

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 uncharacterized. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, the uncharacterized discharge was the result of being in AIT. The commander decided, rather than going through the lengthy procedure of a medical board, it was appropriate to process the applicant for an uncharacterized discharge. The applicant experienced a strong discomfort in the left thigh while running on the first day of physical training in AIT at Fort Belvoir. A bone scan at Bethesda revealed stress fractures in both femurs, and the applicant was required to use crutches, which generated several issues with peers. Other Soldiers and a platoon leader began mistreating the applicant. After having a mental health issue, the applicant was sent to mental health and was diagnosed with Anxiety and treated with medication. The mistreatment by other Soldiers and the platoon leader was particularly challenging for the applicant. The commander then discussed options for the applicant with the therapist. Discharge proceedings were initiated when the applicant and the commander agreed separation from the military was the best option. Because the applicant had never been in trouble and had always obeyed the Army rules and regulations, the applicant became upset and was offended by being placed in the same category as other Soldiers who misused drugs and were being separated with an uncharacterized discharge. The uncharacterized discharge is viewed as being a bad Soldier. The applicant further details the contentions in a self-authored statement provided with the application.

b. **Board Type and Decision:** In a records review conducted on 14 December 2023, the board carefully considered the applicant's request, supporting documents, evidentiary record, medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. By a 5-0 vote, the Board determined the discharge is inequitable due to changes to regulations since the applicant's discharge in September 2011. The Board determined that the correct authority is AR 635-200, paragraph 5-14a (Other Designated Physical or Mental Condition) with a corresponding SPD of JFV. The Board determined that the Uncharacterized discharge and RE Code are proper and equitable per Regulation.

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:** Personality Disorder / AR 635-200, Paragraph 5-13 / JFX / RE-3 / Uncharacterized

b. **Date of Discharge:** 28 September 2011

c. **Separation Facts:** The applicant's case separation file is void from the Army Military Human Resource Record (AMHRR).

- (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:** 28 March 2011 / 4 years
- b. **Age at Enlistment / Education / GT Score:** 22 / 14 years / NIF
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / None / 6 months, 1 day
- d. **Prior Service / Characterizations:** NA
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** None
- g. **Performance Ratings:** NA

h. Disciplinary Action(s) / Evidentiary Record: The applicant's DD Form 214 reflects the applicant did not complete the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 5-13, with a narrative reason of Personality Disorder. The DD Form 214 was not authenticated with the applicant's electronic signature. The applicant had no lost time.

Orders 270-1309, 27 September 2011, reflect the applicant was to be reassigned to the U.S. Army Transition Center, Fort Leonard Wood and discharged from the Army on 28 SEP 11.

- 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 293; DD Form 214; self-authored statement.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is pursuing an Associate Degree in Computer applications and obtained employment in IT with COMSO, Inc.

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 5-13, in effect at the time, provided that a Soldier may be separated for a personality disorder, not amounting to disability, when the condition interfered with assignment to or performance of duty. The regulation requires that the condition is a deeply ingrained maladaptive pattern of behavior of long duration that interferes with the Soldier's ability to perform military duties. The regulation also directs that commanders will not take action prescribed in this Chapter in lieu of disciplinary action and requires that the disorder is so severe that the Soldier's ability to function in the military environment is significantly impaired. Army policy requires the award of a fully honorable discharge in such case.

(5) Paragraph 5-13h, stipulates a characterization of a Soldier separated per this paragraph will be characterized as honorable unless an entry-level separation is required under chapter 3, section II. Characterization of service under honorable conditions may be awarded to a Soldier who has been convicted of an offense by general court-martial or who has been convicted by more than one special court-martial in the current enlistment, period of obligated service, or any extension thereof.

(6) 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), 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 identified the SPD code of "JFX" as the appropriate code to assign enlisted Soldiers who were discharged under the provisions of Army Regulation 635-200, Chapter 5-13, personality disorder.

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 waivable. 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 AMHRR is void of the specific facts and circumstances concerning the events which led to 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 electronic signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 5, paragraph 5-13, by reason of Personality Disorder, with a characterization of service of uncharacterized.

The applicant's AMHRR reflects the applicant was separated from the Army while in an entry-level status. Army Regulation 635-200, paragraph 3-9a states a separation will be described as entry-level with service uncharacterized if processing was initiated while a Soldier is in entry-level status. The applicant's AMHRR is void of the date the separation was initiated.

The applicant contends, upon experiencing a mental health issue, the applicant was sent to mental health and diagnosed with Anxiety and treated with medication. The applicant did not submit any evidence, other than the applicant's statement, to support the contention.

The applicant contends harassment and discrimination by fellow Soldiers and a member of the chain of command. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment.

The applicant contends obtaining employment and pursuing an Associate Degree. 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 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, Generalized Anxiety Disorder, and Depression.

(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, Generalized Anxiety Disorder, and Depression. The VA has also service connected the applicant's Generalized Anxiety Disorder.

(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, Generalized Anxiety Disorder, and Depression. The VA has also service connected the applicant's Generalized Anxiety Disorder. The applicant's conditions do not provide mitigation for an Uncharacterized discharge for a Personality Disorder, which was recommended and complied with separation regulations at the time. However, a narrative reason change to Chapter 5-14a, Other Designated Physical or Mental Condition, is recommended.

(4) Does the condition or experience outweigh the discharge? **No.** The board applied liberal consideration and concurred with the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's BH conditions outweighed the basis of separation. Thus, the discharge was proper and equitable.

b. Response to Contention(s):

(1) The applicant requests an upgrade to honorable. The Board voted not to change the applicant's characterization because Uncharacterized is the proper characterization since the service (182 days) was not long enough to be properly assessed. However, the board determined the discharge is administratively inequitable due to an update to AR 635-200, paragraph 5-14a (Other Designated Physical or Mental Condition) now reflecting an SPD of JFV. The previous SPD JFX is now obsolete.

(2) The applicant contends experiencing a mental health issue, being sent to mental health, being diagnosed with Anxiety, and being treated with medication. The Board considered this contention during proceedings but determined there was insufficient evidence of any arbitrary or capricious action taken by the Command. The applicant did not submit any evidence, other than the applicant's statement, to support the contention.

(3) The applicant contends harassment and discrimination by Soldiers and a member of the chain of command. The Board considered this contention during proceedings but determined there was insufficient evidence of any arbitrary or capricious action taken within or by the Command, and that this uncorroborated assertion did not outweigh the applicant's Uncharacterized discharge for a Personality Disorder as outlined in paragraphs 9a (3-4).

(4) The applicant contends obtaining employment and pursuing an Associate Degree. The Board considered this contention and commended the post-service pursuits. The Board found this contention has no bearing on the discharge or basis of separation under review.

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 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 not to change the applicant's characterization of service because there were no mitigating factors for the Board to consider. Since the applicant was discharged for failing medical procurement standards due to a service-limiting Personality Disorder prior to

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AIT completion, Uncharacterized is proper and equitable. 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 directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 5-14a, the narrative reason for separation (Other Designated Physical or Mental Condition) and the separation code to JFV.

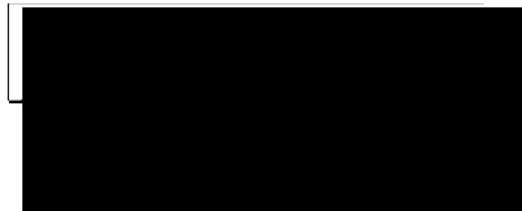
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: No Change
- c. Change Reason / SPD code to: (Other Designated Physical or Mental Condition)/JFV
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200, paragraph 5-14a

Authenticating Official:

1/2/2024



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