ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 20 August 2025

DOCKET NUMBER: AR20240009371

APPLICANT REQUESTS: in effect, reconsideration of his previous request to correct his military records to show he retired due to physical disability instead of discharge due to being medically disqualified from the U.S. Army Reserve (USAR).

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- National Guard Bureau Form 22 (Report of Separation and Record of Service)
- Medical Discharge Note, 3 April 2019
- DA Form 3349-SG (Physical Profile Record), 22 August 2019
- Email, Nurse Case Manager, USAR Medical Management Center, 23 September 2019
- Orders 19-344-00003, Headquarters, 99th Readiness Division, (USAR), 10 December 2019
- Inpatient Psychiatric Discharge Summary, 24 June 22
- Letter, Department of Veterans Affairs (VA), 27 March 2024
- Army Board for Correction of Military Records (ABCMR) Record of Proceedings, 25 June 2024
- Correspondence, Help with a Federal Agency, 29 September 2024

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20230012687 on 25 June 2024.

2. The applicant states, in effect:

a. He received a medical separation; however, he wants a medical retirement. He received a P3 Profile and was medically boarded. He did not know he could request to transfer his medical board to the Physical Disability Evaluation System (PDES). He

received a permanent mental disability of schizoaffective disorder to include VA service-connection at 80%.

b. He did not work in a pharmacy and is asking for a pension. He served at Guantanamo Bay. Among other places, he put his life on the line for our country and did some things wrong to protect our country against terrorist attacks during the time when our country needed him the most, but he did it with pure heart and honesty. Nobody can pay for the stress, anxiety, and damage he feels in his mind for the service he did for our country. For his anxious and psychosis mind, there is no remedy.

c. At this moment, our country does not treat him the way he feels he should be treated for the things that he did. When he goes out and sees civilians enjoying their life with their families and kids, he asks himself why he has been rejected from the country that he committed the best years of his life to. He does not regret but feels disappointed when he sees how everyone treats him. He has problems with his body, back, knee and doctors can relieve the pain, but doctors cannot relieve the problems in his mind. To serve for the benefit of our country, he served for the principles to serve and protect, and this is the way he is treated.

d. He read in the Board's reply that there were certain things the Board did not have access to. That is because he did some things for the country that he did not hesitate to do when they were under attack. He feels bad he has to write all of these things but keep in mind he holds the country above his family and himself and would be the first to step up if called upon again.

3. Having prior service in the U.S. Marine Corps Reserve, the applicant enlisted in the USAR on 17 May 2012, in the rank/grade of specialist/E-4. He served in military occupational specialty 31B (Military Police).

4. He entered active duty on 10 June 2014, and served at Guantanamo Bay, Cuba from 12 July 2014 to 10 January 2015.

5. The applicant enlisted in the Army National Guard (ARNG) on 18 May 2015, serving in MOS 31B.

6. On 15 June 2016, he was honorably discharged from the ARNG and transferred to the USAR Control Group (Reinforcement) for enlistment in another component of the U.S. Armed Forces.

7. The complete facts and circumstances of the applicant's discharge are not available for review. The record contains Orders 19-344-00003, 10 December 2019, published by Headquarters, 99th Readiness Division (USAR). These orders show the applicant was honorably discharged from the USAR, effective 13 December 2019 in accordance with

Army Regulation 135-178 (ARNG and Army Reserve-Enlisted Administrative Separations), the reason cited was "MEDICALLY DISQUALIFIED-NOT RESULT OF OWN MISCONDUCT."

8. The acronym "PUHLES" describes the six physical factors used in the profiling system to classify medical readiness: "P" (Physical capacity or stamina), "U" (Upper extremities), "L" (Lower extremities), "H" (Hearing), "E" (Eyes), and "S" (Psychiatric). Physical profile ratings are permanent (P) or temporary (T). A service member's level of functioning under each factor is represented by numerical designations: 1 indicates a high-level of fitness, 2 indicates some activity limitations are warranted, 3 reflects significant limitations, and 4 reflects one or more medical conditions of such a severity that performance of military duties must be drastically limited.

9. The applicant provides a/an:

a. Behavioral Health Day of Discharge Note, 3 April 2019, which indicates the applicant was involuntarily committed to the hospital for psychiatric treatment. Mental status upon discharge as listed below:

- Appearance: Comfortable
- Attitude: Calm and cooperative
- Behavior: Appropriate
- Speech: Within Normal Limits
- Affect: Range: Full/Broad/Intense
- Mood: Euthymic
- Thought Process: Within Normal Limits/No Formal
- Thought Disorder
- Perception: Within Normal Limits/Normal
- Sensoperception
- Orientation (XS): Person, Time, Place
- Cognition/Memory: Normal/Intact
- Insight: Normal
- Judgment: Normal
- Thought Content: Within Normal Limits/No Abnormal
- Thought Content
- Suicidal Ideation: Denied
- Homicidal Ideation: Denied
- Self Harm: Denied
- Delusions: Denied

b. DA Form 3349-SG, which shows combined "PUHLES" of "211113", effective 22 August 2019, noted the applicant was not fit for duty.

