

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 the period under review is uncharacterized. The applicant requests an upgrade to honorable and a change to the narrative reason for separation.

The applicant seeks relief contending, in effect, being a normal person until enlisting in the service. Under the Army's care, the applicant's life has been altered, and the applicant has mental and physical disabilities. The applicant needs medical attention, and it seems as though the applicant is in captivity. The applicant's medical conditions include a hand injury, severe shin splints, swollen knees, migraine headaches, anxiety, depression, and insomnia. The applicant was denied treatment from the Department of Veterans Affairs (VA) because the applicant was discharged under Army Regulation, Chapter 11, with an uncharacterized characterization of service, for injuries sustained while the applicant was a Soldier. The applicant's medical conditions include a hand injury, severe shin splints, swollen knees, migraine headaches, anxiety, depression, and insomnia. The Army personnel made the applicant believe enlisting was the worst decision the applicant ever made, and the applicant would never see family again. At the age of 17, the applicant's life flashed before the applicant's eyes. The applicant did not opt to be discharged under Chapter 11. The applicant signed to be released to go home. Every issue the applicant encountered was solely the fault of Army personnel, who caused the applicant to have mental and physical disabilities. The Army personnel mentally abused the applicant, subjecting the applicant to harsh treatment, verbal abuse, and forceful behavior. The applicant did not receive normal conditions of living while under the Army's care. The applicant's situation is unique and unusual because the harassment caused the applicant to suffer from post-traumatic stress disorder (PTSD).

b. **Board Type and Decision:** In a records review conducted on 23 July 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:** Entry Level Performance and Conduct / AR 635-200, Chapter 11 / JGA / RE-3 / Uncharacterized

b. **Date of Discharge:** 14 August 2014

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 5 August 2014

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant had unsatisfactory performance and conduct because of a lack of motivation and inability to complete mandatory training events required for successful completion of basic combat training (BCT).

(3) **Recommended Characterization:** Uncharacterized

(4) **Legal Consultation Date:** On 5 August 2014, the applicant waived legal counsel.

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

(6) **Separation Decision Date / Characterization:** 6 August 2014 / Uncharacterized

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 30 June 2014 / 5 years, 35 weeks

b. **Age at Enlistment / Education / GT Score:** 17 / HS Graduate / 100

c. **Highest Grade Achieved / MOS / Total Service:** E-1 / None / 1 month, 15 days

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

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

f. **Awards and Decorations:** None / The applicant's AMHRR reflects award of the NDSM, however, the award is not reflected on the DD Form 214.

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** The applicant provided IMT Sick Slip, 14 July 2014, reflecting the applicant had a lower extremity injury, which limited the applicant's duties. The profile was valid through 17 July 2014.

The applicant provided IMT Sick Slip, 15 July 2014, reflecting the applicant had severe shin splints, which limited the applicant's duties. The profile was valid through 22 July 2014.

The applicant provided 12 Developmental Counseling Forms, between 8 and 28 July 2014, for integration and reception; failing to report; failing to obey an order or regulation; failing the weapons immersion examination; failing to participate in various training because of sick call; missing land navigation training; being recommended for separation under Army Regulation 635-200, Chapter 11; failing to meet BCT standards; failing to adapt to the social and emotional rigors of military life; failing the diagnostic Army Physical Fitness Test (APFT); and being notified the command will pursue separation

Four Developmental Counseling Forms, between 22 and 28 July 2014, for being recommended for separation under Army Regulation 635-200, Chapter 11; failing to meet BCT standards; failing to adapt to the social and emotional rigors of military life; missing training; failing the diagnostic APFT; and being notified the command will pursue separation.

Memorandum, subject: Request to Suspend All Pay and Allowances for [Applicant], 23 July 2014, reflects the commander requested the Defense Military Pay Office (DMPO), suspend the

applicant's pay and allowances pending final determination by the separation authority, battalion commander.

The applicant provided Echo Company, 2nd Battalion, 39th Infantry Regiment Soldier's Statement, 24 July 2014, reflecting the applicant indicated the applicant felt out of place in BCT and did not believe the applicant could take the feeling of being trapped any longer. The applicant was not mentally or physically ready for BCT. The applicant did not want to train any longer.

Report to Suspend Favorable Personnel Actions, 24 July 2014, for Involuntary Separation (Field Initiated) (B).

Modified Automated DA Form 5286-R Individual Training Record for Basic Combat Training (BCT) / One Station Unit Training (OSUT) / Advanced Individual Training (AIT) and Affidavit, 29 July 2014, reflects the applicant did not pass the APFT and did not qualify with the individual weapon.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: IMT Sick Slip (BCT), 22 July 2014, reflecting the applicant was seen by Community Mental Health Services for depression and anxiety. The applicant was returned to duty with a recommendation to return in two weeks.

Report of Mental Status Evaluation (MSE), 22 July 2014, the applicant was self-referred for evaluation. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The provider recommended the Soldier be given an opportunity to rehabilitate before meeting the threshold for a Chapter 5-17. 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: Two DD Forms 149; two DD Forms 293; self-authored statement; Medical Clinic Progress Notes; three IMT Sick Slips; two Individual Sick Slips; the applicant's Soldier's Statement and Affidavit; Report of Mental Status Evaluation; Prattville Baptist Hospital Patient Summary; 12 Developmental Counseling Form; separation approval memorandum; and VA Application for Disability Compensation and Related Compensation Benefits.

