

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 an upgrade to honorable.

The applicant seeks relief contending, in effect, never encountering any issues or troubles until following their deployment. The applicant was not helped by their chain of command and the commander moved quickly and was unaware of the applicant's background. The applicant was not helped; rather, they were given an Article 15, demoted, and discharged due to a family care plan. Since then, the VA has diagnosed the applicant with anxiety and PTSD.

b. **Board Type and Decision:** In a records review conducted on 21 May 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:** Parenthood / AR 635-200, Chapter 5-8 / JDG / RE-3 / Honorable

b. **Date of Discharge:** 27 April 2005

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 22 October 2004

(2) **Basis for Separation:** The applicant was informed of the following reasons: Failed to acquire and maintain an adequate family care plan.

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

(4) **Legal Consultation Date:** 25 October 2004

(5) **Administrative Separation Board:** On 25 October 2004, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than honorable discharge.

(6) **Separation Decision Date / Characterization:** 24 November 2004 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001211

- a. **Date / Period of Enlistment:** 27 November 2002 / 4 years
- b. **Age at Enlistment / Education / GT Score:** 30 / High School Graduate / 98
- c. **Highest Grade Achieved / MOS / Total Service:** E-5 / 88M20, Motor Transport Operator / 13 years, 7 months, 10 days
- d. **Prior Service / Characterizations:** RA, 18 September 1991 – 14 June 1995 / HD
RA, 15 June 1995 – 14 June 1997 / HD
USAR, 15 June 1997 – 18 February 1999 / NA
RA, 19 February 1999 – 26 November 2002 / HD
RA, 21 September 2001 – 26 November 2002 / HD
- e. **Overseas Service / Combat Service:** SWA / Iraq (30 March 2003 – 12 July 2003)
- f. **Awards and Decorations:** ARCOM, AAM-2, PUC, AGCM-2, NDSM-2, GWOTSM, GWOTEM, ICM, NCOPDR, ASR, OSR
- g. **Performance Ratings:** September 1996 – October 2001 / Fully Capable
November 2001 – June 2002 / Among The Best
July 2002 – June 2003 / Fully Capable
- h. **Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 5 August 2004, not legible. The punishment consisted of a reduction to E-4; and extra duty for 14 days.

Numerous Developmental Counseling Forms, for failing to complete and maintain a family care plan and failing to be at appointed place of duty.

- i. **Lost Time / Mode of Return:** None

- j. **Behavioral Health Condition(s):**

- (1) **Applicant provided:** Department of Veterans Affairs letter, 10 April 2012, did not include a diagnosis.

Progress notes, printed 23 August 2012, did not include a diagnosis.

- (2) **AMHRR Listed:** None

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 214, online application; Enlisted Record Brief.

6. **POST SERVICE ACCOMPLISHMENTS:** None provided 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), dated 25 September 2019, 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 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.

(5) Paragraph 5-7 (previously paragraph 5-8), provides that a Soldier may be separated when parental obligations interfere with fulfillment of military responsibilities. Specific reasons for separation because of parenthood include inability to perform prescribed duties satisfactorily, repeated absenteeism, late for work, inability to participate in field training exercises or perform special duties such as CQ and Staff Duty NCO, and non-availability for worldwide assignment or deployment according to the needs of the Army.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), in effect at the time, provided 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 "JDG" as the appropriate code to assign enlisted Soldiers who were discharged under the provisions of Army Regulation 635-200, Chapter 5-8, Parenthood.

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 the VA has diagnosed the applicant with anxiety and PTSD. The applicant provided Progress notes and a Department of Veterans Affairs letter, both evaluations did not include a diagnosis. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends was not helped by their chain of command. The commander of the applicant moved quickly and was unaware of the applicant's background. The applicant was not helped; rather, they were discharged due to a family care plan, given Article 15, and had their

rank taken. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review. The evidence of record shows the command attempted to assist the applicant in performing and conducting to Army standards by providing counseling and the imposition of non-judicial punishment. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

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.

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: Dysthymia, Anxiety Disorder, MDD, Panic w/o Agoraphobia.

(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 Dysthymia.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that a review of the records was void of any in-service BH diagnosis or treatment history for the applicant. Post-service records show applicant is 70 percent SC for Dysthymia with potentially mitigating diagnoses of Anxiety Disorder, MDD, and Panic Disorder without Agoraphobia. However, the applicant's misconduct characterized by repeated failure to establish a family care plan is not mitigated as neither disorder impaired applicant's ability to differentiate between right and wrong and adhere to the right. Records show the applicant made an informed decision to not establish a family care friend.

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

b. Response to Contention(s):

(1) The applicant contends the VA has diagnosed the applicant with anxiety and PTSD. The Board considered this contention and determined the applicant is diagnosed with anxiety and PTSD. However, neither BH condition excuses or mitigates the applicant's failure to acquire and maintain a family care plan basis for separation, therefore the discharge is proper and equitable.

(2) The applicant contends not receiving help from their chain of command and the commander moved quickly and was unaware of the applicant's background. The applicant was not helped; they were given Article 15, demoted and discharged due to a family care plan. The Board considered this contention and determined the evidence of record shows the command attempted to assist the applicant in meeting Army standards by providing counseling and the imposition of non-judicial punishment. The applicant's record does not contain any indication or evidence of arbitrary or capricious actions by the command.

(3) The applicant contends good service, including a combat tour. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record, however combat service does not mitigate the failure to acquire and maintain a family care plan basis of separation.

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 a prior ADRB has upgraded the discharge with a Character of Honorable; therefore, no further relief is available.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code as the reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214 / Separation Order:** No
- b. **Change Characterization to:** No Change
- c. **Change Reason / SPD code to:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

Authenticating Official:

7/25/2024

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