

**1. Applicant's Name:**

- a. **Application Date:** 9 November 2020
- b. **Date Received:** 12 November 2020
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. **Applicant's Requests and Issues:** The current characterization of service for period under review is uncharacterized. The applicant requests an upgrade to honorable and a narrative reason change.

b. The applicant seeks relief contending, in effect, that their discharge does not reflect their character. When they joined the Army, the Army was fully aware of the applicant's condition and corrective surgery for Type 2 Chiari Malformation. The applicant passed the entry exam and had none of the issues that occurred prior to their service. The applicant would have stayed in the Army, but physical limitations occurred right after heavy weapons qualification and they began having migraines and seizures ever since.

c. **Board Type and Decision:** In a records review conducted on 8 May 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 9 of this document for more detail regarding the Board's decision.  
(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Failed Medical/Physical/Procurement Standards / AR 635-200, Paragraph 5-11 / JFW / RE-3 / Uncharacterized

b. **Date of Discharge:** 16 December 2013

c. **Separation Facts:**

(1) **Date Entrance Physical Standards Board (EPSBD) convened:** NIF

(2) **EPSBD Findings:** NIF

(3) **Date Applicant Reviewed and Concurred with the Findings, and Requested Discharge without Delay:** NIF

(4) **Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

a. **Date / Period of Enlistment:** 24 September 2013 / 3 years and 18 weeks

b. **Age at Enlistment / Education / GT Score:** 21 / High School Graduate / 90

c. **Highest Grade Achieved / MOS / Total Service:** E-2 / None / 2 months and 23 days

d. **Prior Service / Characterizations:** None

e. **Overseas Service / Combat Service:** None

f. **Awards and Decorations:** None

g. **Performance Ratings:** NA.

h. **Disciplinary Action(s) / Evidentiary Record:**

(1) Medical Prescreen of Medical History Report, 5 February 2013, the examining medical physician noted in the comments section: Suboccipital craniotomy and decompression for Chiari Type I Malformation. The physician selected, based on information provided further processing was not justified (permanent disqualification).

(2) University of Illinois at Chicago, Neurosurgery medical Dr.'s Letter, 10 June 2013, states the applicant had a Chiari I decompression performed in May 2001. The applicant's last CT scan showed no hydrocephalus in 2005. The medical doctor cleared the applicant to join the military.

(3) Medical Prescreen of Medical History Report, 24 June 2013, the examining medical physician noted in the comments section: Arnold Chiari Malformation. The physician selected, based on information provided further processing was not justified (permanent disqualification).

(4) Record of Military Processing - Armed Forces of the U.S., shows in section IV (Remarks): An approved medical waiver was granted on 27 June 2013.

(5) Report of Medical History, 27 June 2013, the examining medical physician noted in the comments section: Decompression Craniotomy for Arnold Chiari Malformation, waiver was granted.

(6) Report of Medical Examination, 27 June 2013, the examining medical physician noted the applicant's medical conditions in the comments section: Had Arnold Chiari Malformation decompression at age nine.

(7) Orders 347-2222, 13 December 2013, shows the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 16 December 2013 from the Regular Army.

(8) The applicant's DD Form 214, shows the applicant had not completed the first full term of service. The applicant was discharged on 16 December 2013 under the authority of AR 635-200, paragraph 5-11, with a narrative reason of Failed Medical/Physical/Procurement Standards. The DD Form 214 was authenticated with the applicant's electronic signature.

i. **Lost Time / Mode of Return:** None

j. **Behavioral Health Condition(s):**

(1) **Applicant provided:** None

(2) **AMHRR Listed:** None

*The ARBA's medical advisor reviewed DoD and VA medical records.*

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

**a.** Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

**b.** Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

**(2)** Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the

severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

**c.** Army Regulation 15-180 (Army Discharge Review Board), sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

**d.** AR 635-8 (Separation Processing and Documents) and AR 600-8-104 (Army Military Human Resources Records Management) both require supporting documents for an approved separation action to be maintained in the affected Soldier's official military personnel file.

**e.** Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

**(1)** Paragraph 2-2 (Notice), stated commanders were to notify the soldier in writing of the following:

**(a)** Provide the basis of the proposed separation, including the circumstances upon which the action was based, and a reference to the applicable regulatory separation provision.

**(b)** The Soldier will be advised of the following rights:

- whether the proposed separation could result in discharge, release from active duty to a Reserve Component, or release from custody and control of the Army
- the least favorable characterization of service or description of separation he/she could receive
- the type of discharge and character of service recommended by the initiating commander and that the intermediate commander(s) may recommend a less favorable type of discharge and characterization of service than that recommended by the initiating commander

**(c)** Further advise the Soldier of the following rights:

- consult with military or civilian counsel at their own expense
- submit statements in their own behalf
- obtain copies of documents that will be sent to the separation authority supporting the proposed separation
- to a hearing before an administrative separation board under section III of this chapter if they had 6 or more years of total active and Reserve service on the date of initiation of recommendation for separation
- waive their rights

**(2)** An honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

**(3)** Paragraph 3-9, states a separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status.

(4) Chapter 5, provides for the basic separation of enlisted personnel for the convenience of the government.

(5) Paragraph 5-1, states that a Soldier being separated under this paragraph will be awarded a characterization of service of honorable, general (under honorable conditions), or an uncharacterized description of service if in entry-level status.