c. Email dated 23 September 2019, in which a Nurse Case Manager states to the applicant, “The Army Reserve Medical Management Center has identified that you may have a medically disqualifying condition according to the provisions of Army Regulation 40-501 (Standards of Medical Fitness), Chapter 3 and DA Form 3349 (Physical Profile). Therefore, I have attached a Notification of Medical Disqualification and Election of Options. Please sign and return the Election of Options by the suspense date: 4 November 2019.”

d. Inpatient Psychiatry Discharge Summary from 14 July 2022, chief complaint, psychiatric evaluation. Noted prior inpatient admissions in March and October 2019. Past psychiatric history notes psychosis, past hospitalizations, noncompliant with treatment. Discharge diagnosis of schizoaffective disorder, chronic with acute exacerbation.

e. VA summary of benefits letter dated 27 March 2024, showing his combined service-connected evaluation is 80%.

10. 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). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting a reconsideration of his previous request to correct his military records (AR20230012687 dated, 25 June 2024) to show that he is retired due to physical disability instead of honorably discharged due to being medically disqualified from the U.S. Army Reserve (USAR). The Applicant stated that:

> “Hi my name is Stefano Maglione. I was in the Army Reserves in 2016-2019. I received a honorable discharge “medical separation”. However, I want the change to be medical retirement. I received a profile with a 3 rating and permanent disability. I was med boarded. I did not request to transfer my med board to PDES which I did not know I can do at the time. I received a permanent mental disability of schizo-affective disorder to include a VA disability of 80% for schizo-affective disorder. I am sending my medical records to include civilian and VA medical records.”

c. The Applicant was an activated National Guard and was separated from Active Duty on 17January 2015, Honorably for completion of required active service under the authority of Chapter 4 of AR 635-200. He was also discharged, Honorably from the New Jersey National Guard (NG) on 15 June 2016, for enlistment in another component of the U.S. Armed Forces under the authority of paragraph 6-35B(3) of NGR 600-200. He was discharged, Honorably from the USAR on 13 December 2019 for medical Disqualified -Not result of own Misconduct under the authority of AR 135-178.

d. At the time of his discharge from active duty, there was not a career terminating condition based on the documentation available for review.

e. At the time of his discharge from the New Jersey NG, there was not a career terminating condition based on the documentation available for review.

f. At the time of his discharge from the US Army Reserve Component, there was not a career terminating condition based on the documentation available for review.

g. Based on the information submitted, and available for review, there is insufficient evidence to support the applicant's request.

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

BEHAVIORAL HEALTH REVIEW:

a. The applicant is applying to the ABCMR requesting a change of his honorable discharge to a permanent medical retirement. As a part of his narrative reason for this change, he contends he experienced mental health conditions that are related to his request for medical retirement. 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: 1) On 18 May 2015, the applicant enlisted in the Army National Guard (ARNG) following an honorable enlistment in the U.S. Marine Corps Reserve during an unknown period of time, the U.S. Army Reserve (USAR) (entered 17 May 2012), and the U.S. Army (entered 10 June 2014), and included a deployment to Guantanamo Bay, Cuba from 12 July 2014 to 10 January 2015; 2) On 15 June 2016, he was honorably discharged from the ARNG and transferred to the USAR; 3) The complete facts and circumstances of the applicant's discharge were not available for review; 4) The applicant was discharged on 13 December 2019, AR 135-178, by reason of: "medically disqualified-not result of own misconduct." His character of service was honorable.

There is insufficient evidence indicating the amount of his net active service during this period.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military service and medical records. The VA's Joint Legacy Viewer (JLV) and hardcopy VA medical and service records provided by the applicant were also reviewed. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. The applicant asserts he experienced mental health conditions, including schizoaffective disorder, warranting a medical retirement. The applicant initially was command referred to the mental health clinic for a "safety check" beginning on 19 March 2019 resulting due to concerns that the applicant was acting, "scary and erratic." The encounter resulted in a referral for a higher level of psychiatric care. The applicant was referred for a Command Directed Evaluation (CDE) on 28 March 2019 despite pending administrative separation procedures due to previous misconduct. The applicant's CDE resulted in an impaired mental status, the diagnosis of unspecified spectrum and other psychotic disorder, and again was recommended for a higher level of psychiatric care. The applicant provided hardcopy civilian documentation of an involuntary psychiatric hospitalization from which he was discharged on 03 April 2019. There was insufficient information as to the duration of this psychiatric admission or the referring diagnosis/prognosis. The applicant did not show for scheduled follow-up psychiatric care on 08 April 2019. The applicant underwent another CDE on 22 August 2019 with the same results as well as generating/continuing a permanent psychiatric profile and a referral for an MEB. However, the applicant declined further psychiatric care and did not show for any scheduled follow-up psychiatric appointments. Additional documentation of any administrative separation procedures or NJP (if any) were unavailable for review. The applicant provided documentation of email traffic regarding the applicant's notification of MEB initiation as well as the applicant's reported MEB case number. However, there was insufficient information regarding the disposition of his MEB referral or the events leading to discharge.

