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## Fighting on two fronts

BY SARAH YAGER 22 JANUARY 2011 NO COMMENTS



*Jinjin Sun/YH*

On an otherwise calm afternoon in May of 2007, outside Camp Taji in Iraq's Sunni Triangle, a mortar shell ripped into the base of Sergeant Chuck Luther's guard tower. He was flung to the ground, his head and right shoulder

absorbing the impact of his fall. When he was able to stand—shoulder throbbing, vomiting from the pain in his head, and unable to see out of his right eye—Luther made his way to the outpost medic station, where he was given water and ibuprofen and sent back to work. With no electricity or running water at the outpost, he could not get serious medical attention without returning to the fort operating base thirty-five minutes away.

After an asthma attack landed him back at Camp Taji several days later, Luther told me in

his slight Southern drawl, he met with a clinical social worker about his continuing symptoms. The social worker questioned him for a few minutes, then asked him to complete a bubble test on his condition. Unsettled by the mortar attack, which happened just months after he had collected the body bags of two close friends killed in Kuwait, Luther dutifully filled in the circles. When the social worker collected the test two hours later, “He told me if I didn’t quit acting like I had been acting—which is that I’d been depressed, had anxiety, anger, things like that—if I didn’t quit acting like that, that they were going to separate me from the Army with a personality disorder discharge,” Luther said, who at the time had served twelve years in the military and was in the seventh month of his deployment.

In the weeks that followed his return to duty, Luther experienced blinding migraines. The noise of the blast had deafened his right ear, and the ache in his shoulder wouldn’t let up. He began experiencing chest pain. He couldn’t eat or sleep. He became increasingly depressed and anxious. “I asked to go back and see somebody,” Luther said. “It was at that point that they told me I was malingering—that I was faking, that I was just trying to get out of work.”

Physically and mentally battered, Luther then told his doctors that he’d “just as soon be dead” than continue serving in his current condition. Though Luther now claims he was merely frustrated, not suicidal, he was ordered to hand over his shoelaces and led into an isolation chamber. There, his guards blasted music to deprive him of sleep and taunted him. “You’re a piece of crap. You’re just trying to get out of work. Your other soldiers are out there doing their job—why can’t you?” he remembers being told. “In the military culture, you’re viewed as weak if you break. And I guess, because I broke, I was weak,” he said.

Following weeks of isolation, he was asked to sign papers that attributed his medical problems to personality disorder. Luther had looked up the diagnosis after the social worker’s earlier warning. “I was like, ‘I’ve never had any of these issues!’” he said. He was told that he could either give his signature or stay locked up in isolation for the remaining six months of his service contract. Luther, after three more weeks in the chamber, picked up the pen.

Since 2001, the Department of Defense (DoD) has discharged nearly 26,000 soldiers like Luther under the diagnosis of personality disorder. A lawsuit filed against the DoD last month in New Haven’s District Court calls for the release of extensive military records

relating to these discharges. Yale Law School's Veterans Legal Services Clinic, which brought the suit on behalf of the Vietnam Veterans of America and Hartford's VVA Chapter 120, charges that the DoD has violated the Freedom of Information Act by failing to respond to document requests submitted in October 2010. The DoD, which declined to comment on the pending litigation, is expected to answer the lawsuit by mid-February.

"The hope is that these documents will provide powerful evidence that, in the aggregate, these discharges were wrongful, and that something needs to be done to change the status of these veterans and get them their benefits," said Melissa Ader, YLS '12 a student in the clinic who is serving as counsel for the case. The plaintiffs are optimistic that the released records will prompt a systemic Congressional review of personality disorder discharges made over the past decade.

"The fact of the matter is, we have people receiving personality disorder discharges who have more than 10 years of honorable service—no black marks on their record whatsoever. In fact, some of them have received leadership awards. Then, all of a sudden, they're given a personality disorder discharge," Dr. Thomas Berger, Executive Director of the VVA's Veterans Health Council, said. "It doesn't make any sense."

Berger became aware of the discharges three years ago when journalist Joshua Kors published a piece in *The Nation* ["Thanks for Nothing," April 9, 2007] about Army Specialist Jon Town. According to Town's account, wounds from a rocket blast that earned him a Purple Heart in 2004 led to his wrongful discharge two years later, when his deafness, memory loss and depression were chalked up to personality disorder. Considered a pre-existing condition, the diagnosis excluded him from receiving disability benefits from the military. Kors began an investigation into the procedure for these diagnoses, talking with soldiers and their families, questioning military officials, and poring over medical records and figures from the Pentagon. He reported that personality disorder was being misdiagnosed in thousands of soldiers, saving the military billions of dollars in disability compensation.

When I first reached Kors by telephone, he was touring a brain exhibit in New York City's American Museum of Natural History. Dodging through a tunnel of flashing neurons, he slipped into a corner of the hippocampus to take my call. "It's just, by definition, a phony discharge," Kors told me. "Personality disorder, the actual medical condition, is a really severe, pre-existing mental illness. Something that develops in early childhood." In the cases he reviewed, he found that soldiers with no history of mental illness who had passed

multiple military health screenings had been branded with the disorder. Sergeant Luther, whom Kors profiled in another *Nation* article last spring, is a prime example. “He served a dozen years, and passed eight health screenings, each with flying colors,” Kors said. “It was only when he was wounded by that mortar shell that they figured out he had this severe, pre-existing mental illness.”

