

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, the severe injustice has reduced employment opportunities, and the diagnosis made while in the service was inaccurate. If the discharge was based on a valid diagnosis, the applicant should have been medically discharged because of PTSD.

b. **Board Type and Decision:** In a records review conducted on 8 February 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:** 12 June 2004

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 7 April 2004

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant was diagnosed by the Chief of Mental Health, 28th CSH/Ibn Sina Hospital, with a personality disorder which was not amenable to treatment.

(3) **Recommended Characterization:** Honorable

(4) **Legal Consultation Date:** 19 April 2004

(5) **Administrative Separation Board:** On 19 April 2004, the applicant requested consideration of the case by an administrative separation board.

On 23 April 2004, the separation authority referred the separation proceedings to the Standing Administrative Separation Board to consider whether the applicant should be separated from the Army under Chapter 5-13, AR 635-200, because of personality disorder.

Administrative Separation Board proceedings NIF.

(6) **Separation Decision Date / Characterization:** 6 June 2004 / Honorable

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 15 January 2002 / 2 years / The applicant extended the most recent enlistment by a period of 5 months on 2 November 2002, giving the applicant a new ETS of: 14 June 2004.

b. Age at Enlistment / Education / GT Score: 26 / High School Graduate / 107

c. Highest Grade Achieved / MOS / Total Service: E-5 / 73C2HP500, Finance Specialist / 10 years, 10 months, 17 days

d. Prior Service / Characterizations: RA, 26 July 1993 – 30 October 1996 / HD
RA, 31 October 1996 – 10 December 1998 / HD
RA, 11 December 1998 – 14 January 2002 / HD

e. Overseas Service / Combat Service: Alaska, Germany, SWA / Iraq (NIF)

f. Awards and Decorations: JSCOM, ARCOM, AAM-2, AGCM-3, NDSM-2, NCOPDR-2, ASR, OSR, GWOTSM

g. Performance Ratings: October 2001 – June 2002 / Among the Best
July 2002 – February 2003 / Among the Best
March 2003 – October 2003 / Fully Capable
November 2003 – June 2004 / Marginal

h. Disciplinary Action(s) / Evidentiary Record: Six Developmental Counseling Forms for being referred for psychiatric evaluation, courses of actions available, expectations of the applicant in the rear and while deployed, being notified of a 5-13 separation, bar to reenlistment being imposed; not meeting the standards of an NCO, shortcomings in duty and expectation as a Soldier and an NCO, and disciplinary counseling.

Physical Profile, 27 October 2003, reflects the applicant had the following medical conditions: Urology condition and side effects of medications.

Memorandum, Mental Status Report, 27 January 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 responsible for the actions; and met medical retention requirements.

US Army Criminal Investigation Command memorandum, 25 March 2016, reflects in response to a request for release of information on a sexual assault pertaining to the applicant, there were no files.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs disability rating decision, 22 August 2012, reflecting the applicant was rated 50 percent disability for PTSD (to include symptoms of anxiety, depression, loss of memory, loss of appetite, and weight loss).

Review Post Traumatic Stress Disorder (PTSD), Disability Benefits Questionnaire, 28 June 2012, reflects the applicant was diagnosed with: Post-Traumatic Stress Disorder.

VA Clinical Psychologist letter, 29 October 2013, reflects the applicant's responses and symptoms to a series of multiple traumatic experiences were appropriately diagnosed as PTSD and the current symptoms meet the criteria for chronic PTSD.

(2) AMHRR Listed: Report of Behavioral Health Evaluation (BHE), 30 December 2003, reflects the applicant was mentally responsible with a clear-thinking process, had the mental capacity to understand and participate in the proceedings, and met the retention requirements of AR 40-501, Chapter 3. The applicant was cleared for any administrative actions deemed appropriate by command. The applicant was diagnosed with: Depressive disorder NOS. The BHE was considered by the separation authority.

