

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240008880

APPLICANT REQUESTS: in effect, a change to the narrative reason for his separation from alcohol rehabilitation failure to a medical discharge. He further requests a personal appearance hearing before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Over 1,000 documents derived from his service medical records and Official Military Personnel File (OMPF)
- Department of Veterans Affairs (VA) Rating Decision and letter, 28 May and 2 June 2025, respectively

FACTS:

1. The applicant states, in effect:

a. He had been injured for multiple years and had been seeking treatment. He was enrolled in the Invisible Wounds Clinic at Eglin Air Force Base. Covid restrictions shut down all nonessential clinics. He was given orders to Fort Bragg and changed stations during the Covid stand down. He had to start all over again with new doctors and new clinics. There was little to no communication and continuity of care. He was enrolled in the Intrepid Spirit Clinic at Fort Bragg with no improvement to his overall health. He was subsequently sent to Walter Reed for 15 days inpatient care. He is still struggling to regain improvement in his overall health and to receive care for his issues.

b. His health has deteriorated to the point his civilian labor abilities have been hampered due to the injuries he sustained during service. He had been constantly engaged with the Thor 3 rehabilitation program and had been attempting to regain his health to be a service to his brothers in arms. He has never had an issue with substance abuse. He engaged every possible opportunity available to improve his health yet struggles to this day. During his exit physical, his DD Form 2697 (Report of Medical Assessment), 14 April 2023, states "No significant interim change in health

status since completing Separation History and Physical Examination (SHPE) February 2023. The Early Health Assessment (EHA) demonstrates strong evidence that the servicemember should have been transferred to the Integrated Disability Evaluation System (IDES) for Medical Evaluation Board (MEB).” Instead, he was separated for substance abuse failure which he claims was not the main medical issue.

c. He had been battling several health concerns for many years prior to his separation. He received orders to move to Fort Bragg when he had just started his recovery from his second back surgery for traumatic brain injury (TBI) symptoms from his five previous deployments. At Fort Bragg his health continued to fail. Getting the care that he needed had multiple difficulties. Attached is his (Insert Form Walter Reed) and (exit physical page stating the doctor’s findings and most current VA rating date of discharge and current date. Due to his current physical state, he is unable to find reliable employment. Due to that he has the associated financial issues, and all his future wages will be garnished.

2. The applicant enlisted in the Regular Army on 30 March 2011. He served as an infantryman and Special Forces Weapons Sergeant.

3. His OMPF contains DA Form 2166-9-2 (NCO Evaluation Report) for the period 8 June 2021 thru 7 June 2022. His evaluation as an Assistant Operations Sergeant states he was the subject of numerous Sexual Harassment/Assault Response and Prevention Program complaints and investigations. His rater stated, in part, that the applicant was relieved of his duties as a weapons instructor due to lack of trust and military bearing and that he violated a command issued no alcohol order on several occasions. He had numerous incidents which resulted in him having to reside in the barracks with constant supervision as he continued to miss report times, appointments, and mandatory briefings.

4. The complete facts and circumstances surrounding his discharge are not available for review; however, his record contains a DD Form 214 (Certificate of Release or Discharge from Active Duty) that shows he was honorably discharged on 21 April 2023. This form shows he was administratively discharged under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), for alcohol rehabilitation failure. Evidence shows he served in Afghanistan from 7 October 2013 to 17 April 2014 and 9 October 2014 to 1 April 2015. Evidence further shows he was awarded or authorized the:

- Bronze Star Medal with “V” Device
- Bronze Star Medal (2nd Award)
- Army Commendation Medal (2nd Award)
- Army Achievement Medal
- Army Good Conduct Medal (3rd Award)

- National Defense Service Medal
- Global War on Terrorism Service Medal
- Afghanistan Campaign Medal with 3 bronze service stars
- Noncommissioned Officer Professional Development Ribbon with Numeral “3”
- Army Service Ribbon
- Overseas Service Ribbon (2nd Award)
- North Atlantic Treaty Organization Medal
- Combat Infantryman Badge
- Military Freefall Parachutist Badge

