

1. Applicant's Name: [REDACTED]

- 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 the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, entering the service with a preexisting medical condition which was under control at the time of enlistment. The applicant's mental condition became worse because of the stressors of military service, which greatly affected the applicant's job performance and led to the discharge. The applicant is 100 percent service-connected disabled for the condition and would like to have an honorable discharge in consideration of the applicant's mental state during the time leading up to the discharge.

b. **Board Type and Decision:** In a records review conducted on 7 December 2023, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length of service, history of homelessness, and the severity of the Major Depressive Disorder with Psychotic Features diagnosis. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board voted to not change the narrative reason, SPD, or RE-Code because the file was void of the specific reason for the discharge. Additionally, the applicant had a behavioral health condition that met the requirements of Ch 5-17 and the condition warrants a waiver prior to reenlistment.

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:** Physical Condition, Not a Disability / AR 635-200, Paragraph 5-17 / JFV / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 9 March 2001

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** NIF

(2) **Basis for Separation:** NIF

(3) **Recommended Characterization:** NIF

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

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

(6) Separation Decision Date / Characterization: NIF**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 18 August 1999 / 3 years
- b. **Age at Enlistment / Education / GT Score:** 27 / HS Graduate / 118
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / 11B10, Infantryman /1 year, 6 months, 22 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** Hawaii / None
- f. **Awards and Decorations:** ASR
- g. **Performance Ratings:** NA

h. Disciplinary Action(s) / Evidentiary Record: Orders A064-01, 5 March 2001, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 9 March 2001 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 Physical Condition, Not a Disability. The DD Form 214 was not authenticated with the applicant's signature.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

- (1) **Applicant provided:** None
- (2) **AMHRR Listed:** None

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) 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) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Chapter 5 provides for the basic separation of enlisted personnel for the convenience of the government.

(5) 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.

(6) 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), Physical 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's Army Military Human Resources Record (AMHRR) is void of the specific facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was not authenticated by the applicant's signature. The

applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 5, paragraph 5-17, by reason of Physical Condition, Not a Disability, with a characterization of service of general (under honorable conditions).

The applicant contends a preexisting mental condition, which became worse, led to the applicant's discharge. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from a mental health condition. The applicant's AMHRR contains no documentation of a mental health diagnosis. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends being rated 100 percent service-connected disabled for the condition, which led to the discharge. 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.

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 determined that the applicant was separated in accordance with Chapter 5-17 based on a "Condition, Not a Disability" with a general characterization of service indicting that the applicant service record including misconduct. However, the record of the applicant separation is not contained in the applicant official record. The Board further determined, based on the Board Medical Advisor opine, after reviewing the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation, the applicant has Major Depressive Disorder with Psychotic Features that could potentially mitigate the applicant's discharge.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant is diagnosed and service connected by the VA for Major Depressive Disorder with Psychotic Features. Service connection establishes that the condition 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 Major Depressive Disorder with Psychotic Features does not mitigate the applicant's discharge for "Condition, Not a Disability" because the applicant separation record is void of the facts and circumstances surrounding the applicant's misconduct that resulted in a General characterization of service. The Board Medical Advisor is unable to determine medical mitigation without reviewing the facts and circumstances related to the applicant's misconduct that resulted in the applicant's receipt of a General characterization of service.

(4) Does the condition or experience outweigh the discharge? **No.** The Board collectively determined that the severity of the BH condition (Major Depressive Disorder with Psychotic Features) more than likely mitigated the misconduct that led to the separation. However, a final determination could not be made due to the absence of the basis of separation and electronic medical files.

b. The applicant contends a preexisting mental condition, which became worse, led to the applicant's discharge. The Board considered this contention during proceedings,

but ultimately did not address it in detail due to an upgrade being granted based on the applicant's history of homelessness and length of service.

(1) The applicant contends being rated 100 percent service-connected disable for the condition, which led to the discharge. The Board considered this contention during proceedings, but ultimately did not address it due to an upgrade being granted based on the applicant's BH condition, history of homelessness, and length of service.

c. The Board determined that the characterization of service was inequitable based on the applicant's length of service and history of homelessness. The severity of the Major Depressive Disorder with Psychotic Features diagnosis was also considered. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board voted to not change the narrative reason, SPD, or RE-Code because the file was void of the specific reason for the discharge. However, the applicant may request a personal appearance hearing to address further 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:

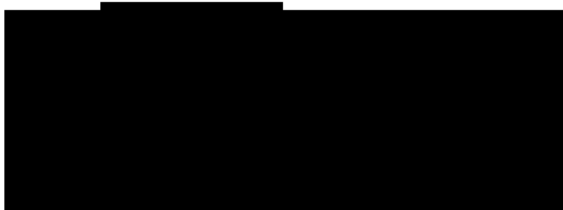
(1) The Board determined that the severity of the BH condition (Major Depressive Disorder with Psychotic Features) more than likely mitigated the misconduct that led to the separation. However, the Board determined the applicant's history of homelessness and length of service rose to a level warranting an upgrade.

(2) The Board voted to not change the narrative reason, SPD, or RE-Code because the file was void of the specific reason for the discharge.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214 / Separation Order:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD code to:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** AR 635-200

Authenticating Official:



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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001362

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