

# United States Court of Appeals for the Federal Circuit

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**ROBERT J. LABONTE, JR.,**  
*Plaintiff-Appellant*

v.

**UNITED STATES,**  
*Defendant-Appellee*

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2021-1432

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Appeal from the United States Court of Federal Claims  
in No. 1:18-cv-01784-RAH, Judge Richard A. Hertling.

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Decided: August 12, 2022

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ALEXANDER FISCHER, JOSHUA HERMAN, Veterans Legal Services Clinic, Jerome N. Frank Legal Services Organization, Yale Law School, New Haven, CT, argued for plaintiff-appellant Robert J. Labonte, Jr. Also represented by LERNIK BEGIAN, CASEY SMITH, MICHAEL JOEL WISHNIE.

RICHARD PAUL SCHROEDER, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, argued for defendant-appellee. Also represented by BRIAN M. BOYNTON, MARTIN F. HOCKEY, JR., DOUGLAS K. MICKLE.

JULIE VEROFF, Cooley LLP, San Francisco, CA, for

amici curiae John Brooker, Eleanor Morales, Brian D. Schenk, Eugene R. Fidell, Hugh McClean, Raymond Jewell Toney. Also represented by KATHLEEN R. HARTNETT.

LIAM JAMES MONTGOMERY, Williams & Connolly LLP, Washington, DC, for amici curiae National Veterans Legal Services Program, Protect Our Defenders. Also represented by AMY MCKINLAY, MIRANDA PETERSEN.

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Before CHEN, SCHALL, and STOLL, *Circuit Judges*.

SCHALL, *Circuit Judge*.

Appellant, Robert J. LaBonte, Jr., is a veteran who served in the United States Army. In 2006, he went absent without leave (“AWOL”) for six months. After he voluntarily returned to his base, he pleaded guilty to a charge of desertion in a court-martial proceeding and was separated from the Army with a Bad Conduct Discharge.

In 2015, Mr. LaBonte applied to the Army Board for Correction of Military Records (“ABCMR” or “Board”), seeking retroactive medical retirement. He alleged that, while in the Army, he had had a permanent disability resulting from post-traumatic stress disorder (“PTSD”), traumatic brain injury (“TBI”), depression, and anxiety incurred during service. He also alleged that these disabilities had rendered him unfit for service prior to his absence without leave, his court-martial, and his discharge. In 2018, the Board denied his claim.

Mr. LaBonte then filed suit in the United States Court of Federal Claims challenging the ABCMR decision. On December 3, 2019, the court remanded the case to the Board for further proceedings. *LaBonte v. United States*, No. 18-1784C (Fed. Cl. Dec. 3, 2019), J.A. 2716. On April 29, 2020, on remand, the Board again denied Mr. LaBonte’s claim for disability retirement. J.A. 2763–65. Subsequently, with the case back before the Court of Federal

Claims, Mr. LaBonte challenged the ABCMR's April 2020 decision and moved for judgment on the administrative record. The government renewed a previous motion to dismiss for failure to state a claim upon which relief could be granted and, in addition, cross-moved for judgment on the administrative record.

On October 30, 2020, the Court of Federal Claims granted the government's motion to dismiss. *LaBonte v. United States*, 150 Fed. Cl. 552, 564–65 (2020). The court determined that, in order for the ABCMR to grant Mr. LaBonte disability retirement, the Board would have to correct Mr. LaBonte's DD-214 Form ("DD-214") to show that he was separated due to physical disability rather than due to a court-martial conviction. *Id.* at 561–62.<sup>1</sup> Concluding that a statute, 10 U.S.C. § 1552(f), prohibited the Board from correcting Mr. LaBonte's DD-214 in this manner, the court held that the Board was without authority to grant Mr. LaBonte the relief he was seeking. *Id.* at 562–64. Pursuant to RCFC 12(b)(6), it therefore dismissed Mr. LaBonte's claim for failure to state a claim upon which relief could be granted, without reaching the merits of his challenge to the Board's decision. *Id.* at 564–65.

