

1. Applicant's Name: [REDACTED]

- 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 the period under review is uncharacterized. The applicant requests an upgrade to honorable conditions.

The applicant seeks relief contending, in effect, the narrative reason for separation was inaccurate and inappropriate. The diagnosis was unjust, inequitable, and improper because it was based on a single visit with someone who was not the applicant's doctor and had little knowledge of the applicant's personal history. The applicant does not have a personality disorder and has never been treated for such a disorder. The applicant met all the necessary criteria for separation under Chapter 11, Entry Level Unsatisfactory Performance and/or Misconduct). The basis for the applicant's request is supported by documented facts which took place while the applicant was on active duty in entry-level training. The applicant further details the contentions in the application.

b. **Board Type and Decision:** In a records review conducted on 29 August 2024, and by a 5-0 vote, the Board denied the character change request upon finding the characterization of service being both proper and equitable. However, in accordance with recent changes to how behavioral health conditions are now characterized, the Board determined the narrative reason for separation is improper. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, the narrative reason for separation to Condition, Not a Disability, and the separation code to JFV. The Board determined the RE code was proper and equitable and voted not to change it.

Please see the Board Discussion and Determination section 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:** Personality Disorder / AR 635-200, Paragraph 5-13 / JFX / RE-3 / Uncharacterized

b. **Date of Discharge:** 6 October 2006

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 29 September 2006

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant was sent to Community Mental Health Services and evaluated on 24 August 2006. The applicant reported a history of attention deficit and hyperactivity disorder (ADHD) and was prone to fighting. Dr. M. and Dr. S. diagnosed the applicant with personality disorder and antisocial personality disorder. The condition was a deeply ingrained maladaptive pattern of long-standing duration which interfered with the applicant's ability to perform the duty effectively

and consistently. This condition was not compatible with satisfactory service. Further attempts to train were not justified.

(3) Recommended Characterization: Uncharacterized

(4) Legal Consultation Date: On 29 September 2006, the applicant waived legal counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 4 October 2006 / Uncharacterized

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 30 June 2006 / 3 years, 19 weeks

b. Age at Enlistment / Education / GT Score: 18 / AED / 92

c. Highest Grade Achieved / MOS / Total Service: E-1 / None / 3 month, 7 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: Memorandum, subject: Initial Counseling, in accordance with AR 635-200, paragraph 5-13, 12 September 2006, reflecting the applicant was counseled formally concerning deficiencies under AR 635-200, paragraph 5-13 and understood the applicant would be given ample opportunity to overcome the deficiencies. The applicant indicated, the applicant would not overcome the deficiencies and waived the opportunity to do so.

Eight Developmental Counseling Forms, for fighting in the barracks; being recommended for recycle because of disregard drill sergeants' instruction on multiple occasions; pending separation under AR 635-200, paragraph 5-13 for Personality Disorder.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Mental Status Evaluation, 26 August 2006, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant reported a psychiatric history consisting of being diagnosed with attention deficit hyperactivity disorder (ADHD) and being treated for anger management and anxiety. The provider recommended separation under Chapter 5-13, Personality Disorder discharge for antisocial personality disorder.

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; and five Developmental Counseling Forms.

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 3, Section II provides the authorized types of characterization of service or description of separation.

(2) 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.

(3) 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.

(4) 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.

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

(6) Paragraph 5-13, in effect at the time, provided that a Soldier may be separated for a personality disorder, not amounting to disability, when the condition interfered with assignment to or performance of duty. The regulation requires that the condition is a deeply ingrained maladaptive pattern of behavior of long duration that interferes with the Soldier's ability to perform military duties. The regulation also directs that commanders will not take action prescribed in this Chapter in lieu of disciplinary action and requires that the disorder is so severe that the Soldier's ability to function in the military environment is significantly impaired. Army policy requires the award of a fully honorable discharge in such case.

