

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, SPD code change, and RE code change.

The applicant seeks relief contending, in effect, the narrative reason should be corrected to read the applicant was discharged for "physical conditions." The applicant's physician, who treated the applicant for two broken ribs the applicant sustained in training, advised the applicant the physician was recommending the applicant be discharged because of "physical conditions." The applicant later found out in 2013, the applicant was discharged for "adjustment disorder with depressed mood." The applicant was never informed by anyone in the Army the applicant was suffering from an adjustment disorder or depression. The applicant never reported suffering from any mental problems. The applicant believes it was a case of "mistaken identity." One evening in July 2004, while the applicant was out to dinner, the Military Police (MP) came to the applicant's barracks room looking for a mentally disturbed and suicidal Soldier. The barracks watch officer advised the MPs they were in the wrong room and directed them to the correct room. The MPs contacted the Soldier and transported the Soldier to the mental health facility. This is the only explanation in the applicant's case which would explain how the applicant was confused with a suicidal Soldier. The applicant requests the separation code, reentry code, and narrative reason be changed.

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:** Physical Condition, Not a Disability / AR 635-200, Paragraph 5-17 / JFV / RE-3 / Honorable

b. **Date of Discharge:** 24 September 2004

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 29 July 2004

(2) **Basis for Separation:** The applicant was informed of the following reasons: Mental Health diagnosed the applicant with adjustment disorder with depressed mood. The applicant's ability to function in a military environment was significantly impaired, and it was unlikely that efforts to rehabilitate or develop the applicant into a satisfactory member of the military would be successful.

- (3) **Recommended Characterization:** Honorable
- (4) **Legal Consultation Date:** 3 August 2004
- (5) **Administrative Separation Board:** NA
- (6) **Separation Decision Date / Characterization:** 23 August 2004 / Honorable

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 3 February 2004 / 3 years
- b. **Age at Enlistment / Education / GT Score:** 19 / NIF / NIF
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / 11B10, Infantryman / 7 months, 22 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** NDSM, GWOTSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Developmental Counseling Form, 15 July 2004, for being recommended for separation under Chapter 5-17. The counseling reflects the applicant visited Mental Health regarding thoughts the applicant was having. The counselor expressed gratitude the applicant sought help before taking any dreadful actions onto the applicant or others. The applicant agreed and endorsed the counseling statement.
- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):**

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Mental Status Evaluation, 13 July 2004, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; was mentally responsible; and met medical retention requirements. The applicant was a self-referral to Behavioral Health secondary to worsening depressive symptoms and passive suicidal ideation. The applicant was diagnosed with adjustment disorder with depressed mood and headaches. The provider recommended separation under AR 635-200, Chapter 5-17.

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 Correction of Military Record; House of Representatives Case Authorization Form, Constituent Assistance Form, and Privacy Release Form; Honorable Discharge Certificate; electronic mail messages; Army Review Boards Agency (ARBA) Congressional

Liaison and Inquiries and Case Management Division letters; and ARBA Case Tracking System Case page.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is an Assistant Manager of a major material damage insurance company and supervises over 10 employees.

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), Physical 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 waivable and nonwaivable 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.

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 a narrative reason change, SPD code change, and RE code change. 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, was evaluated by competent medical authority and diagnosed with adjustment disorder with depressed mood. It was determined the applicant's ability to function in a military environment was significantly impaired, and it was unlikely the efforts to rehabilitate or develop the applicant into a satisfactory member of the military would be successful.

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 an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Physical 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 SPD code should be changed. The SPD codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 (Separation Program Designator (SPD) Codes) to track types of separations. The SPD code specified by Army Regulations at the time, for a discharge under Chapter 5, paragraph 5-17, is "JFV."

The applicant contends never being informed of having an adjustment disorder with depressed mood, and the applicant was being treated for broken ribs, which was what led to the discharge. The applicant's AMHRR reflects on 13 July 2004, the applicant was a self-referred to Behavioral Health secondary to worsening depressive symptoms and passive suicidal ideation and underwent a mental status evaluation (MSE). The applicant could understand and participate in administrative proceedings and was mentally responsible. The applicant was diagnosed with adjust disorder with depressed mood and headaches. The applicant acknowledged receipt of the notification of separation, citing in part, the basis for separation was Mental Health diagnosed the applicant with adjustment disorder with depressed mood, and the applicant endorsed a counseling statement agreeing to the same. The documents in the applicant's AMHRR were

considered by the separation authority, and the applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant requests a reentry eligibility (RE) code change. 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.

The applicant contends being an Assistant Manager of a major material damage insurance company and supervising over 10 employees. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

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: Adjustment Disorder with Depressed Mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant was diagnosed with Adjustment Disorder with Depressed Mood, during service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant requests a change to the narrative reason to reflect "Physical Condition" and contends to have never suffered from adjustment disorder or depression. A review of the available information reflects that the applicant presented to BH and upon completion of a MSE was diagnosed Adjustment Disorder with Depressed Mood secondary to difficulty adjusting to the military environment. Given the diagnosis and basis of separation, the applicant's current narrative reason is correct. Additionally, even if the applicant would have been discharged under Chapter 5-17 for Other Physical Condition (e.g., ribs), the narrative reason would still reflect Physical Condition Not a Disability, as the separation would have also been through administrative channel, and not through military medical channels.

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

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 for discharge is appropriate. The applicant was discharge for being diagnosed with adjustment disorder with

depressed mood, a condition that significantly impairs the ability to function in a military environment.

(2) The applicant contends the SPD code should be changed. The Board considered this contention and determined that the applicant received the appropriate SPD code for the discharge specified by AR 635-200, Chapter 5-17 is "JFV." Therefore, no change is warranted.

(3) The applicant contends never being informed of having an adjustment disorder with depressed mood, and was being treated for broken ribs, which was what led to the discharge. The Board considered this contention and determined the applicant consulted with legal services on 3 August 2004 in reference to applicant's discharge. There is insufficient evidence in the file to support this contention, thus, the discharge is proper and equitable.

(4) The applicant requests a reentry eligibility (RE) code change. The Board considered this contention and voted to maintain the RE-code to a 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.

(5) The applicant contends being an Assistant Manager of a major material damage insurance company and supervising over 10 employees. The Board considered this contention and determined that the applicant's Assistant Manager position does not outweigh the discharge as the applicant has an Honorable discharge, no further relief is available.

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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000989

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