

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 change to the narrative reason for separation. The applicant already holds an honorable characterization of service.

The applicant seeks relief contending, in effect, being rated 50 percent disability for PTSD by the VA and believes an upgrade is warranted because of honorable service. After doing things the applicant will not describe in Afghanistan, the applicant believes they should be given an honorable discharge and deserves the benefits they could use as a student. The applicant has been going to college since 2009 and now desires to transfer to larger university. The applicant was accepted at Texas A&M to pursue a degree in Marine Biology. The applicant has a 3.426 GPA and desires to have the discharge upgraded to full honorable and restoration of benefits.

b. **Board Type and Decision:** In a records review conducted on 4 April 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:** 30 October 2008

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 11 August 2008

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant had been evaluated at Womack Army Medical Center and recommended for administrative separation by MAJ W. D. L. due to a diagnosis of adjustment disorder with depressed mood alcohol abuse. It was the opinion the applicant's present state of emotional and/or behavioral dysfunction was of such severity the applicant's ability to perform military duties was significantly impaired.

(3) **Recommended Characterization:** General (Under Honorable Conditions)

(4) **Legal Consultation Date:** NIF

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

(6) **Separation Decision Date / Characterization:** undated / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 21 February 2007 / 4 years, 17 weeks
- b. **Age at Enlistment / Education / GT Score:** 18 / High School Graduate / 126
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 13F1P, Fire Support Specialist / 1 year, 8 months, 10 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Afghanistan (13 October 2007 – 15 April 2008)
- f. **Awards and Decorations:** ACM-BS, ARCOM, NDSM, GWOTSM, ASR, NATOMDL, CAB
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Developmental Counseling Form, informing the applicant they are being processed for separation IAW AR 635-200, Chapter 5-17.
- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):**

(1) **Applicant provided:** VA Rating Decision, 28 March 2013, reflects the applicant was granted 50 percent service-connected disability. The rating decision reflects a diagnosis.

(2) **AMHRR Listed:** Memorandum for Commander, Mental Health Evaluation, 27 June 2008, reflects the applicant was seen on 27 June 2008 as an inpatient. The Memorandum reflects a diagnosis.

MH Discharge Instructions, 27 June 2008, reflects a diagnosis.

Report of Medical Examination, 18 July 2008, the examining medical physician noted the applicant's medical conditions in the comments section.

Report of Medical History, 18 July 2008, the examining medical physician noted the applicant's medical conditions in the comments section.

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: Online application; DD Form 214; AR 635-200, two pages; VA Rating Decision; Tarrant County College Transcript.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has been going to college since 2009 and now desires to transfer to a larger university. The applicant was accepted at Texas A & M for to pursue a degree in Marine Biology and has a 3.426 GPA.

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-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.

The applicant contends good service, including a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends being rated 50 percent service-connected disability by the VA. The applicant provided VA Rating Decision, 28 March 2013, which reflects the applicant was granted 50 percent service-connected disability and reflects a diagnosis. The AMHRR contains Memorandum for Commander, Mental Health Evaluation, 27 June 2008, which reflects the applicant was seen on 27 June 2008 as an inpatient and reflects a diagnosis. MH Discharge Instructions, 27 June 2008, also reflects a diagnosis. Reports of Medical Examination and Medical History, both dated 18 July 2008, reflect the examining medical physician noted the applicant's medical conditions. The Mental Health Evaluation, MH Discharge Instructions, Report of Medical Examination, and Report of Medical History were considered by the separation authority.

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 has been going to college since 2009 and now desires to transfer to a larger university. The applicant was accepted at Texas A & M to pursue a degree in Marine Biology and has a 3.426 GPA. 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, PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder. The applicant is diagnosed, and service connected by the VA for PTSD. Service connection establishes that the applicant's PTSD existed during military service.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was diagnosed in service with an Adjustment Disorder for which the applicant was separated under Chapter 5-17 in accordance with the separation regulations at the time. The applicant is diagnosed, and service connected by the VA for PTSD. However, the applicant's service

connection for PTSD does not provide mitigation for a Chapter 5-17 separation that was properly executed in accordance with separation regulations. The VA grants service connections under a different set of laws and guidelines.

(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 Adjustment Disorder and Post Traumatic Stress Disorder outweighed the applicant's Condition, Not a Disability narrative reason for separation.

b. Response to Contention(s):

(1) The applicant contends being rated 50 percent service-connected disability by the VA. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder and Post Traumatic Stress Disorder outweighed the applicant's Condition, Not a Disability narrative reason for separation. 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 narrative reason for separation.

(2) The applicant contends good service, including a combat tour. The Board considered the applicant's four years of service, including a combat tour in Afghanistan, but determined that the applicant's record does not outweigh the applicant's Honorable characterization of service and Condition, Not a Disability narrative reason for separation.

(3) The applicant contends an upgrade of the discharge would allow veterans benefits. The Board considered this contention but found that the applicant already holds an Honorable characterization of service. Therefore, no further relief is available.

(4) The applicant has been going to college since 2009 and now desires to transfer to larger university. The applicant was accepted at Texas A&M to pursue a degree in Marine Biology and has a 3.426 GPA. The Board considered the applicant's post-service accomplishments but determined that they do not impact the equity or propriety of the applicant's Condition, Not a Disability narrative reason for separation.

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. The applicant has exhausted all available 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 a prior ADRB has upgraded the characterization of service to 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 Board did not find sufficient mitigating factors to warrant a change from the Condition, Not a Disability narrative reason for separation. The reason the applicant was discharged was both proper and equitable.

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AR20210001183

(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:

4/15/2024

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