(7) Paragraph 5-13h, stipulates a characterization of a Soldier separated per this paragraph will be characterized as honorable unless an entry-level separation is required under chapter 3, section II. Characterization of service under honorable conditions may be awarded to a Soldier who has been convicted of an offense by general court-martial or who has been convicted by more than one special court-martial in the current enlistment, period of obligated service, or any extension thereof.

(8) 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), 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 identified the SPD code of "JFX" as the appropriate code to assign enlisted Soldiers who were discharged under the provisions of Army Regulation 635-200, Chapter 5-13, personality disorder.

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.

Evidence in the applicant's Army Military Human Resource Record (AMHRR) confirms the applicant was diagnosed by a competent medical authority with an antisocial personality disorder.

The applicant contends the narrative reason for separation needs changed. The applicant was separated under the provisions of Chapter 5, paragraph 5-13, AR 635-200 with an uncharacterized discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Personality Disorder," and the separation code is "JFX." 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 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends the diagnosis of personality disorder was unjust, inequitable, and improper and based on one visit with the doctor. The applicant's AMHRR shows the applicant underwent a mental status evaluation (MSE) on 26 August 2006, which reflects the applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant reported a psychiatric history consisting of being diagnosed with ADHD and being treated for anger management and anxiety. The provider recommended separation under Chapter 5-13, Personality Disorder, discharge for antisocial personality disorder. The applicant was counseled formally concerning deficiencies under AR 635-200, paragraph 5-13 and understood the applicant would be given ample opportunity to overcome the deficiencies. The applicant

indicated, the applicant would not overcome the deficiencies and waived the opportunity to do so. The documents in the AMHRR were considered by the separation authority.

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, the applicant's statement, and/or civilian provider documentation and found that the applicant was diagnosed in service with an Adjustment Disorder. However, there is no misconduct associated with the applicant's separation to potentially excuse or mitigate. The applicant was separated in entry level status for a personality disorder in accordance with separation regulations at the time.

(2) Did the condition exist, or experience occur during military service? **Yes.**

(3) Does the condition or experience excuse or mitigate the discharge? **No.**

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined there is no misconduct associated with the applicant's separation to potentially excuse or mitigate. The applicant was separated in entry level status for a personality disorder in accordance with separation regulations at the time.

b. Response to Contention(s):

(1) The applicant contends the narrative reason for separation needs changing. The Board liberally considered this contention during proceedings, but ultimately did not address it in detail due to an impropriety existing with the narrative reason awarded. The correct narrative reason is Condition, Not a Disability with an associated SPD of JFV.

(2) The applicant contends the diagnosis of personality disorder was unjust, inequitable, and improper and based on one visit with the doctor. The Board liberally considered this contention during proceedings, and determined the medical record documented the diagnosed behavioral health condition.

c. The Board denied the characterization change request upon finding the characterization of service being both proper and equitable. However, in accordance with recent changes to how behavioral health conditions are now characterized, the Board determined the narrative reason for the applicant's separation is now improper. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, the narrative reason for separation to Condition, Not a Disability, and the separation code to JFV. The Board determined the RE code was proper and equitable and voted not to change it.

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 current evidentiary record, the applicant was correctly separated while in an entry level status. An Uncharacterized discharge is the proper characterization of service except when the DCS, G-1 determines that an Honorable discharge

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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.

(2) The Board voted to change the reason for discharge to Condition, Not a Disability. The SPD code associated with the new reason for discharge is JFV.

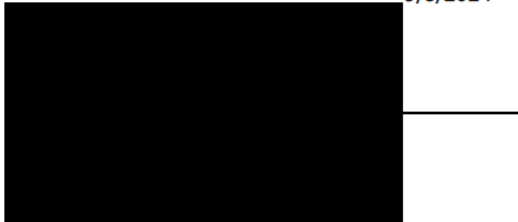
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: No Change
- c. Change Reason / SPD code to: Condition, Not a Disability/ JFV
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200

Authenticating Official:

9/8/2024



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