

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2025

DOCKET NUMBER: AR20240012535

APPLICANT REQUESTS:

- reversal of the U.S. Army Human Resources Command (HRC) denial of his Combat Related Special Compensation (CRSC) claim for post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI) with vertigo, obstructive sleep apnea (OSA) with CPAP, post-traumatic headaches residual of TBI, and erectile dysfunction
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record), 27 September 2024
- DA Form 199 (Informal Physical Evaluation Board (IPEB) Proceedings), 23 March 2023
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 12 May 2023
- letter, Squad Leader, 574th Quartermaster Company, Mannheim Germany, 7 November 2023
- decision letter, HRC CRSC Branch, 4 October 2023
- Department of Veterans Affairs (VA) Rating Decision, 16 May 2023
- reconsideration letter, HRC CRSC Branch, 2 May 2024 CRSC Reconsideration Request Form, 13 November 2023

FACTS:

1. The applicant states:

a. He was medically retired from active duty as a result of his PTSD diagnosis which was "based on a disease or injury incurred in the line of duty in combat with an enemy of the U.S. and as a direct result of armed conflict or caused by an instrumentality of war."

b. He provided every available document at his disposal to verify his claim, including a letter from his squad leader at the time. He has no other means of contacting senior members of his chain of command.

c. His conditions have not improved but gotten worse. His daily medications include Zoloft, Trazadone, and Prazosin for night terrors which he experiences nightly.

2. The applicant provides copies of his application to HRC for CRSC, his appeal to HRC, his IPEB proceedings, and a VA Rating Decision showing his Gulf War combat related service connected disabilities. He also provided a letter from his squad leader outlining their deployments to Ballad Air Base, Anaconda Logistical Support Area, Iraq; Al Asad Air Base in Iraq; where they witnessed mortar attacks and saw the aftermath of the damage done to these bases.

3. A review of the applicant's service records show the following:

a. On 30 April 2003, he enlisted in the Regular Army (RA) for 4 years.

b. He was deployed to:

- Iraq for 10 months from 9 May 2004 to 21 February 2005
- Iraq for 12 months from 7 November 2005 to 28 October 2006
- Afghanistan for 13 months from 5 April 2007 to 14 May 2008
- Uganda for 4 months from 7 March 2011 to 5 July 2011
- Qatar for 12 Months from 9 February 2013 to 24 January 2014
- Qatar for 11 Months from 15 August 2019 to 7 July 2020

c. On 24 February 2016, he was honorably discharged to accept a commission.

d. On 25 February 2016, he accepted a commission as a Reserve warrant officer.

e. A DA Form 199 reflects an IPEB convened and found:

- he was physically unfit and recommended a combined rating of 70 percent
- his disposition to be placed on the Temporary Disability Retired List (TDRL)
- a disability of PTSD rated at 70 percent
- the disability disposition was based on disease or injury incurred in the line of duty (LOD) in combat with an enemy of the U.S. as a direct result of armed conflict or caused by an instrumentality of war

f. On 23 March 2023, he concurred with the IPEB and waived a formal hearing of his case.

g. On 23 March 2023, a representative for the Secretary of the Army approved the findings of the IPEB.

h. On 25 April 2023, orders issued from Fort George G. Meade reassigned him for separation processing.

i. On 12 May 2023, he was retired. His DD Form 214 shows he was separated under provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), chapter 4 as the result of disability, combat related, with a separation code of SEA.

j. On 13 May 2023, he was placed on the TDRL.

k. On 4 October 2023, HRC, CRSC Branch responded to his initial request for CRSC, dated 1 June 2023, and disapproved his request based on no new evidence provided to show combat related event caused his conditions for:

- PTSD and TBI with Vertigo, rated at 70%
- obstructive sleep apnea with CPAP, rated at 50%
- post-traumatic headaches, residual of TBI, rated at 30%
- erectile dysfunction, rated at 0% (no percentage)

l. On 2 May 2024, HRC, CRSC Branch responded to his reconsideration request for CRSC and disapproved his request based on no new evidence provided to show combat related event caused his conditions for:

- PTSD and TBI with Vertigo, rated at 70%
- obstructive sleep apnea with CPAP, rated at 50%
- post-traumatic headaches, residual of TBI, rated at 30%
- erectile dysfunction, rated at 0% (no percentage)

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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 Board noted AHRC's position and the fact the applicant provided a strong letter of support attesting to the applicant's deployment to Iraq January through December 2004 and October 2005 – November 2006 with exposure to multiple combat stressors establishing a causal relationship contributing to his PTSD, TBI with vertigo, obstructive sleep apnea with CPAP, post-traumatic headaches residual of TBI, and erectile dysfunction. The Board determined based on U.S. Code, which states Combat-related disability for CRSC is defined as a disability that is "attributable to an injury for which was incurred "as a direct result of armed conflict," "through an instrumentality of war," "while engaged in hazardous service," or "in the performance of duty under conditions simulating war." Direct fire, roadside bombs, and mortars are instrumentalities of war. An instrumentality of war is defined as 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 the applicant met the criteria approval of his claim for CRSC. Based on the guidance, the applicant met the criteria for approval of his claim for CRSC in which the applicant was exposed to or was engaged by direct fire, roadside bombs, and mortars. Therefore, the Board granted relief.

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>	
XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected to show the applicant's four disabilities were directly related to his combat deployments and determined to be combat related and met the criteria to be awarded CRSC.

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 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 begins its consideration of each case with the presumption of administrative regularity.

a. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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.

2. Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation), in effect at the time, established the Army Physical Disability Evaluation System according to the provisions of chapter 61 of Title 10 United States Code and Department of Defense Directive 1332.18. It set forth policies, responsibilities, and procedures that apply in determining whether a member was unfit because of physical disability to perform the duties of his office, grade, rank, or rating. If a member was found unfit because of physical disability, it provided for disposition of the member according to applicable laws and policies.

3. 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.

(2) 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.

(3) 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.

4. Title 38, United States Code, sections 1110 and 1131, permit the Veterans Affairs (VA) to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required 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's medical condition, although not considered physically unfit for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by that agency.

//NOTHING FOLLOWS//