

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 narrative reason change.

The applicant seeks relief contending, in effect, suffering extreme mental anguish and physical injuries while participating in their awarded MOS. The applicant was diagnosed with severe chronic depression and anxiety disorder, coupled with left shoulder and back pain from a parachuting accident. The applicant was not offered the benefit of discharge by disability as detailed in AR 635-40, 8 February 2006 (RAR Issue 20 March 2012). When it became apparent the applicant was unable to perform the duties of their MOS, the applicant's commander and MTF commander failed to refer the applicant for a medical evaluation, which potentially could have led to MEB action.

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:** Condition, Not a Disability / AR 635-200, Chapter 5-17 / JFV / RE-3 / Honorable

b. **Date of Discharge:** 23 May 2013

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 8 April 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant had been diagnosed with an adjustment disorder with anxiety and depressed mood.

(3) **Recommended Characterization:** Honorable

(4) **Legal Consultation Date:** On 16 and 17 April 2013, the applicant waived legal counsel.

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

(6) **Separation Decision Date / Characterization:** 23 April 2013 / Honorable

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 10 January 2012 / 4 years, 19 weeks
- b. **Age at Enlistment / Education / GT Score:** 19 / High School Graduate / 118
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 11B1P, Infantryman / 1 year, 4 months, 14 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** NDSM, GWOTSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Orders 134-0256, 14 May 2013, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 23 May 2013 from the Regular Army.

The applicant's DD Form 214 reflects the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 5-17 with a narrative reason of Condition, Not a Disability. The DD Form 214 was authenticated with the applicant's electronic signature.

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

j. Behavioral Health Condition(s):

(1) **Applicant provided:** Excerpt of medical records created on 14 May 2014, reflects being seen on 17 and 30 January 2013, for Adjustment disorder with anxiety and depressed mood and again on 1 February 2013 for an Aircraft accident as a parachutist.

(2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: Three DD Forms 293; DD Form 293; self-authored statement; medical records; Orders 134-0256.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is a full-time student and works two jobs.

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 the narrative reason for the discharge needs changed. The applicant was separated under the provisions, at the time, of Chapter 5, paragraph 5-17, AR 635-200 with an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Condition, Not a Disability," and the separation code is "JFV." 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 exactly 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 suffering extreme mental anguish and physical injuries while participating in their awarded MOS. The applicant was diagnosed with severe chronic depression and anxiety disorder, coupled with left shoulder and back pain from a parachuting accident. The applicant provided an excerpt of medical records created on 14 May 2014 reflecting being seen on 17 and 30 January 2013, for Adjustment disorder with anxiety and depressed mood and again on 1 February 2013, for an Aircraft accident as a parachutist. The AMHRR is void of a mental status report.

The applicant contends not being offered the benefit of discharge by disability as detailed in AR 635-40, 8 February 2006 (RAR Issue 20 March 2012); when it became apparent the applicant was unable to perform the duties of their MOS, the applicant's commander and MTF commander failed to refer the applicant for a medical evaluation, which potentially could have led to MEB action. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends being a full-time student and working two jobs. 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, Depression. Additionally, the applicant asserts Anxiety, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(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 Depression. The VA service connected the applicant's Depression. The applicant self-asserts having Anxiety during military service which is supported by the medical evidence.

(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's Chapter 5-17 (Condition, Not a Disability) separation was in accordance with the separation guidelines at the time. The applicant had an in-service diagnosis of Depression that has been service connected by the VA. However, the applicant's Depression met medical retention standards at the time of separation. The VA grants service connections under a different set of laws and guidelines. The applicant also self-asserts Anxiety, which is supported by the in-service medical

record. But like the applicant's Depression, the applicant's Anxiety met medical retention standards at the time of separation.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Depression, or self-asserted Anxiety outweighed the applicant's Condition, Not a Disability narrative reason for separation.

b. Response to Contention(s):

(1) The applicant contends not being offered the benefit of discharge by disability as detailed in AR 635-40, 8 February 2006 (RAR Issue 20 March 2012); when it became apparent the applicant was unable to perform the duties of their MOS, the applicant's commander and MTF commander failed to refer the applicant for a medical evaluation, which potentially could have led to MEB action. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Depression, or self-asserted Anxiety outweighed the applicant's Condition, Not a Disability narrative reason for separation. Therefore, a discharge upgrade is not warranted. The Board also determined that the applicant's request for an MEB 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 narrative reason for the discharge needs to be changed. The Board considered this contention and determined the narrative reason for separation was proper and equitable based on the Board Medical Advisor's opine that the applicant met medical retention standards at the time of separation.

(3) The applicant contends suffering extreme mental anguish and physical injuries while participating in their awarded MOS. The applicant was diagnosed with severe chronic depression and anxiety disorder, coupled with left shoulder and back pain from a parachuting accident. The Board liberally considered this contention, along with the applicant's full medical record. The Board determined the evidentiary record did not warrant a change to the narrative reason. The awarded narrative reason is proper and equitable.

(4) The applicant contends being a full-time student and working two jobs. The Board considered the applicant's post-service accomplishments but determined that they do not warrant a change to the applicant's narrative reason for separation or reenlistment eligibility code. The awarded narrative reason is proper and equitable.

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. As noted above in 9b(1), the ADRB does not have the ability to order an MEB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR) using a DD Form 293 regarding this matter.

d. Rationale for Decision:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001335

(1) The applicant's honorable characterization of service was not subject to consideration at the ADRB records review.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code as the available evidence did not show that the applicant's Condition, Not a Disability narrative reason for separation was improper or inequitable.

(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:

3/13/2024

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