Report of Behavioral Health Evaluation (BHE), 6 January 2004, reflects the applicant was mentally responsible with a clear-thinking process, and had the mental capacity to understand and participate in the proceedings. The applicant was psychiatrically cleared for any administrative actions deemed appropriate by command and met psychiatric criteria for expeditious administrative separation according to AR 635-200, Chapter 5-13, for personality disorder NOS and/or Chapter 5-17, for enuresis. It was the professional opinion of the examiner the applicant would not respond to command efforts at rehabilitation. The applicant was diagnosed with an adjustment disorder with mixed disturbance of emotions and conduct and personality disorder NOS with dependent and borderline traits, and migraines by history, enuresis.

Report of Medical History, 21 January 2004, the applicant noted behavioral health issues and the examining medical physician noted in the comments section: Depression – December 2003 during deployment to Iraq and was returned for psych and chaplain's evaluation. The applicant was treated with Paxil but stopped due to side effects, and was hospitalized in Iraq on 26 to 29 December 2003, and 5 to 8 January 2004 for depression.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149; DD Form 293; DD Form 214; VA Clinical Psychologist letter; VA Rating Decision; and PTSD Disability Benefits Questionnaire.

6. POST SERVICE ACCOMPLISHMENTS: Disability Benefits Questionnaire, 28 June 2012, reflects the applicant completed a bachelor's degree in March 2011, and was enrolled in two classes, pursuing a master's degree in legal studies.

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.

(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 narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 5, paragraph 5-8, AR 635-200 with an honorable discharge. The narrative reason specified by Army Regulations, in effect at the time, for a discharge under this paragraph is "Parenthood," and the separation code is "JDG." 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 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 current discharge has limited employment opportunities for the applicant. The Board does not grant relief to gain employment or enhance employment opportunities.

The applicant contends the diagnosis used as basis for the separation was inaccurate. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends the discharge should have been for medical reasons because of PTSD. The applicant contends being diagnosed with PTSD by the VA. The VA disability rating decision reflects the applicant was rated 50 percent disability for PTSD (to include symptoms of anxiety, depression, loss of memory, loss of appetite, and weight loss). The applicant's AMHRR shows the applicant underwent a behavioral health evaluation (BHE) on 6 January 2004, which indicates the applicant was mentally responsible with a clear-thinking process. The applicant was diagnosed with an adjustment disorder with mixed disturbance of emotions and conduct and personality disorder NOS with dependent and borderline traits, and migraines by history, enuresis. The BSE was considered by the separation authority.

The applicant's evidence indicates having completed a bachelor's degree in March 2011 and was pursuing a master's degree in legal studies. 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 [REDACTED] 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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Adjustment Disorder, Depressive Disorder NOS, 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, Depressive Disorder NOS, and Personality Disorder NOS. The applicant is also 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, Depressive Disorder NOS, and Personality Disorder NOS. The applicant is also diagnosed and service-connected by the VA for PTSD. The applicant's original discharge was under Chapter 5-13 for being diagnosed with a personality disorder. The applicant's narrative reason for separation has already been changed to Parenthood, and the applicant has an HD. None of the applicant's BH conditions have a nexus with being separated for Parenthood.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opinion, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Depressive Disorder NOS, and PTSD outweighed the applicant's discharge.

b. Response to Contention(s):

(1) The applicant contends the discharge should have been for medical reasons because of PTSD. The Board liberally considered this contention but determined that the applicant's request for discharge through the medical process 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.

(2) The applicant contends the diagnosis used as basis for the separation was inaccurate. The Board considered this contention but determined it is no longer relevant as a previous ADRB changed the narrative reason for separation to Parenthood.

(3) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention during proceedings but ultimately did not address it due to a change to the narrative reason being granted by a previous ADRB.

(4) The applicant contends the current discharge has limited employment opportunities for the applicant. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

(5) The applicant contends having completed a bachelor's degree in March 2011 and was pursuing a master's degree in legal studies. The Board was glad to learn of the applicant's post-service accomplishments but determined that further relief is not warranted.

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 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 applicant's narrative reason for separation was changed to Parenthood by a prior ADRB.

(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:

3/8/2024

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