(6) Paragraph 5-10 (previously paragraph 5-11), specifically provides that Soldiers who were not medically qualified under procurement medical fitness standards, when accepted for enlistment, or who became medically disqualified under these standards prior to entry on active duty or active duty training or initial entry training will be separated. A medical proceeding, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within six months of the Soldier's initial entrance on active duty, that the condition would have permanently or temporarily disqualified the Soldier for entry into the military service had it been detected at that time, and the medical condition does not disqualify the Soldier from retention in the service under the provisions of AR 40-501, Chapter 3.

(7) Glossary prescribes entry-level status for RA Soldiers is the first 180 days of continuous AD or the first 180 days of continuous AD following a break of more than 92 days of active military service.

f. Army Regulation 635-5-1 (SPD Codes), in effect at the time, provided the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JFW" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5-11, Failed Medical/ Physical/ Procurement Standards.

g. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

(1) RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

(2) RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

**8. SUMMARY OF FACT(S):** The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. The applicant requests an upgrade to honorable and a narrative reason change. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR is void of the EPSBD proceedings, specific facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 shows the applicant was discharged 16 December 2013 under the provisions of AR 635-200, Chapter 5, paragraph 5-11, by reason of Failed Medical/Physical/Procurement Standards, with a characterization of service of uncharacterized.

c. The applicant requests the narrative reason for the discharge to be changed. The applicant was separated under the provisions, at the time, of Chapter 5-11, AR 635-200, with an uncharacterized discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Failed Medical/Physical/Procurement Standards," and the separation code is "JFW." Army Regulation 635-8 (Separation Processing and Documents), governs preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (SPD Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

d. The applicant contends, in effect, that their discharge does not reflect their character. When they joined the Army, the Army was fully aware of the applicant's condition and corrective surgery for Type 2 Chiari Malformation. The applicant passed the entry exam and had none of the issues that occurred prior to their service. Physical limitations occurred right after heavy weapons qualification and the applicant began having migraines and seizures ever since. The AMHRR contains:

(1) Four medical reports between February and June 2013, reflecting the examining medical physicians noted the applicant had a Decompression Craniotomy for Arnold Chiari Malformation.

(2) University of Illinois at Chicago, Neurosurgery medical Dr.'s Letter, 10 June 2013, states the applicant had a Chiari I decompression performed in May 2001. The applicant's last CT scan showed no hydrocephalus in 2005. The medical doctor cleared the applicant to join the military.

e. Analyst notes the applicant checked the other mental health box on the DD Form 293. The applicant's AMHRR contains no documentation of a mental health condition and the applicant did not submit any evidence to support a mental health condition. The Military Review Boards representative called the applicant on 14 February 2024 and left a voice message requesting medical evidence to support a mental health condition. On 11 April 2024, the applicant informed the Military Review Boards representative that they would not be able to provide the requested document at this time and to proceed with processing their case.

f. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

## 9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has no potentially-mitigating diagnoses/experiences. However, the applicant checked Other Mental Health (OMH) on the applicant's ADRB application.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found applicant contends he suffered Other Mental Health while on active duty.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there was insufficient evidence to support that the Migraine Headaches condition failed medical retention standards of AR 40-501 chapter 3. In the ARBA Behavior Health Advisor's opinion, the applicant's separation was proper and equitable. A change in characterization of service or narrative reason for discharge is not warranted based on the currently available evidence. No evidence of Other Mental Health was found in the medical record. However, applicant's self-assertion of Other Mental Health is sufficient to merit consideration by the board.

(4) Does the condition or experience outweigh the discharge? **No.**

b. Response to Contention: The applicant contends, in effect, that their discharge does not reflect their character. When they joined the Army, the Army was fully aware of the applicant's condition and corrective surgery for Type 2 Chiari Malformation. The applicant passed the entry exam and had none of the issues that occurred prior to their service. Physical limitations occurred right after heavy weapons qualification and the applicant began having migraines and seizures ever since. The Board considered this contention and determined in accordance with AR 635-200 that, based on the applicant's official record, the applicant was separated while in an entry level status and an Uncharacterized Discharge is the proper characterization of service except when the DCS, G-1 determines that an Honorable Discharge is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service because, in accordance with AR 635-200 and based on the applicant's official record the applicant was separated while in an entry level status and an Uncharacterized discharge is the proper characterization of service except when the DCS, G-1 determines that an Honorable discharge is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

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**AR20200009903**

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, and the reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214 / Separation Order:** No
- b. **Change Characterization to:** No Change
- c. **Change Reason / SPD code to:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

**Authenticating Official:**

9/3/2024

X

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Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

**Legend:**

AWOL – Absent Without Leave  
AMHRR – Army Military Human  
Resource Record  
BCD – Bad Conduct Discharge  
BH – Behavioral Health  
CG – Company Grade Article 15  
CID – Criminal Investigation  
Division  
ELS – Entry Level Status  
FG – Field Grade Article 15

GD – General Discharge  
HS – High School  
HD – Honorable Discharge  
IADT – Initial Active Duty Training  
MP – Military Police  
MST – Military Sexual Trauma  
N/A – Not applicable  
NCO – Noncommissioned Officer  
NIF – Not in File  
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty  
OBH (I) – Other Behavioral  
Health (Issues)  
OMPF – Official Military  
Personnel File  
PTSD – Post-Traumatic Stress  
Disorder  
RE – Re-entry  
SCM – Summary Court Martial  
SPCM – Special Court Martial

SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury  
UNC – Uncharacterized  
Discharge  
UOTHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs