

**1. Applicant's Name:**

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. **Applicant's Requests and Issues:** The current characterization of service for period under review is uncharacterized. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, during basic training the applicant was injured, and instead of receiving prompt and adequate medical treatment, the applicant was discharged. The applicant contends experiencing pain every day.

b. **Board Type and Decision:** In a records review conducted on 9 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 May 2013

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 1 May 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant lost all motivation to conduct training. The applicant self-referred to the Community Mental Health Services (CMHS) due to suicidal statements. However, after several counseling sessions and evaluation by a licensed psychiatrist, it was determined the applicant had no intent to commit suicide. It was recommended the applicant be removed from training with no access to weapons or ammunition. The applicant was provided ample opportunity to overcome their behavioral issues but failed to do so. The applicant's lack of motivation and desire to be a productive Soldier in the Army demonstrate they cannot adapt to the military environment.

(3) **Recommended Characterization:** Uncharacterized

(4) **Legal Consultation Date:** On 1 May 2013, the applicant waived legal counsel.

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

(6) **Separation Decision Date / Characterization:** 6 May 2013 / Uncharacterized

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 25 February 2013 / 4 years, 19 weeks
- b. **Age at Enlistment / Education / GT Score:** 19 / High School Graduate / 110
- c. **Highest Grade Achieved / MOS / Total Service:** E-1 / None / 2 months, 20 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** 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:** Orders 129-2240, 9 May 2013, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 14 May 2013 from the Regular Army.

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 11 with a narrative reason of Entry Level Performance and Conduct. The DD Form 214 was authenticated with the applicant's electronic signature.

Five Developmental Counseling Forms, for Entry Level Performance and Conduct; missing training and referral to mental health.

- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):**
  - (1) **Applicant provided:** Department of Veterans Affairs Rating Decision, 25 February 2014, reflects a service connection of 30 percent and a medical diagnosis.
  - (2) **AMHRR Listed:** Report of Mental Status Evaluation, date illegible, 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 evaluation included a diagnosis.

Report of Medical Assessment, 26 April 2013, the examining medical physician noted the applicant's medical conditions in the comments section. The evaluation included a diagnosis.

*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:** DD Form 149; DD Form 214; Department of Veterans Affairs Rating Decision.
- 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.** 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.

**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.

An honorable discharge (HD) may be given only in cases which are clearly warranted by unusual circumstances involving outstanding personal conduct and/or performance of duty. An HD is rarely ever granted.

The applicant contends separation under Entry Level Status (ELS) was not appropriate and should have received an honorable discharge. Army Regulation 635-200 states a separation will be described as entry-level with service uncharacterized if, at the time separation action is initiated, the Soldier has less than 180 days of continuous active-duty service. The evidence of the Army Military Human Resource Record (AMHRR) reflects the applicant was notified on 1 May 2013 of the intent to initiate separation proceedings from the Army. At the time of the notification, the applicant had 65 days of continuous active-duty service. Based on the time in service, the applicant was in an ELS status, and the uncharacterized discharge was appropriate.

The applicant contends being injured during basic training, and instead of receiving prompt and adequate medical treatment, the applicant was discharged. The applicant contends experiencing pain every day. The applicant provided a Department of Veterans Affairs Rating Decision reflecting a service connection of 30 percent and a medical diagnosis. The AMHRR includes a DA Form 4856, 29 April 2013, reflecting on or about 28 March 2013, the applicant injured themselves and was put on a physical profile. The applicant immediately acquired a defeatist attitude and mentally quit. The applicant even mentioned to several cadre members they wanted to quit. After several trips to Winder Troop Medical Center, the applicant mentioned the word suicide but had no plan or intent to commit suicide. The applicant then received a referral to Community Mental Health Services. The applicant received a "return to duty" status on their physical profile on 17 April 2013. This was useless because the applicant had already received a no weapon profile from CMHS. The applicant used the system to find a way out of the Army. The commander spoke with Doctor O., from CMHS and they determined the applicant had no mental deficiencies which would disqualify the applicant from uniformed service. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The AMHRR includes a Report of Mental Status Evaluation, illegible date, 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 evaluation included a diagnosis. A Report of Medical Assessment, 26 April 2013, reflects the examining medical physician noted the applicant's medical conditions in the comments section. The evaluation included a diagnosis. All the medical 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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: MDD, 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 is 70 percent service-connected (SC) for MDD.

(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. The applicant has an in-service diagnosis of Adjustment Disorder with Depressed Mood and is 70 percent SC by the VA for MDD and has additional diagnoses of Unspecified Depressive Disorder, which is subsumed by MDD, and Persistent Depressive Disorder. Records show the applicant's depressive symptoms onset occurred after sustaining a hip and back injury, which reportedly led to harassment by a Drill Sergeant, 1SG and fellow Soldiers. Given there is a nexus between MDD and decreased motivation, SI, fatigue, and avoidance, the applicant's behavior would typically be mitigated. However, the applicant was separated during IET under provisions of Chapter 11, and the condition did not require separation through military medical channels, making the characterization of service and Entry Level Performance and Conduct narrative reason for separation appropriate.

(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 Major Depressive Disorder outweighed the applicant's discharge because the applicant was separated in an entry level status. There are not negative connotations of an Uncharacterized, Entry Level Performance and Conduct discharge on which to apply mitigation.

**b.** Response to Contention(s): The applicant contends being injured during basic training, and instead of receiving prompt and adequate medical treatment, the applicant was discharged. The applicant contends experiencing pain every day. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Major Depressive Disorder outweighed the applicant's discharge because the applicant was separated in an entry level status.

**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 failing to adapt to the military environment, Uncharacterized is proper and equitable. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process.

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

7/25/2024

X

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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