5. The applicant provides over 1,000 documents derived from his service medical records and OMPF. Of note:

a. Documents which accompany award of the Bronze Star Medal with “V” Device while serving as a Special Forces Weapons Sergeant, assault leader and advisor for the 3rd Special Operations Kandak on 10 December 2013, during Operation Enduring Freedom. [The applicant] cleared an enemy stronghold in Mushan Village, Panj Wa’l District, Afghanistan. Repeatedly placing himself in the line of fire to protect his fellow unit members from enemy fire and a grenade. His actions saved the lives of two U.S. servicemembers and allowed friendly forces to continue their assault to destroy enemy forces and successfully clear the objective.

b. Clinical Notes Report for the period 1 May 2022 to 14 April 2023, page 3 noting multiple micro and macro injuries and TBI events; one with loss of consciousness during 2014-2015.

c. DD Form 2697, 14 April 2023, health care provider comments state, “No significant interim change in health status since completing SHPE February 2023. The EHA demonstrates strong evidence that the servicemember should have been transferred to the IDES for MEB.”

d. VA Rating Decision and letter dated 28 May and 2 June 2025, respectively, which lists a combined rating evaluation of 90 percent effective 26 December 2024.

6. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) establishes the Army DES and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. 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.

7. Army Regulation 40-501 (Standards of Medical Fitness) provides that for an individual to be found unfit by reason of physical disability, he/she must be unable to perform the duties of his or her office, grade, rank or rating. Performance of duty despite impairment would be considered presumptive evidence of physical fitness.

8. Defense Directive-Type Memorandum (DTM 11-015, 19 December 2011, provides for the IDES. The IDES is the joint Department of Defense (DOD) - VA process by which DOD determines whether wounded, ill, or injured Service members are fit for continued military service and by which DOD and VA determine appropriate benefits for Service members who are separated or retired for a service-connected disability.

9. 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.

10. Army Regulation 15-185 (ABCMR) states an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

11. 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 his application to the ABCMR to request that his case be referred to the Disability Evaluation System (DES). The Applicant stated:

"The Early Health Assessment (EHA) demonstrates strong evidence that the servicemember should have been transferred to the Integrated Disability Evaluation System (IDES) for Medical Evaluation Board (MEB)." Instead, he was separated for substance abuse failure which he claims was not the main medical issue."

c. Upon review of available documents in databases, there was no career terminating medical conditions that required this case to be sent to the Disability Evaluation System (DES).

d. The applicant's VA service-connected ratings do not qualify as career terminating conditions as per AR 635-200. DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions incurred during or were permanently aggravated by their military service; or for compensating conditions which did not contribute to career termination. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

e. Given the current documentation submitted, it is the opinion of the ARBA Medical Advisor that a referral of his case to the DES is not warranted.

BEHAVIORAL HEALTH REVIEW:

a. Background: The applicant is requesting a change to the narrative reason for his separation from alcohol rehabilitation failure to medical disability discharge/retirement. This opine will narrowly focus on his behavioral health condition and will defer his medical issues to the medical advisor.

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:

- Applicant enlisted in the Regular Army on 30 March 2011.
- His OMPF contains DA Form 2166-9-2 (NCO Evaluation Report) for the period 8 June 2021 thru 7 June 2022. His evaluation as an Assistant Operations Sergeant states he was the subject of numerous Sexual Harassment/Assault Response and Prevention Program complaints and investigations. His rater stated the applicant was relieved of his duties as a weapons instructor due to lack of trust and military bearing and violation of command issued no alcohol order on several occasions. He had numerous incidents which resulted in him having to reside in the barracks with constant supervision as he continued to miss report times, appointments, and mandatory briefings.
- The complete facts and circumstances surrounding his discharge are not available for review.
- Applicant was honorably discharged on 21 April 2023. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged under the provisions of AR 635-200 for alcohol rehabilitation failure, with separation code JPD and reentry code 4.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states he had been injured for multiple years and had been seeking treatment. He was enrolled in the Invisible Wounds Clinic at Eglin Air Force Base. Covid restrictions shut down all nonessential clinics. He was given orders to Fort Bragg and changed stations during the Covid stand down. He had to start all over again with new doctors and new clinics. There was little to no communication and continuity of care. He was enrolled in the Intrepid Spirit Clinic at Fort Bragg with no improvement to his overall health. He was subsequently sent to Walter Reed for 15 days inpatient care. He is still struggling to regain improvement in his overall health and to receive care for his issues. His health has deteriorated to the point his civilian labor abilities have been hampered due to the injuries he sustained during service. He had been constantly engaged with the Thor 3 rehabilitation program and had been attempting to regain his health to be of service to his brothers in arms. He has never had an issue with substance abuse. He engaged every possible opportunity available to improve his health yet struggles to this day. During his exit physical, his DD Form 2697 (Report of Medical Assessment), 14 April 2023, states "No significant interim change in health status since completing Separation History and Physical Examination (SHPE) February 2023. The Early Health Assessment (EHA) demonstrates strong evidence that the servicemember should have been transferred to the Integrated Disability Evaluation System (IDES) for Medical Evaluation Board (MEB)." Instead, he was separated for substance abuse failure which he claims was not the main medical issue.

