

1. Applicant's Name:

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- 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.

The applicant seeks relief contending, in effect, being improperly discharged on the premise of a false mental diagnosis. The applicant's early separation from the Army with a Chapter 5-17, uncharacterized discharge, shortened a promising career and eliminated the possibility of the applicant reenlisting to serve the country again. The diagnosis provided by Doctor M. M. regarding the applicant's condition was not supported by a single evaluation of the applicant, the mental status evaluation, any counseling statement by the unit, or the applicant's past behavioral or conduct issues. There is absolutely no documentation in the service record showing the applicant was unwilling or unable to perform their assigned military tasks because of any mental or behavioral condition. The applicant further details the contentions in a continuation sheet and self-authored statement provided with the application.

b. **Board Type and Decision:** In a records review conducted on 21 January, 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 details regarding the Board's decision.

Board member names available upon request.

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Condition, Not a Disability / AR 635-200, Paragraph 5-17 / JFV / RE-3 / Uncharacterized

b. **Date of Discharge:** 28 June 2011

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 17 June 2011

(2) **Basis for Separation:** The applicant was informed of the following reasons: On 16 June 2011, the applicant was diagnosed by a competent Community Mental Health Services (CMHS) physician with adjustment disorder with mixed anxiety and depressed mood. The disorder was so severe the applicant's ability to function effectively in the military environment was significantly impaired, with a further recommendation, the applicant have no access to weapons or ammunitions.

(3) **Recommended Characterization:** Uncharacterized

(4) **Legal Consultation Date:** On 17 June 2011, the applicant waived legal counsel.

(5) **Administrative Separation Board:** NA

(6) Separation Decision Date / Characterization: 22 June 2011 / Uncharacterized

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 7 February 2011 / 3 years, 16 weeks

b. Age at Enlistment / Education / GT Score: 18 / HS Graduate / 119

c. Highest Grade Achieved / MOS / Total Service: E-3 / None / 4 months, 22 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: Physical Profile, temporary, 19 April 2011 reflects the applicant had left metatarsal stress fracture, bilateral shin splints, overuse syndrome, limiting their duties. The physician recommended convalescent leave for 30 days.

Developmental Counseling Form, 6 June 2011, for being self-referred to CMHS after consulting with the Chaplin and in accordance with the Chaplin's recommendations. The applicant was counseled by Staff Sergeant (SSG) B. J., a drill sergeant.

Report of Medical Assessment, 16 June 2011, reflects the applicant indicated compared to their last medical assessment / physical examination, their overall health was worse, "feels depressed, having anxiety." The examining medical physician noted, family separation issue and already evaluated by and under care of mental health, in the comments sections. The physician indicated various injuries.

Developmental Counseling Form, 17 June 2011, for being referred to CMHS because of poor attitude, immature behavior, and lack of desire to train. The applicant was counseled by SSG B. J., a drill sergeant.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Report of Mental Status Evaluation, 16 June 2011, reflects the applicant was self-referred for evaluation. The applicant met the psychiatric criteria for expeditious administrative separation in accordance with Army Regulation 635-200, paragraph 5-17. The applicant was unfit for duty because of a personality disorder or other mental condition which did not amount to a medical disability. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for post-traumatic stress disorder (PTSD) and mild traumatic brain injury (mTBI). The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions. The applicant was seen by CMHS for depression. The applicant attributed their problems to their poor adjustment to the military and reported experiencing emotional symptoms to a clinical level, effectively negating

their ability to perform their duties. It was the medical examining physician professional opinion the applicant would not have responded to command efforts at rehabilitation. The applicant was diagnosed with adjustment disorder with mixed anxiety and depressed mood.

(2) AMHRR Listed: MSE as described in previous paragraph 4j(1).

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge, with continuation sheet; Personal Summary of Discharge; Report of Mental Status Evaluation; Commander's Report; Medical Prescreen of Medical History Report; Chronological Record of Medical Care; Supplemental Health Screening Questionnaire; Developmental Counseling Form; and Discharge Upgrade Request Summary of Contents.

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

(1) Chapter 1 provides the general provisions of this regulation.

(2) Paragraph 1-17a, states except as otherwise indicated in this regulation, commanders must make maximum use of counseling and rehabilitation before determining a Soldier has no potential for further useful service and, therefore should be separation. In this regard, commanders will ensure adequate counseling and rehabilitative measures are taken before initiating separation proceedings for other designated physical or mental conditions, paragraph 5-17.

(3) Paragraph 1-17b, states when a Soldier's conduct or performance becomes unacceptable, the commander will ensure that a responsible official formally notifies the Soldier of his/her deficiencies. At least one formal counseling session is required before separation proceedings may be initiated.