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 3-9 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 11 provides for the separation of personnel due to unsatisfactory performance, conduct, or both, while in an entry level status (ELS).

(5) Paragraph 11-3a (2) stipulates the policy applies to Soldiers who are in entry-level status, undergoing IET, and, before the date of the initiation of separation action, have completed no more than 180 days of creditable continuous AD or IADT or no more than 90 days of Phase II under a split or alternate training option. (See the glossary for precise definition of entry-level status.)

(6) Paragraph 11-8, stipulates service will be described as uncharacterized under the provisions of this chapter.

(7) 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. Department of Defense Instruction (DoDi) Number 1332.14, updates the definition of "entry level status," specifically extending its duration. Entry-level status: Upon enlistment, a Service member qualifies for entry-level status during: The first 365 days of continuous active military service; or the first 365 days of continuous active service after a service break of more than 92 days of active service. A Service member of a Reserve Component who is not on active duty or who is serving under a call or order to active duty for 365 days or less begins entry-level status upon enlistment in a Reserve Component. Entry-level status for such a Service member of a Reserve Component terminates: Three hundred and sixty-five days after beginning training if the Service member is ordered to active duty for training for one continuous period of 180 days or more; or one hundred and eighty days after the beginning of the second period of active duty training if the Service member is ordered to active duty for training under a program that splits the training into two or more separate periods of active duty. For the purposes of characterization of service or description of separation, the Service member's status is determined by the date of notification as to the initiation of separation proceedings.

f. 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 "JGA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 11, entry-level performance and conduct.

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. 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 contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 11, AR 635-200, with an uncharacterized discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Entry Level Performance and Conduct" and the separation code is "JGA." Army Regulation 635-8 (Separation Processing and Documents), governs the 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 PTSD and other mental and physical issues affected behavior, which ultimately led to the discharge. The applicant provided medical documents reflecting the applicant did not participate in required training because of various physical issues or injuries. The applicant was seen by CMHS for anxiety and depression. The applicant provided a Report of Mental Status Evaluation (MSE), reflecting the applicant was self-referred for evaluation on 22 July 2014. The MSE indicates the applicant was mentally responsible, was able to recognize right from wrong, and met medical retention requirements. The applicant was diagnosed with adjustment disorder with mixed anxiety and depressed mood. The applicant's AMHRR contains the MSE and the MSE was considered by the separation authority.

The applicant contends harassment and discrimination by members of the chain of command. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment.

The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The AMHRR shows the applicant met entrance qualification standards to include age.

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

The applicant contends the discharge should have been for medical reasons. The applicant's AMHRR is void of any evidence reflecting the applicant was referred to a medical evaluation board, which would have evaluated the applicant's fitness for retention.

The applicant contends the discharge should be changed to a medical discharge. The applicant's request does not fall within this board's purview. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

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: Depressive Disorder NOS, Adjustment Disorder w/Anxiety and Depressed Mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant's BH conditions were diagnosed during BCT.

(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's behavioral health conditions do not mitigate the discharge. Records clearly establish the applicant's BH symptoms were secondary to difficulty adjusting to the military environment, and while the symptoms likely influenced the difficulty in adapting, neither condition failed to meet medical retention standards IAW AR 40-501 Chapter 3. As such, neither warranted a referral to MEB, and neither condition precluded command from initiating an administrative separation under provisions of Chapter 11 of AR 635-200. Finally, although the applicant self-asserted PTSD, records are void of documentation to support the contention and the applicant provided no medical evidence to support the contention.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Depressive Disorder, Adjustment Disorder with Anxiety, Depressed Mood, or self-asserted Post Traumatic Stress Disorder outweighed the applicant's medically unmitigated Entry Level Performance and Conduct narrative reason for separation and Uncharacterized characterization of service.

b. Response to Contention(s):

(1) The applicant contends PTSD and other mental and physical issues affected behavior, which ultimately led to the discharge. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Depressive Disorder, Adjustment Disorder with Anxiety, Depressed Mood, or self-asserted Post Traumatic Stress Disorder outweighed the applicant's medically unmitigated Entry Level Performance and Conduct narrative reason for separation and Uncharacterized characterization of service.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention but found insufficient mitigating factors to warrant a change to the applicant's Entry Level Performance and Conduct narrative reason for separation.

(3) The applicant contends being disrespected and intimidated by members of the chain of command. The Board considered this contention but found insufficient evidence in the applicant's AMHRR or applicant-provided evidence to support the assertion that the applicant was mistreated.

(4) The applicant contends an upgrade of the discharge would allow veterans benefits. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(5) The applicant contends the discharge should be changed to a medical discharge. The Board determined that the applicant's request for a medical discharge does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 293 regarding this matter. A DD Form 293 may be obtained online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf> or from a Veterans' Service Organization

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 there were no mitigating factors for the Board to consider. Since the applicant was discharged for unsatisfactory performance and conduct due to a lack of motivation and inability to complete mandatory training events, 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.

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

8/12/2024

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