d. Active-duty electronic medical records available for review show on 7 August 2013, the applicant self-referred to behavioral health for an initial session and was diagnosed with Insomnia. On 2 August 2017, he presented to behavioral health due to insomnia and legal issues since he was arrested on 28 July 2017 following an argument with his father that turned violent when the applicant "picked up a beer can and swung it striking his father". He was diagnosed with: Other Specified Anxiety Disorder, Insomnia Disorder, Parent-Child Relational Problem, and Problems related to other legal circumstances. The applicant participated in follow-up therapy and an evaluation on 17 August 2017 where he was started on medication for his insomnia. The applicant discontinued services on 21 September 2017. On 30 May 2018, the applicant was command referred for an evaluation due to arriving late for work smelling of alcohol. The evaluation did not result in a diagnosis and the applicant was not recommended for SUDCC services. On 16 January 2019, the applicant presented for a one-time encounter related to relationship issues. A behavioral health session focused on his insomnia and pain issues on 9 July 2019, screened the applicant for general distress, depression, anxiety, PTSD, alcohol, and relationship issues; all screened negative. On 4 Aug 2021, he participated in a neuropsychological screening assessment as part of a comprehensive multidisciplinary intake process for the Intrepid Spirit Concussion Care Clinic. His results indicated sub-optimal effort on the evaluation suggestive of symptom exaggeration. He was diagnosed with Unspecified symptoms and signs involving

cognitive functions and awareness; Personal history of traumatic brain injury, mild; and Unspecified Depressive Disorder. The provider noted “Based on the present neuropsychological screening test results, SM meets medical retention standards...”. The evaluation recommended Cognitive Behavioral Therapy (CBT) and medication management along with other self-care strategies such as healthy diet, exercise, use of CPAP, and sleep hygiene. A note dated 14 September 2021, shows the applicant was adjusting to his first week participating in the residential program. On 27 September 2021, he self-referred to SUDCC due to being informed of medical concerns related to his alcohol use, met criteria for Alcohol Use Disorder, Mild.

e. The VA’s Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 90% service connected, including 30% for Major Depressive Disorder. The record indicates the applicant has participated intermittently in behavioral health services via the VA.

f. Per a note dated 14 April 2023, there was evidence in the medical record of the applicant having medical issues that “should have been referred to IDES for MEB”. However, this opine is narrowly addressing behavioral health concerns. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence, at this time, to support a referral to the IDES process based on his behavioral health condition. Although the applicant has been 90% service connected, including 30% for Major Depressive Disorder, VA examinations are based on different standards and parameters; they do not address whether a medical condition met or failed Army retention criteria or if it was a ratable condition during the period of service. Therefore, a VA disability rating would not imply failure to meet Army retention standards at the time of service. A subsequent diagnosis of Major Depressive Disorder through the VA is not indicative of an injustice at the time of service. Furthermore, even an in-service diagnosis of Major Depressive Disorder is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. 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.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Not applicable.

(2) Did the condition exist or experience occur during military service? Not applicable.