Mr. LaBonte now appeals the Court of Federal Claims' dismissal of his complaint. For the reasons set forth below, we hold that the Court of Federal Claims erred in holding that the ABCMR lacked authority to grant the relief

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<sup>1</sup> The DD-214 is titled "Certificate of Release or Discharge from Active Duty." J.A. 754. A DD-214 provides "an accurate and complete summation of active military personnel service" and serves as "an authoritative source of personnel information for administrative purposes, and for making enlistment or reenlistment eligibility determinations." Department of Defense Instruction ("DoDI") 1336.01 ¶ 4(a) (Aug. 20, 2009); *see LaBonte*, 150 Fed. Cl. at 559 n.4.

Mr. LaBonte is seeking. The court therefore erred in dismissing his complaint for failure to state a claim upon which relief could be granted. Accordingly, we reverse the court's decision and remand the case to the court for consideration of the merits of Mr. LaBonte's challenge to the April 2020 decision of the Board.

## BACKGROUND

### I

The pertinent facts are set forth in the decision of the Court of Federal Claims.<sup>2</sup>

Mr. LaBonte enlisted in the Army in 2002. *LaBonte*, 150 Fed. Cl. at 555. In 2004, he was deployed in Iraq. During that deployment, he sustained injuries when he fell from a 30-foot guard tower. After returning from Iraq, Mr. LaBonte sought help from his chain of command and from the Fort Hood Mental Health Clinic for symptoms of mental distress, anxiety, disrupted sleep, and panic attacks. An intake specialist at the Mental Health Clinic documented his symptoms and diagnosed him with an adjustment disorder. *Id.*

In 2004, shortly after his visit to the Mental Health Clinic, Mr. LaBonte learned that he was scheduled to

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<sup>2</sup> In ruling on the government's motion to dismiss, the Court of Federal Claims properly assumed the truth of the facts alleged in Mr. LaBonte's complaint. *LaBonte*, 150 Fed. Cl. at 555 n.1; see *Call Henry, Inc. v. United States*, 855 F.3d 1348, 1354 (Fed. Cir. 2017) (explaining that, when deciding whether a motion to dismiss for failure to state a claim should be granted, the court "must accept well-pleaded factual allegations as true and must draw all reasonable inferences in favor of the claimant" (citing *Bell/Heery v. United States*, 739 F.3d 1324, 1330 (Fed. Cir. 2014))).

deploy again to Iraq. Upon learning this, he informed his chain of command that he was not mentally prepared to return to Iraq, and eventually he went AWOL for six months. In 2006, Mr. LaBonte voluntarily returned to Fort Hood. Subsequently, he pleaded guilty to a charge of desertion in a court-martial proceeding and was separated from the Army with a Bad Conduct Discharge. *Id.*

In 2012, Mr. LaBonte sought treatment from a clinical psychologist, who diagnosed him with PTSD stemming from his combat service in Iraq. In 2014, Mr. LaBonte was evaluated by a psychiatrist who also diagnosed him with service-connected PTSD. *Id.*

In 2014, the U.S. Department of Veterans Affairs (“VA”) concluded that Mr. LaBonte was eligible for VA benefits for service-connected PTSD, TBI, depression, headaches, back pain, tinnitus, a painful scar, and ulcers. *Id.* And subsequently, in 2016, Mr. LaBonte received a 100% service-connected disability rating from the VA. *Id.* at 556.

## II

Following his PTSD diagnosis, Mr. LaBonte sought formal review of his service history and post-discharge benefits.<sup>3</sup> In 2014, the Army Discharge Review Board (“ADRB”) upgraded the characterization of Mr. LaBonte’s discharge. *LaBonte*, 150 Fed. Cl. at 556. The ADRB stated:

[I]n light of the clear evidence of PTSD, a [Bad Conduct Discharge] in retrospect is too harsh. If the applicant had a firm diagnosis of PTSD and indication of TBI, this would have been mitigating at his trial, [which] in turn would have led to a more lenient sentence.

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<sup>3</sup> In our discussion of the procedural history of the case, we cite to relevant portions of the record in addition to the decision of the Court of Federal Claims.

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