

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, at the time leading up to the discharge, the applicant was mentally unstable and doubtful of the surroundings. The applicant believed things and behaviors from the applicant's coworkers and family members were unnatural and sometimes intimidating. Not sure of what to do, the applicant panicked and decided to get as far as the applicant could, but soon realized running away was not the answer. The applicant called the command and the command gracefully brought the applicant back to the unit where the applicant had made a statement. Much to the applicant's surprise, the command asked the applicant what the applicant wanted to do. The applicant, feeling worn from the ordeals of the past week, requested to be released in a timely manner. The command gave the applicant options to choose from, one of which included early college release. The applicant, knowing it could take several months, chose the speedy route under Chapter 13 and two months later, the applicant finished out processing and was able to maintain a good relationship with the unit members and command during the entire process. The applicant appreciated the command's professionalism in helping the applicant transition. The applicant has been well born again and living with a new, loving family. The applicant desires to help a family member by giving the member the applicant's college benefits. The applicant requests consideration of the request.

b. **Board Type and Decision:** In a records review conducted on 18 April 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's adjustment disorder and delusions mitigating the applicant's failure to follow and order, disrespectful towards the superior commissioned officer and failure to report (FTR) basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and were proper and equitable and voted not to change them. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's adjustment disorder and delusions warranting consideration prior to reentry of military service.

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:** Unsatisfactory Performance / AR 635-200, Chapter 13 / JHJ / RE-3 / General (Under Honorable Conditions)
- b. **Date of Discharge:** 7 March 2013
- c. **Separation Facts:**

(1) Date of Notification of Intent to Separate: 6 February 2013

(2) Basis for Separation: The applicant was informed of the following reasons:

On 4 January 2013, the applicant failed to follow an order;

On 7 January 2013, the applicant was disrespectful towards the superior commissioned officer;
and

On 8 January 2013, the applicant failed to report for accountability formation and received a letter of concern for the actions off post.

(3) Recommended Characterization: Honorable

(4) Legal Consultation Date: On 6 February 2013, the applicant waived legal counsel / The applicant's AMHRR contains an Election of Rights, but the document is blank.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: Undated / General (Under Honorable Conditions) / The separation authority indicated the rehabilitative transfer requirement in accordance with AR 635-200, 1-16 did not apply to the action.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 1 July 2008 / 5 years

b. Age at Enlistment / Education / GT Score: 18 / HS Graduate / 115

c. Highest Grade Achieved / MOS / Total Service: E-4 / 25U10, Signal Support System Specialist / 4 years, 8 months, 7 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea, SWA / Iraq (15 March 2010 – 12 March 2011)

f. Awards and Decorations: ICM-2CS, ARCOM, AAM, AGCM, NDSM, GWOTSM, KDSM, ASR, OSR-2

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Memorandum, subject: Letter of concern for [Applicant], 8 January 2013, reflects the applicant's immediate commander issued the applicant a letter of concern because the applicant made statements regarding harming oneself, was missing from the unit, was disrespectful to the commander, and appeared to be delusional and irrational.

Company Grade Article 15, 17 January 2013, for behaving with disrespect toward Captain (CPT) M. R., the superior commissioned officer, by not responding to CPT M. R. when addressed (7 January 2013). The punishment consisted of a reduction to E-3.

Two Developmental Counseling Forms, 4 and 8 January 2013, for failing to follow an order and failing to report to duty.

Report to Suspend Favorable Personnel Actions (FLAG), 8 January 2013, reflects the applicant's favorable actions were suspended for pending involuntary separation.

Report of Mental Status Evaluation, 17 January 2013, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for post-traumatic stress disorder (PTSD) and mild traumatic brain injury (mTBI) with negative results.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Medical History, 11 January 2013, the applicant reported receiving treatment for anxiety while assigned in Korea in 2012 and having trouble sleeping since the tour in Iraq. The examining medical physician noted in the comments section the applicant's medical conditions.

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

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

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 Unsatisfactory Performance under chapter 13. The records must reflect he/she was formally counselled concerning the deficiencies and given a reasonable opportunity to overcome or correct them. Soldiers not in training status will be locally reassigned at least once between battalion or brigade size units, with a minimum of three months of duty in each unit. 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 3-7b 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.

(5) Chapter 13 contains the policy and outlines the procedures for separating individuals for unsatisfactory performance, and provides, in pertinent part, commanders will separate a member under this Chapter when, in the commander's judgment, the member will not develop sufficiently to participate satisfactorily in further training and/or become a satisfactory Soldier.

(6) Paragraph 13-8, prescribes for the service of Soldiers separated because of unsatisfactory performance will be characterized as honorable or under honorable conditions as warranted by their military records.

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 "JHJ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 13, unsatisfactory performance.

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 contends mental issues affected behavior, which led to the discharge. The applicant's AMHRR contains documentation which supports an in-service a diagnosis. The record shows the applicant underwent a medical examination on 11 January 2013, the examining physician noted a medical condition. The applicant underwent a mental status evaluation (MSE) on 17 January 2013, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The applicant had been screened for PTSD and mTBI. The MSE did not indicate a diagnosis. The medical examination and MSE were considered by the separation authority.

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: Adjustment Disorder, Delusions.

(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 the active duty medical record reveals that the applicant was experiencing delusions around the time of the misconduct that led to the separation.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's sole in service BH diagnosis is an Adjustment Disorder. However, the active duty medical record, as well as documentation from the applicant's command, reveals that the applicant was experiencing delusional thinking around the time of the misconduct that led to the separation. An individual who is experiencing delusional thinking is out of touch with reality and likely to experience impaired judgment and significant difficulty in daily functioning. There is direct evidence in the applicant's medical record to indicate that the applicant's delusional thinking contributed to the disrespect when applicant did not respond when being addressed, failing to follow an order to deliver a blackberry phone, and getting an FTR and being retrieved 72 miles from base. Therefore, all of the misconduct that led to the applicant's separation is mitigated due to evidence of delusional thinking of unknown etiology.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's Adjustment Disorder and Delusions outweighed the failure to follow and order, disrespectful towards the superior commissioned officer and FTR basis for separation.

b. Response to Contention(s):

(1) The applicant contends mental issues affected behavior, which led to the discharge. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's delusional thinking fully outweighing the applicant's failure to follow and order, disrespectful towards the superior commissioned officer and FTR basis for separation.

(2) The applicant contends an upgrade would allow educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

c. The Board determined that the characterization of service was inequitable based on the applicant's adjustment disorder and delusions mitigating the applicant's failure to follow and order, disrespectful towards the superior commissioned officer and FTR basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and were proper

and equitable and voted not to change them. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's adjustment disorder and delusions warranting consideration prior to reentry of military service. However, the applicant may request a personal appearance hearing to address further issues before the 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 to change the applicant's characterization of service to Honorable because the applicant's delusional thinking mitigated the applicant's misconduct of failure to follow and order, disrespectful towards the superior commissioned officer and FTR. Thus, the prior characterization is no longer appropriate.

(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.

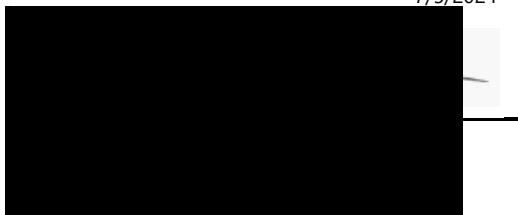
(3) The RE code will not change, due to applicant's BH diagnoses warranting consideration prior to reentry of military service.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: 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: No Change

Authenticating Official:

7/5/2024



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