

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 general under honorable conditions.

The applicant seeks relief contending, in effect, in life, sometimes people do not know what they want until they explore and learn. For instance, the applicant committed the mistake of giving up on the country. The applicant refused to train because the applicant decided being near the family and helping them was more important. The applicant made the mistake of choosing a non-combat military occupational specialty (MOS), which was not what the applicant wanted. The applicant made the decision because of the pressure from the applicant's family, including the parent. Because the applicant was uncomfortable not being able to fight alongside Soldiers, the applicant gave up on the military. The applicant wanted to go home once the applicant stepped foot on the plane in San Diego. The applicant realized it was the greatest mistake of the applicant's life. The applicant let the life dream slip from the applicant's hands.

All the applicant wants is to go back and redeem oneself and make up for what the applicant did to the nation. Every day, the applicant lives in regret and does not see any hope of getting back into the service. Since the applicant was a child, the applicant dreamed of becoming a Navy Seal or Army Special Forces. The applicant wanted to become a true hero and protect the nation and the retired veterans who protected the applicant. The applicant's dream is to protect the American flag because the applicant knows if the applicant does, the applicant's family, city, and the country will be safe. The applicant believes the determination will get the applicant there. If given the chance, the applicant would like to join the Special Forces or the Infantry to help protect the nation's freedom.

b. **Board Type and Decision:** In a records review conducted on 28 March 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:** 25 April 2014

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 14 April 2014

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant stated on numerous occasions to Drill Sergeant (DS) P. the applicant wished to quit the Army. The applicant's actions were detrimental to the cohesion of the unit and would not be tolerated.

(3) Recommended Characterization: Uncharacterized

(4) Legal Consultation Date: On 16 April 2014, the applicant waived legal counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 22 April 2014 / Uncharacterized / The separation authority indicated the rehabilitative transfer requirement in accordance with AR 635-200, paragraph 1-16 did not apply to the action.

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 11 March 2014 / 4 years

b. **Age at Enlistment / Education / GT Score:** 19 / AED / 109

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

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** Four Developmental Counseling Forms, between 17 and 27 March 2014, for but not limited to:

Reception and integration,
On multiple occasions refusing to train,
Failing to obey orders or regulations,
Disregarding all Army Core Values,
Lacking motivation, and
On multiple occasions, indicating to DS P., a desire to quit

Personnel Action form, 7 April 2014, reflects the applicant was assigned to C Company, 2nd Battalion, 10th Infantry Regiment, Fort Leonard Wood, and attached to the Retraining and Holding Unit, 43rd Adjutant General Battalion, effective 4 April 2014, for the reason, Discharge, Chapter 11, Entry Level Status (refuse to train).

Memorandum for Record subject: Election for Continued Service, undated, reflecting the applicant did not request to remain in the military and was aware of the option to change the request at any time by contacting the company commander.

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

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

(1) Applicant provided: None

(2) AMHRR Listed: Report of Medical Assessment, 7 April 2014, reflects the applicant reported being treated from anxiety / panic attack. The examining medical provider noted a review of the applicant's records revealed all the classic finding of someone who arrived there and then wanted to go home and complained of medical/psychiatric problems to obtain the goals. The applicant was cleared for separation and found to have no medical/psychiatric conditions.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 214; DD Form 293.

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) Paragraph 1-16, in effect at the time, provides when a Soldier's conduct or performance becomes unacceptable, the commander will ensure a responsible official formally notifies the Soldier of his/her deficiencies. At least one formal counseling session is required before separation proceedings may be initiated for Entry Level Performance and Conduct. The records must reflect he/she was formally counselled concerning the deficiencies and given a reasonable opportunity to overcome or correct them. Soldiers undergoing initial entry or other training will be recycled (reassigned between training companies or, where this is not feasible, between training platoons) at least once. Waiver of counseling requirement is not authorized. The rehabilitation transfer requirement may be waived by the separation authority in circumstances where common sense and sound judgment indicate such transfer will serve no useful purpose or produce a quality Soldier.

(2) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(3) 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.

(4) 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.

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

(6) 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.)

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

(8) 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's AMHRR reflects the separation authority indicated the rehabilitative transfer requirement in accordance with AR 635-200, paragraph 1-16 did not apply to the action. Army Regulation 635-200, paragraph 1-16, in effect at the time, provided Soldiers undergoing initial entry or other training will be recycled (reassigned between training companies or, where this is not feasible, between training platoons) at least once. The rehabilitation transfer requirement may be waived by the separation authority in circumstances where common sense and sound judgment indicate such transfer will serve no useful purpose or produce a quality Soldier. The command violated the rehabilitative transfer requirement in accordance with paragraph 1-16.

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 the decision not to join a combat MOS because of family pressure affected behavior and ultimately caused the discharge. 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 applicant desires to rejoin the Military Service. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes if appropriate.

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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder and Anxiety.

(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 and Anxiety.

(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 and Anxiety based on two encounters. Subsequent evaluation by two other providers determined that the applicant did not meet criteria for these conditions, and that the applicant did not have any BH conditions. Despite the diagnoses of Adjustment Disorder and Anxiety, it is clearly documented in the active duty medical record that these conditions did not contribute to the applicant's desire to quit the Army. Therefore, there is no mitigation for the applicant's basis of separation.

(4) Does the condition or experience outweigh the discharge? **No.** The Board determined that the BH conditions (whether validated or not by medical professionals) do not mitigate the applicant's documented desire to quit the Army.

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined the applicant's narrative reason for discharge is appropriate as the applicant stated on numerous occasions to Drill Sergeant (DS) P. the applicant wished to quit the Army. There is also medical documentation supporting the applicant stating the desire to quit the Army and refusing to train on multiple occasions.

(2) The applicant contends the decision not to join a combat MOS because of family pressure affected behavior and ultimately caused the discharge. The Board considered this contention and determined that the applicant's family issues do not mitigate the applicant's desire to quit training. The Army affords avenues for seeking separation for hardship.

(3) The applicant desires to rejoin the Military Service. The Board considered this contention and voted to maintain the RE-code to a RE-3, which is a waivable code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate.

c. The Board determined that the discharge is, at this time, proper and equitable considering the current evidence of record. However, the applicant may request a personal appearance hearing to address issues before a 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 as none of the BH conditions mitigated the basis of separation. The applicant was discharged for Entry Level Performance and Conduct due to applicant's refusal to train. Therefore, Uncharacterized is a proper and equitable characterization of service. 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:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001317

5/18/2024

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