

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2025

DOCKET NUMBER: AR20240008278

APPLICANT REQUESTS: reversal of the U.S. Army Human Resources Command (AHRC) denial of his request for Combat Related Special Compensation (CRSC).

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), 11 May 2021 – found physically unfit for continued military service based upon his chronic adjustment disorder with anxiety and depression:
  - recommended for placement on the Temporary Disability Retirement List (TDRL)
  - advised that although his conditions were determined to be combat related, they may not qualify for CRSC
- Department of Veterans Affairs (DVA) – Rating Decision, 11 August 2021 – reflective of the applicant's DVA rated conditions; 50 percent compensation rating for adjustment disorder with anxiety and depression
- Disability listings – reflective of the applicant's DVA rated conditions, individual percentages and overall rating
- Department of the Army, AHRC letter, 14 December 2021 – denial of his request for CRSC based on the following conditions noting the lack of documentation of a direct combat related event:
  - Adjustment Disorder with Anxiety and Depression (9440)
  - Right Knee Patellofemoral Pain Syndrome (5260)
  - Bilateral Pes Planus and Left Big Toe Arthritis (5276)
  - Erectile Dysfunction (7599-7522)
- AHRC Letter, 10 August 2022 – second denial of his request for CRSC based on the following conditions noting that they were unable to verify that any of these conditions were combat related:
  - Adjustment Disorder with Anxiety and Depression (9440)

- Right Knee Patellofemoral Pain Syndrome (5260)
- Bilateral Pes Planus and Left Big Toe Arthritis (5276)
- Erectile Dysfunction (7599-7522)
- DVA Rating Decision, 12 March 2022 – reflective of the applicant's DVA rated conditions
- Discharge Application: Total and Permanent Disability, 31 August 2024 – reflective of the applicant's request for the discharge of his qualifying loans based upon his DVA service connected disabilities
- SF 600 (Chronological Record of Medical Care), 22 April 2020 – reflective of health care received by the applicant; hospitalized in October 2019 for suicidal ideations; denies being injured in combat
- Email communication, 1 March 2023 – master gunnery sergeant G\_R\_ provides that she served as the senior enlisted member in the Human Resources department in Hawaii (2004):
  - deployed with the applicant to Iraq (Camp Fallujah)
  - validates the applicant's combat exposure (mortar and rocket fire) during this deployment
- AHRC letter, 29 November 2023 – denial of the applicant's request for appeal of the previous adjudication; no evidence provided to link his conditions to a combat related event; deferred future request for appeal to this Board
- DD Form 214 (Certificate of Release or Discharge from Active Duty) - reflective of his service on active duty from 29 May 2001 – 28 May 2005
- Operation History, 26 August 2009 – reflective of his service in support of Operation Iraqi Freedom from 1 March 2004 – 25 April 2004
- DD Form 214 – service on active duty U.S. Marine Corps from 27 January 2006 – 26 January 2010
- DD Form 214 – service on active duty from 24 February 2011 – 25 May 2011
- DD Form 214 – service on active duty from 26 May 2011 – 24 October 2021; TDRL placement
- Orders Number 165-0268 – reassigned for separation processing effective 24 October 2021
- DVA Rating Decision, December 3, 2022 - reflective of the applicant's DVA rated conditions; various rated conditions to include PTSD (70 percent)
- Memorandum for Record – Subject: Combat Code – self-authored letter provided by the applicant regarding his 2004 deployment to Iraq:
  - frequent exposure to indirect fire resulting in a constant fear for his life

- sustained multiple traumatic brain injuries requiring in-patient care on 2 occasions (June 2016 and October 2019)
- Docket Number AR20190015543 – reference case wherein a service member was granted relief recommending that all personnel records be corrected to reflect that her CRSC claim for PTSD was approved; AHRC approved the service members claim for CRSC based upon rated PTSD
- Department of Defense Financial Management Regulation Volume 7A, Chapter 10 (Special Pay – Duty Subject to Hostile Fire) Excerpt – reflective of a summary of the major changes
- PowerPoint Presentation – reflective of information pertaining to combat related determinations
- Docket Number AR20230008456 - reference case wherein a service member was granted relief recommending that all personnel records be corrected to reflect that her CRSC claim for PTSD was approved
- AHRC letter, 23 February 2023 – reflective of the applicant being awarded CRSC for Tinnitus; denied CRSC for the following conditions:
  - PTSD (final disapproval)
  - Right Knee Patellofemoral Pain Syndrome (final disapproval)
  - Bilateral Pes Planus and Left Big Toe Arthritis (final disapproval)
  - Erectile Dysfunction (final disapproval)