(3) Does the condition or experience actually excuse or mitigate the discharge? Not applicable.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, a minority of the Board found that a partial relief was warranted by changing the narrative reason for separation to Secretarial Authority. A majority of 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, the medical and behavioral health review, a majority of the Board concurred with the advising officials. Based on this, the Board determined the applicant's narrative reason at the time of separation was appropriate and there is no indication to change it to a medical discharge.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
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. Army Regulation 635-200, chapter 9, provides the authority and outlines the procedures for discharging Soldiers for whom further rehabilitation are either not practical or will not result in a fully mission capable Soldier. Discharge is based on alcohol or other drug abuse such as the illegal, wrongful, or improper use of any controlled substance; alcohol, or other drug when the Soldier is enrolled in mandatory substance abuse treatment program and the commander determines that further rehabilitation efforts are either not practical or will not result in a fully mission capable Soldier. The determination will be made in consultation with the rehabilitation team (Army Regulation 600-85 (The Army Substance Abuse Program)). A Soldier who is enrolled in mandatory substance abuse treatment program for alcohol or drug use may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program in one of the following circumstances: there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical; long-term rehabilitation is necessary, and the Soldier is transferred to a civilian medical facility for rehabilitation; the chronic treatment required for the Soldier to maintain recovery degrades full mission readiness. Initiation of separation proceedings is required for Soldiers whom rehabilitation efforts are considered no longer practical or who have another alcohol or drug incident within 12 months following successful completion of enrollment in mandatory substance abuse treatment program or during the 12 months following removal from the program for any reason. The service of Soldiers discharged under this section will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status.

2. 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, under the operational control of the Commander, U.S. Army Human Resources Command (HRC), is responsible for administering the Physical DES and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DoDI 1332.18 and Army Regulation 635-40.

a. Soldiers are referred to the Physical Disability Evaluation System (PDES) when they no longer meet medical retention standards in accordance with Army Regulation 40-501, Chapter 3, as evidenced in a medical evaluation board, when they receive a permanent medical profile, P3 or P4, and are referred by an military occupational specialty Medical Retention Board, when they are command-referred for a fitness-for-duty medical examination, and when they are referred by the Commander, HRC.

b. The PDES assessment process involves two distinct stages: the MEB and the Physical Evaluation Board (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 are either 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 retirement payments 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 their 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.

3. Army Regulation 40-501 provides that for an individual to be found unfit by reason of physical disability, he or she must be unable to perform the duties of his or her office, grade, rank or rating. Performance of duty despite impairment would be considered presumptive evidence of physical fitness.

4. Army Regulation 635-40 establishes the 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 their office, grade, rank, or rating. It provides that an MEB is 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 qualifications for retention based on the criteria in Army Regulation 40-501. 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 service.

a. Paragraph 2-1 provides that the mere presence of impairment does not of itself justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the member reasonably may be expected to perform because of their office, rank, grade, or rating. The Army must find that a service member is physically unfit to

reasonably perform their duties and assign an appropriate disability rating before they can be medically retired or separated.

b. Paragraph 2-2b(1) provides that when a member is being processed for separation for reasons other than physical disability (e.g., retirement, resignation, reduction in force, relief from active duty, administrative separation, discharge, etc.), his or her continued performance of duty (until he or she is referred to the PDES for evaluation for separation for reasons indicated above) creates a presumption that the member is fit for duty. Except for a member who was previously found unfit and retained in a limited assignment duty status in accordance with chapter 6 of this regulation, such a member should not be referred to the PDES unless his or her physical defects raise substantial doubt that he or she is fit to continue to perform the duties of his or her office, grade, rank, or rating.

c. Paragraph 2-2b(2) provides that when a member is being processed for separation for reasons other than physical disability, the presumption of fitness may be overcome if the evidence establishes that the member, in fact, was physically unable to adequately perform the duties of his or her office, grade, rank, or rating even though he or she was improperly retained in that office, grade, rank, or rating for a period of time and/or acute, grave illness or injury or other deterioration of physical condition that occurred immediately prior to or coincidentally with the member's separation for reasons other than physical disability rendered him or her unfit for further duty.

d. Paragraph 4-10 provides that 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, chapter 3. If the MEB determines the Soldier does not meet retention standards, the board will recommend referral of the Soldier to a PEB.

e. 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.

5. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10 U.S. Code, section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating of less than 30 percent.

6. Title 38, U.S. Code, sections 1110 and 1131, permits the VA to award compensation for medical conditions incurred in or aggravated by active military service. The VA,

however, is not empowered by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual may have a medical condition that is not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, but that same condition may be sufficient to qualify the individual for VA benefits based on an evaluation by that agency.

7. 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.

8. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//