuca, Arizona on 6 May 2015 after experiencing feelings of decreased energy and depression. This condition is attributed to the stressors of occupational and a personal traumatic stressor while deployed to Afghanistan in 2011-2012. The applicant sought further treatment while stationed at Fort Belvoir, Virginia in 2017 due to personal traumatic stressors. Treatment with behavioral therapy and medications did not relieve duty limiting symptoms of this condition. IAW Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation), the applicant is unfit because the DA Form 3349 (Physical Profile) Section 4, functional activity limitations associated with this condition make the applicant unable to reasonably perform required duties. The applicant is mentally competent for pay purposes and able to understand and participate in the PEB proceedings. VASRD 4.129 does not apply for re-exam purposes as the applicant is a member of the Reserve component not currently on active military service.

b. The PEB found:

(1) The disability was not based on disease or injury incurred in the line of duty in combat with an enemy of the United States and as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war.

(2) The disability did not result from a combat-related injury under the provision of 26 U.S. Code (USC) 104 or 10 USC 10216.

c. She was informed by counsel of the findings of the PEB on 25 January 2023. The applicant concurred with the findings, waived a formal hearing of her case, and did not request reconsideration of her VA ratings on 7 February 2023.

d. The Chief, Disability Evaluation System, Operations Division, USAPDA, authenticated the findings for the Secretary of the Army on 28 February 2023.

7. Order D 058-05, Headquarters, USAPDA, 27 February 2023, released the applicant from assignment and duty because of physical disability incurred while entitled to basic pay and under conditions that permit her retirement for permanent physical disability, effective 29 April 2023. The order notes her condition was not based on injury or disease received in the line of duty as a direct result of Armed Conflict or caused by an instrumentality of war and incurred in the line of duty during a war period as defined by law. Additionally, it is stated her disability did not result from a combat related injury as defined in 26 USC 104.

8. The applicant provides a timeline of events, numerous medical records and progress notes, Enlisted Record Brief, and a 3-page statement from her spouse essentially corroborating and supporting the applicant's statement of events.

9. Department of Defense Instruction 1332.38. (Physical Disability Evaluation), paragraph E3.P5.2.2 states that combat-related covers those injuries and diseases attributable to the special dangers associated with armed conflict or the preparation or training for armed conflict. A physical disability shall be considered combat-related if it makes the member unfit or contributes to unfitness and was incurred under any of the circumstances listed below:

- As a direct result of armed conflict
- While engaged in hazardous service
- Under conditions simulating war
- Caused by an instrumentality of war

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy and regulation. Based upon the applicant first seeking treatment for the unfitting conditions in 2015 and the applicant's last deployment ending in 2012, the Board found no evidence to support that the injuries were a direct result of combat related events. Based on a preponderance of the evidence, there was insufficient evidence to amend the results of the informal physical evaluation board proceedings and subsequent separation proceedings to reflect her disability was received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	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.

[Redacted]

[Redacted]

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[Redacted]

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 635-40 establishes the Army Physical Disability Evaluation System (PDES) 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/her office, grade, rank, or rating. It states:

a. A disability may be considered to be a direct result of armed conflict if it was incurred while the Soldier was engaged in armed conflict or in an operation or incident involving armed conflict or the likelihood of armed conflict; if a direct causal relationship exists between the armed conflict or the incident or operation and the disability; or if the disability which is unfitting was caused by an instrumentality of war and was incurred in the line of duty during a period of war. A determination that a disability was caused by an instrumentality of war and incurred in the line of duty is appropriate only when it is also determined that the disability so incurred in itself renders the member physically unfit and was incurred during one of the periods of war as defined by law.

b. The term "instrumentality of war" refers to a device primarily designed for military service and intended for use in such service at the time of the occurrence of the injury. It may also be a device not designed primarily for military service if use of or occurrence involving such a device subjects the individual to a hazard peculiar to military service. This use or occurrence differs from the use or occurrence under similar circumstances in civilian pursuits.

c. In paragraph 4-19j, that in making a determination whether a disability should be classified as being incurred during an armed conflict or due to an instrumentality of war, the following must be considered:

(1) The disability resulted from injury or disease received in the line of duty as a direct result of armed conflict and which itself renders the Soldier unfit. A disability may be considered a direct result of armed conflict if:

(a) the disability was incurred while the Soldier was engaged in armed conflict or in an operation or incident involving armed conflict or the likelihood of armed conflict, while the Soldier was interned as a prisoner of war or detained against his will in the custody of a hostile or belligerent force, or while the Soldier was escaping or attempting to escape from such prisoner of war or detained status; and

(b) a direct causal relationship exists between the armed conflict or the incident or operation and the disability.

(2) the disability is unfitting, was caused by an instrumentality of war, and was incurred in the line of duty during a period of war as defined by law.

2. Title 26, USC, section 104, states that for purposes of this subsection, the term "combat-related injury" means personal injury or sickness that is incurred as a direct result of armed conflict, while engaged in extra hazardous service, or under conditions simulating war, or which is caused by an instrumentality of war.

//NOTHING FOLLOWS//