**FACTS:**

1. The applicant represented by legal counsel states in pertinent part that:

- On 11 May 2021 – the PEB determined that he was unfit for continued military service because of a chronic adjustment disorder with anxiety and depression
- On 11 August 2021 – DVA rated his chronic adjustment disorder with anxiety and depression condition as 50 percent disabling
- On 27 November 2021 – the applicant applied from CRSC
- On 14 December 2021 – CRSC was denied by AHRC for lack of documentation
- On 28 May 2022 – the applicant requested reconsideration
- On 12 August 2022 – second denial from AHRC
- On 3 December 2022 – DVA reclassified the applicant's condition from anxiety to PTSD
- On 23 February 2023 – the applicant reapplied; denied by AHRC for a third time; no documentation of exposure to armed conflict
- On 10 July 2023 – request for reconsideration; included medical documentation confirming that his PTSD was combat related

- On 29 November 2023 – AHRC denied his request noting that the documentation did not reflect that his PTSD was combat related
- prior service in the U.S. Marine Corps (May 2001 – May 2005; January 2006 – January 2010)
- medically retired in 2021
- the PEBs determination that his PTSD is combat related should be adopted by AHRC (CRSC Branch) unless it can be rebutted by specific, substantial, and credible evidence to the contrary.

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

- previously served in the USMC from 29 May 2001 – 28 May 2005; deployed to Iraq from 1 March 2004 – 30 April 2004
- On 26 May 2011 – the applicant was appointed a commission in the Regular Army
- On 11 May 2021 – a PEB convened finding him physically unfit for continue military service; recommended for placement on the TDRL with a 50 percent disability rating for chronic adjustment disorder with anxiety and depression:
  - incurred in the line of duty
  - attributed to the stressors of being engaged with indirect fire and caused by a direct result of armed conflict or an instrumentality of war
- On 14 June 2021 (Orders Number 165-0268) – the applicant was reassigned for separation processing effective 24 October 2021; disability is based on an injury or disease received in the line of duty as a result of direct result of armed conflict or caused by an instrumentality of war
- On 24 October 2021 – the applicant was medically retired from active duty and placed on the TDRL
- On 7 July 2023 – a PEB convened finding the applicant physically unfit for continued military service; recommended that he be permanently medically retired with a 70 percent disability rating for chronic adjustment disorder with anxiety and depression
- On 8 August 2023 (Orders Number D220-0026) – removed the applicant from the TDRL, effective 8 August 2023, and permanently medically retired him; disability is based on an injury or disease received in the line of duty as a result of direct result of armed conflict or caused by an instrumentality of war

3. On 18 March 2025, AHRC reviewed and approved the applicant's request for reconsideration for CRSC in accordance with current program guidance. AHRC verified that the following conditions were combat related:

- PTSD effective November 2021 – June 2022 (50 percent - as directed by the ABCMR)
- PTSD (70 percent) effective July 2022
- Tinnitus (10 percent) effective November 2021 (previously awarded)

AHRC was unable to verify that the following conditions were combat related disabilities:

- Right Knee Patellofemoral Pain Syndrome (final disapproval)
- Bilateral Pes Planus and Left Big Toe Arthritis (final disapproval)
- Erectile Dysfunction (final disapproval)

4. On 19 March 2025, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. The applicant has not responded.

#### BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and U.S. Army Human Resource Command- Combat Related Special Compensation Branch notification, the Board concurred with the AHRC determination granting a portion of his CRSC request for his PTSD. The Board determined based on HRC's review they were unable to verify the applicant's right knee pain syndrome (5250) and two additional issues (5276 and 7522) as combat related.
2. The Board determined there was insufficient evidence for reversal of the U.S. Army Human Resources Command decision to deny him combat related special compensation (CRSC) for right knee pain syndrome (5250), bilateral Pes Planus and Left Big Toe Arthritis and Erectile Dysfunction. Therefore, relief is denied.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

:        :        :        GRANT FULL RELIEF  
:        :        :        GRANT PARTIAL RELIEF  
:        :        :        GRANT FORMAL HEARING  
[REDACTED]    [REDACTED]    [REDACTED]    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]  
[REDACTED]  
[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.

REFERENCE:

Department of Defense Financial Management Regulation, Volume 7B:

- a. Section 630301 states a member may not be paid CRSC unless he or she has applied for and elected to receive compensation under the CRSC program by filing an application on DD Form 2860 (Claim for CRSC), with the Military Department from which he or she retired. A member may submit an application for CRSC at any time and, if otherwise qualified for CRSC, compensation will be paid for any month after May 2003 for which all conditions of eligibility were met.

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

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

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

d. Section 6306 (Determinations of Combat Relatedness):

(1) Direct Result of Armed Conflict:

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

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

(c) Armed conflict may also include such situations as incidents involving a member while interned as a prisoner of war or while detained against his or her will in custody of a hostile or belligerent force, or while escaping or attempting to escape from such confinement, prisoner of war, or detained status.

(2) While Engaged in Hazardous Service. Hazardous service is service that includes, but is not limited to, aerial flight, parachute duty, demolition duty, experimental

stress duty, and diving duty. A finding that a disability is the result of such hazardous service requires that the injury or disease be the direct result of actions taken in the performance of such service. Travel to and from such service, or actions incidental to a normal duty status not considered hazardous, are not included.

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

(4) Instrumentality of War:

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

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

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

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

//NOTHING FOLLOWS//