

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240008693

APPLICANT REQUESTS: in effect, correction of his DA Form 199 (Physical Evaluation Board (PEB) Proceedings) and DD Form 214 (Certificate of Release or Discharge from Active Duty) to show the injury to his wrists was combat-related.

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

- DD Form 149 (Application for Correction of Military Record)
- 2 pages of partial Medical Records, 8 May 2018
- 13 pages of Medical Records, 7 September 2018 to 16 January 2019
- DD Form 214
- Extract from DoD 7000.14-R (Financial Management Regulation), Volume 7B, Chapter 4, January 2023

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, in effect:

a. He was injured during simulated war training at the National Training Center (NTC). He fell from the back of a Light Medium Tactical Vehicle (LMTV) with full battle gear facing forward when he injured both wrists. He received a non-combat related disability discharge with 20 percent severance.

b. He initially requested an audit from the Department of Veterans Affairs (VA) due to the stoppage of Disability Severance Pay recoupment. During his research, he found that "no deduction is made in the case of disability severance pay received by a member for a disability incurred in the line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Secretary of

Defense.” He was overly paying back recoupment of Disability Severance Pay for last 5 years and he would love to get reconsidered.

3. The applicant enlisted in the Regular Army on 3 February 2014. He served in military occupational specialty 15R (Attack Helicopter Repairer).

4. His records contain a DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings) which convened on 18 July 2019. The Board found the applicant physically unfit and recommended a rating of 20 percent and that he be separated with severance pay.

a. The medical conditions determined to be unfitting were left and right wrist sprains, referred as chronic wrist sprains which occurred in 2018 while in the Continental United States.

b. The PEB found the disability:

(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.

(3) The disability severance pay was not awarded for disability incurred in a combat zone or incurred while performing combat-related operations as designated by the Secretary of Defense (10 USC 1212).

c. He was informed by counsel of the findings of the PEB on 1 August 2019. The applicant concurred with the findings, waived a formal hearing of his case, and did not request reconsideration of his VA ratings on 14 August 2019.

d. The Deputy Commander, U.S. Army Physical Disability Agency, authenticated the findings for the Secretary of the Army on 21 August 2019.

5. On 23 October 2019, the applicant was honorably discharged under the provisions of chapter 4 of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) by reason of disability with entitlement to severance pay (\$33,652.80). He completed 5 years, 8 months and 21 days of net active service during this period with no time lost. Evidence shows he served in Iraq from 5 April 2016 to 21 December 2016.

6. The applicant's record is void of any evidence and he has not provided any evidence showing he ever participated in actual combat or that he sustained an injury as the result of participating in combat.

7. The applicant provides a/an:

a. Extract from the myarmybenefits website which highlights exclusion of VA recoupment and states, "the amount of disability severance pay received under 10 USC 1212 may be subject to recoupment by the VA. The member should contact the applicable VA office for more information. Effective 28 January 2008 and later, no deduction is made in the case of disability severance pay received by a member for a disability incurred in the line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Secretary of the Defense. No deduction is made from any death compensation to which the former member's dependents become entitled after the member's death."

b. Medical records from 7 May 2018 through 16 January 2019, which notes the applicant injured his wrists when he fell out of an LMTV in April 2018 while at NTC. Applicant stated when he fell, he put his hands in front of him to protect his face causing immediate pain. He went to the aid station where he received icy hot gel with no improvement of symptoms. Continued follow-up and treatment for bilateral wrist contusion/sprain.

8. 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

9. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and the Interactive Personnel Electronic Records Management System

(iPERMS). For the reasons outlined below, the ARBA Medical Advisor is unable to make a recommendation at this time.

b. This applicant submitted an application to the ABCMR requesting a correction of his DA Form 199 (Physical Evaluation Board (PEB) Proceedings) and DD Form 214 (Certificate of Release or Discharge from Active Duty) to show the injury to his wrists was combat-related. The Applicant stated:

“Please re-evaluate if my injury falls under the “combat related” as I was injured during simulating war training at the National Training Center (NTC). I fell from the back of the LMTV with full battle gear facing forward when I injured both of my wrists. The injury of both wrists received 20% of the DoD rating and led to the Medical Discharge with severance pay.”

“I have initially requested an audit to the VA due to the stoppage of Disability Severance Pay recoupment. During my own research, I have found that “no deduction is made in the case of disability severance pay received by a member for a disability incurred in the line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Secretary of Defense” was mentioned in army websites. In this case, I was overly paying back recoupment of Disability Severance Pay for last 5 years and I would love to get re-considered.”

c. The Record of Proceedings details the applicant’s military service and the circumstances of the case. The applicant’s DD 214 shows he entered the regular Army on 3 February 2014 and was discharged, Honorably, disability, severance pay, non-combat related (enhanced) on 23 October 2019 under provisions in chapter 4-24 of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (19 January 2017). Orders show the physical evaluation board had determined the bilateral chronic wrist sprain was not combat related.

d. 7 May 2018 was the first documentation of his wrist injury in JLV. There was no documentation or mention of the reason why the Applicant was in NTC and why the Applicant was on LMTV trailer. The encounter documented the following :

“26yo AD male presents to the BMTC 7May18 c/o bilateral wrist pain x3weeks. SM states he injured his wrists when he fell out of an LMTV trailer. SM states when he fell, he put his hands in front of him to protect his face causing immediate pain. SM states he went to the aid station at NTC where he received icy hot gel with no improvement of symptoms. SM states he has also been using

tiger balm otc (over the counter) with no improvement. States it's difficult to move in any direction and perform basic work tasks.”

e. Upon review of available documents in databases, there was not sufficient evidence to support the Applicant's claim that his wrist injury was a result of in the line of duty in a combat zone or incurred during performance of duty in combat-related operations.

f. Therefore, it is the opinion of the Agency Medical Advisor that reversal of the previous non-combat related determination for his wrist injury disability is unwarranted.

#### 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. Upon review of the applicant's petition, available military records, and the medical review, the Board concurred with the advising official. Based on this, the Board determined the applicant's PEB decision at the time of separation was appropriate and a change in his retired status or 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	XXX	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. 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 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.

3. 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//