Like Kors, the VVA is concerned with the military’s diagnostic procedures. “Following the DSM-IV,”— The Diagnostic and Statistical Manual of Mental Disorders, the national standard for mental health diagnoses—“combat is not going to cause a personality disorder. It’s already there,” Berger said. “If they’re doing proper diagnoses and assessment, they will discover that after, or during, the rigors of boot camp. Not after 15 years of service.” He suspects that many soldiers diagnosed with personality disorder should instead be receiving treatment for combat-related disorders like PTSD and Traumatic Brain Injury (TBI).

An additional problem, the plaintiffs hold, is that current regulations do not require doctors to investigate a soldier’s prior history before making a diagnosis. Military Regulation 635-200, Chapter 5-13, which provides for the discharge of soldiers diagnosed with personality disorder, defines the condition as “deeply ingrained maladaptive pattern of behavior of long duration that interferes with the soldier’s ability to perform duty.” The regulation does not require the military to contact family or acquaintances who knew the service member before enlistment. “They say that it’s a pre-existing condition, but in making the diagnosis, they typically do not interview anyone who knew the veteran before his military service,” Ader said. To date, the Pentagon has not admitted to wrongful practice in the diagnosis of personality disorder.

Because of the issues raised by Town’s story in *The Nation*—which inspired a CBS special report, an episode of *Law & Order*, and the support of musician Dave Matthews—a series of Congressional hearings convened in 2007 to discuss the military’s personality disorder policies. As a result, the DoD was asked to conduct an internal review of personality disorder discharges. Under Secretary David Chu’s report, released in June 2008, suggested that military policy should require diagnoses to be made by a psychiatrist or PhD-level psychologist, and verified by the Surgeon General of the military branch concerned. In the following years, the number of personality disorder discharges dropped sharply. In addition, said Pentagon spokeswoman Eileen Lainez, “There is greater confidence that members with signs of PTSD/TBI are being more consistently referred to the physical

disability evaluation system, and they are appropriately separated with compensation for their conditions.”

But the VVA has lingering concerns about military discharges. “After 2007, the number of personality disorder discharges dramatically decreased, and at the same time, the number of adjustment disorder discharges dramatically increased,” Melissa Ader said. The lawsuit is also requesting documents related to adjustment disorder discharges, which, like those for personality disorder, are grounds for losing disability benefits. “We want to make sure that adjustment disorder doesn’t just replace personality disorder as the new label by which to deny veterans benefits,” Ader said.

In addition to correcting diagnostic procedures, the lawsuit aims to recover benefits for veterans wrongly discharged before 2008. Besides losing disability benefits, veterans diagnosed with personality disorder are placed at the bottom of the waiting list for health care from the Department of Veterans Affairs. Their separation papers, often requested by future employers, are marked with the diagnosis: “Even if you’ve got an honorable discharge, you’re labeled as being nuts,” Berger said. Veterans are also denied disability severance pay from the DoD, and in some cases, asked to return portions of their signing bonuses.

Chuck Luther was sent back to Fort Hood, Texas, in 2007. When he was released from the isolation chamber—stripped of his medical retirement pay, education benefits, and disability compensation—he was told he owed the Army 1,500 dollars from his signing bonus. Removed from active duty, Luther wasn’t done fighting. He protested his diagnosis to the VA and was finally found to have severe PTSD and TBI, allowing him to begin collecting disability benefits.

His problems, though, aren’t over. “The frustrating thing is that there are good days and bad days, but the good days are far from what they used to be,” Luther said. “They’re livable days.” Every few weeks, Luther still gets what he calls a “minor headache”: His hands and face go numb, his vision disappears in one eye, and he begins throwing up. Lying down in a cool area, he can recover in a full day. His medical problems—and ongoing struggle with the military—have wreaked havoc on his family. He celebrated his 19th wedding anniversary in December, he said, but admits not knowing how his family remains together.

I asked Luther if he was angry at the military, if he ever wished that he’d never enlisted. “If I were able, physically and mentally, to put the boots back on and go back in uniform, I’d

be there in a heartbeat,” he said. “I’ve always said this: that I love my country, and I love my Army. It wasn’t the Army as a whole that did this to me. It was a group of commanders that were allowed, by loopholes in the regulations, to abuse the system.”

Instead of packing his bags and moving far away from his past life, Luther took a job as a private contractor for the general of his former post. He now works as the Fort Hood Resiliency Campus Coordinator, providing counseling and wellness education to other soldiers—as he puts it, “the guys who fall through the cracks.” He sometimes runs into members of his former company around the base who never heard about his discharge. “They’re like, ‘What are you doing? Why do you have a goatee?’” He also founded an advocacy group, called Disposable Warriors, to help others who believe they have been wrongfully discharged from the military.

In Luther’s mind, doing anything else would be hypocrisy. “For me to raise my hand and say that I would help to support and defend our Constitution and go anywhere in the world they deem necessary and fight for people that are less fortunate or less powerful, that were being oppressed and beat down—for me to walk away and not do what I’m doing now, and to watch my own people in the military get beat down by their own military,” he said, “I couldn’t do it.”

Luther is working with the VVA on the DoD lawsuit, and has lent his testimony to the proceedings. He is hopeful that the documents will convince Congress to step in to reform the discharge process. “We’re not saying that the soldiers—that they can’t separate them. What we’re saying is that, if they’re broken, fix them as best you can and then send them out in the right way and the honorable way,” he said. “Not just disposing of them.”

*Graphics and cover illustration by Jinjin Sun*