d. A review of JLV noted that the applicant officially transitioned to VA medical care on 22 July 2021 and reportedly transitioned their civilian psychiatric care to the VA beginning on 01 June 2023. During his first VA mental health appointment he was diagnosed with schizoaffective disorder, bipolar type and anxiety. The applicant's attendance of mental health appointments since that time has been sporadic and inconsistent. The applicant is currently 100% VA service-connected for schizoaffective disorder, in addition to other physical disabilities.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence the applicant was experiencing mental health conditions including schizoaffective disorder at the time of his active service. The applicant was evaluated on multiple occasions through the CDE process and resulted in a permanent psychiatric profile and that his condition warranted a medical discharge and continued care. However, there was insufficient information regarding the disposition of the applicant's previous MEB referral. In addition, the applicant was not compliant with repeated attempts to connect him with care. There was also insufficient evidence that he was on active-duty orders while experiencing his mental health issues that would qualify him for a medical retirement due to them not being in the line of duty. As a result of a lack of evidence that these conditions were incurred in the line of duty prior to discharge, criteria will not be met to recommend his referral to DES.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? N/A. The applicant is requesting a medical retirement.

(2) Did the condition exist or experience occur during military service? N/A. The applicant is requesting a medical retirement.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A. The applicant is requesting a medical retirement.

3. Upon review of the applicant's petition, available military records and the medical and behavioral health review, the Board concurred with the advising official finding no documentation to suggest the applicant did not meet retention standards at the time of her discharge. The Board acknowledged that the applicant has a service-connected disability for

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 applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. The Board considered the following Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? N/A. The applicant is requesting a medical retirement.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A.

3. Upon review of the applicant's petition, available military records and the medical and behavioral health review, the Board concurred with the advising official finding insufficient evidence the applicant was experiencing mental health conditions including schizoaffective disorder at the time of his active service. The Board acknowledged that the applicant has a service-connected disability for schizoaffective disorder. This determination alone, however, does not automatically mean that military medical disability/retirement is warranted.

4. The Board noted that the VA operates under different rules, laws, and regulations when assigning disability percentages than the Department of Defense (DoD). In essence, the VA will compensate for all disabilities felt to be unsuiting. The DoD does not compensate for unsuiting conditions but rather for conditions that are determined to be unfitting. In addition, the role of compensating for post-separation progression or complications of service-connected conditions was granted by Congress to the VA and not a function or role of the DoD. Based on this, the Board denied relief to change the applicant's honorable discharge from the USAR to a disability retirement.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XX	XX	XX	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]

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, 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 PDES and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with Department of Defense Directive 1332.18 and Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation).

2. Army Regulation 40-501, provides information on medical fitness standards for induction, enlistment, appointment, retention, and related policies and procedures. Soldiers with conditions listed in chapter 3, Medical Fitness Standards for Retention and Separation, Including Retirement, who do not meet the required medical standards will be evaluated by an Medical Evaluation Board (MEB) and will be referred to a Physical Evaluation Board (PEB) as defined in Army Regulation 635-40. The regulation further states in:

a. Paragraph 3-3, USAR or ARNG Soldiers not on active duty whose medical condition was not incurred or aggravated during an active duty period, will be processed in accordance with chapter 9, Army Reserve Medical Examinations, and chapter 10 (ARNG) of this regulation.

b. Paragraph 10-25, Soldiers pending separation for failing to meet medical retention standards, states members with non-duty related impairments are eligible to be referred to the PEB solely for a fitness determination, but not a determination of eligibility for disability benefits. Determination of whether a non-duty case is forwarded to the PEB is at the request of the Soldier. Soldiers pending separation for in the line of duty injuries or illnesses will be processed in accordance with Army Regulation 40-400 (Medical Services-Patient Administration) and Army Regulation 635-40.

3. National Guard Regulation 600-200 (Personnel-General-Enlisted Personnel Management), paragraph 6-35 of the regulation in effect at the time, states commanders who suspect that a Soldier may not be medically qualified for retention, will direct the Soldier to report for a complete medical examination per Army Regulation 40-501. Commanders who do not recommend retention will request the Soldier's discharge. When medical condition was incurred in line of duty, the procedures of Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations) will apply. Discharge will not be ordered while the case is pending final disposition.

4. Title 38, U.S. Code, section 1110, General - Basic Entitlement: For disability resulting from personal injury suffered or disease contracted in line of duty, or for

aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

5. Title 38, U.S. Code, section 1131, Peacetime Disability Compensation - Basic Entitlement: For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

6. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018, regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. Boards for Correction of Military/Naval Records may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

7. 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.

8. 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.

9. Title 10, U.S. Code, section 1556 of, requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//