

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 honorable. The applicant requests a narrative reason change and a reentry eligibility (RE) code change.

The applicant seeks relief contending, in effect, the discharge had no direct impact on their ability to perform their job and the reentry code should be upgraded. The applicant contends being cleared by the VA for reenlistment but was not able to do so with a RE-3 code.

b. **Board Type and Decision:** In a records review conducted on 13 August 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:** Condition, Not a Disability / AR 635-200, Chapter 5-17 / JFV / RE-3 / Honorable

b. **Date of Discharge:** 16 August 2007

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 25 July 2007

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant has been diagnosed with a sleep walking condition.

(3) **Recommended Characterization:** Honorable

(4) **Legal Consultation Date:** 25 July 2007

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

(6) **Separation Decision Date / Characterization:** 6 August 2007 / Honorable

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 2 February 2005 / 4 years

b. **Age at Enlistment / Education / GT Score:** 20 / some college / 116

c. Highest Grade Achieved / MOS / Total Service: E-4 / 68W10, Health Care Specialist / 2 years, 6 months, 15 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (18 June 2006 – 30 July 2007)

f. Awards and Decorations: ARCOM, NDSM, GWOTSM, ICM, ASR, OSR-2, CMB / The applicant's AMHRR reflects award of the GWOTEM, however, the award is not reflected on the DD Form 214.

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Orders 220-0003, 8 August 2007, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 16 August 2007, from the Regular Army.

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects the applicant has not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 5-17, with a narrative reason of Condition Not a Disability. The DD Form 214 was authenticated with the applicant's signature.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs Medical Records, 23 July 2013, reflect no medical diagnosis or condition.

(2) AMHRR Listed: Memorandum For Command Directed Evaluation, 22 May 2007, reflects a medical diagnosis. The applicant was psychiatrically cleared for any action deemed appropriate by the command.

The Chronological Record of Medicare, 12 June 2007, reflects a medical condition.

Report of Medical History, 18 July 2007, the examining medical physician noted the applicant's medical conditions in the comments section. The evaluation included a medical diagnosis.

Report of Medical Examination, 18 July 2007, the examining medical physician noted the applicant's medical conditions in the comments section. The evaluation included a medical diagnosis.

Two Developmental Counseling Forms, for redeployment and profile.

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: Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty; medical records and separation authority memorandum.

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

(4) 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.

(5) 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.

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-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.

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

RE-4 Applies to: Person separated from last period of service with a nonwaivable 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.

The applicant requests an upgrade to honorable.

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 a medical diagnosis.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions, at the time, of Chapter 5, paragraph 5-17, AR 635-200 with a honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Condition, Not a Disability," and the separation code is "JFV." 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 exactly 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 discharge had no direct impact on their ability to perform their job. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR includes a Memorandum For Command Directed Evaluation, 22 May 2007, reflects a medical diagnosis. The applicant was psychiatrically cleared for any action deemed appropriate by the command. A Report of Medical History and Examination, 18 July 2007, the examining medical physician noted the applicant's medical conditions in the comments section. The evaluation included a medical diagnosis. All medical documents were considered by the separation authority.

The applicant contends being cleared by the VA for reenlistment. The applicant provided a Department of Veterans Affairs Medical Records, 23 July 2013, reflecting no medical diagnosis or condition.

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? **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 the following potentially-mitigating diagnoses/experiences: PTSD, Depression NOS, Adjustment Disorder with Anxiety and Depressed Mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 50 percent service connected (SC) for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that a review of the available information reflects the applicant is 50 percent SC for PTSD by the VA and has in-service BH conditions of Bereavement w/o Complications, Adjustment Disorder w/Anxiety and Depressed Mood, Sleep Walking Disorder, Major Depression Single Episode, Secondary Insomnia, and Somnambulism. While it is acknowledged that the applicant is SC for PTSD and further acknowledged that there is some evidence that PTSD may be linked to sleep-related problems, Somnambulism (Sleep Walking) is not natural sequela of PTSD of PTSD and further, the applicant's in-service records do not support a diagnosis of PTSD. Records demonstrate he was evaluated for PTSD during service and found not to meet criteria, and denied experiencing fear, helpless, or hopeless, when faced with potentially traumatizing experiences. Additionally, even if in-service records supported a diagnosis of PTSD, there is no evidence the condition warranted separation through military medical channels, and therefore would not have precluded separation for sleep walking IAW AR 635-200, Chapter 5-17. Further, Sleep Walking Disorder is not natural sequelae of any of the other potentially mitigating disorders. Finally, the applicant was honorable discharged and has full access to BH care and benefits, as applicant's separation was not due to misconduct. Given the above, the applicant's narrative reason and RE-code appear in line with the basis for separation and there is insufficient medical evidence to support a change to either.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the applicant's in service connected Bereavement w/o Complications, Adjustment Disorder w/Anxiety and Depressed Mood, Sleep Walking Disorder, Major Depression Single Episode, Secondary Insomnia, and Somnambulism and VA service connected PTSD did not outweigh the basis of separation: the applicant has been diagnosed with a sleep walking condition, as none of these BH conditions have natural sequelae to any other potentially mitigating disorder.

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention and determined the applicant's narrative reason is proper and equitable as the applicant is diagnosed with sleep walking disorder, a Condition, not a disability per AR 635-200 Chapter 15-17.

(2) The applicant contends being cleared by the VA for reenlistment and desires to rejoin the military service. The criteria used by the VA in determining whether a former servicemember is eligible for benefits are different than that used by the Army when determining a member's discharge characterization and reenlistment eligibility. The applicant has an RE Code of "3", this indicates the applicant requires a waiver before being allowed to reenlist.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000909

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, in light of the current evidence of record. The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. 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 determined the discharge is proper and equitable as the applicant has a discharge with a Characterization of Honorable; therefore, no further relief is available.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code as 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:

8/22/2024

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