(4) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(5) Paragraph 3-7a states 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.

(6) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(7) 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.

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

(9) Paragraph 5-1 states 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. A general (under honorable conditions) discharge is normally inappropriate for individuals separated under the provisions of paragraph 5-14 (previously paragraph 5-17) unless properly notified of the specific factors in the service that warrant such characterization.

(10) Paragraph 5-14 (previously paragraph 5-17) specifically provides that a Soldier may be separated for other physical or mental conditions not amounting to a disability, which interferes with assignment to or performance of duty and requires that the diagnosis be so severe that the Soldier's ability to function in the military environment is significantly impaired.

(11) Glossary defines 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.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides 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 "JFV" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5-14 (previously Chapter 5-17), Condition, Not a Disability.

f. 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. 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.

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

The applicant requests an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's Army Military Human Resource Record (AMHRR) includes evidence the applicant, while in training status, was evaluated by competent medical authority and determined the applicant had an adjustment disorder with mixed anxiety and depressed mood.

The applicant contends being improperly discharged because of a false and unsupported mental diagnosis but admits to having physical injuries. The applicant's AMHRR shows the applicant underwent a mental status evaluation (MSE) on 16 June 2011, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The applicant was seen by CMHS for depression and attributed their problems to their poor adjustment to the military and reported experiencing emotional symptoms to a clinical level, effectively negating their ability to perform their duties. The applicant was diagnosed with adjustment disorder with mixed anxiety and depressed mood. The applicant did have a profile for left metatarsal stress fracture, bilateral shin splints, overuse syndrome. The documents in the applicant's AMHRR were considered by the separation authority.

The applicant contends their enlistment physical revealed no mental or behavioral disorder. The applicant's AMHRR contains a Report of Medical Assessment, 16 June 2011, which reflects the applicant indicated compared to their last medical assessment / physical examination, their overall health was worse, "feels depressed, having anxiety." The examining medical physician noted, family separation issue and the applicant was evaluated by and under care of mental health, in the comments sections. The physician indicated various injuries.

The applicant contends good service. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends they were not provided the opportunity to rehabilitate or improve their conduct. Army Regulation 635-200, paragraph 1-17b states when a Soldier's conduct or performance becomes unacceptable, the commander will ensure a responsible official formally notifies the Soldier of his/her deficiencies. At least one formal counseling session is required before separation proceedings. The applicant's AMHRR reflects the applicant was formally counseled on 6 and 17 June 2011 by their drill sergeant regarding their deficiencies. The applicant's AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant desires to rejoin the military service. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes if appropriate.

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? **No.** The Board reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: None. The applicant was not discharged due to misconduct, rather the applicant was separated under provisions of AR 635-200 Chapter 5-17 with a diagnosis of Adjustment Disorder with Anxiety and Depressed Mood. Given the applicant was diagnosed with the BH condition and recommended for separation while in IET, per regulation, the characterization of service properly reflects Uncharacterized. Additionally, despite the applicant assertion that the applicant was not evaluated, records reflect the applicant was evaluated, diagnosed with Adjustment Disorder, and informed that the applicant

would be recommended for separation. The applicant concurred with the findings and recommendation. Additionally, records reflect the applicant actively sought administrative separation due to familial problems and difficulties adjusting to the military environment.

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

(3) Does the condition or experience excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s):

(1) The applicant contends being improperly discharged because of a false and unsupported mental diagnosis but admits to having physical injuries. The Board considered this contention and found that the Adjustment Disorder that led to separation was diagnosed by a certified provider.

(2) The applicant contends their enlistment physical revealed no mental or behavioral disorder. The Board considered this contention and found insufficient evidence to contradict the finding that the diagnosed Adjustment Disorder was of a severity to effect the applicant's suitability for military service.

(3) The applicant contends good service. The Board considered the applicant's four months of service, including a promotion to E-3 in pre-basic training, and determined that the totality of the service record does not outweigh the discharge.

(4) The applicant contends not being provided the opportunity to rehabilitate or improve their conduct. The Board considered this contention and determined that a Condition, Not a Disability separation under AR 635-200 does not require the opportunity to rehabilitate prior to separation.

(5) The applicant desires to rejoin the military service. The Board considered this contention and voted to maintain the RE-code at RE-3, which is a waivable code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. However, the applicant may request a personal appearance hearing to address issues before a 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 there were no mitigating factors for the Board to consider. Since the applicant was discharged for failing medical procurement standards due to an adjustment disorder with mixed anxiety and depressed mood, Uncharacterized is proper and equitable. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process.

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

(3) The waivable RE code will not change given the diagnosed condition. 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:

2/5/2025

X

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
UOTH – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs