

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 reentry eligibility code change.

The applicant seeks relief contending, in effect, the government travel card was used to support the applicant's family because the applicant had no funds because of an Article 15 back pay, gas, and groceries. The applicant paid the card in full while serving in Afghanistan between 2013 and 2014.

b. **Board Type and Decision:** In a records review conducted on 4 January 2023, 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:** Secretarial Authority / AR 635-200, Paragraph 5-3 / JFF / RE-3 / Honorable

b. **Date of Discharge:** 26 August 2014

c. **Separation Facts:**

d. **Date of Notification of Intent to Separate:** 8 July 2014

(1) **Basis for Separation:** The applicant was informed of the following reasons: The applicant disobeyed an order given by Sergeant (SGT) A. E. and violated a lawful general order by wrongfully using a Government Travel Card (GTC) on three occasions.

(2) **Recommended Characterization:** General (Under Honorable Conditions)

(3) **Legal Consultation Date:** 9 July 2014

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

(5) **Separation Decision Date / Characterization:** Undated / General (Under Honorable Conditions)

4. SERVICE DETAILS:

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a. Date / Period of Enlistment: 30 June 2009 / 4 years, 18 weeks / The AMHRR is void of any enlistment contract retaining the applicant on active duty after the initial enlistment period.

b. Age at Enlistment / Education / GT Score: 19 / HS Graduate / 91

c. Highest Grade Achieved / MOS / Total Service: E-4 / 12B10, Combat Engineer / 5 years, 1 month, 27 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Germany, SWA / Afghanistan (27 July 2011 – 27 April 2012, 1 October 2013 – 14 April 2014)

f. Awards and Decorations: ACM-CS, ARCOM, AAM-2, MUC, AGCM, NDSM, GWOTSM, ASR, OSR-2, NATOMDL, CAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Citibank Government Card Service bill, 11 October 2013, reflects the applicant had a previous balance of \$1,527.78 and a new balance of \$1,256.78. On 1 October 2013, the applicant made a payment of \$200 by check and the check was returned.

Field Grade Article 15, 5 December 2013, for:

Willfully disobeying a lawful order from Sergeant A. E., a noncommissioned officer to contact SGT A. E., if there was a change in the applicant's authorized leave (20 August 2013);

Violating a lawful general regulation by using the Government Travel Charge Card to pay for personal expenses not incident to official travel (between 25 July and 21 August 2013);

Violating a lawful general regulation by wrongfully using the Government Travel Charge Card for cash withdrawals from ATM's during non-travel periods or periods not related to official government travel requirements (between 25 July and 21 August 2013); and

Violating a lawful general regulation by intentionally failing to pay undisputed charges in a timely manner.

The punishment consisted of a reduction to E-3 and extra duty and restriction for 45 days.

Bar to Reenlistment Certificate, 7 December 2013, reflects the immediate commander initiated a bar to reenlistment against the applicant for violating DA Form 31 (Request and Authority for Leave) parameters while on block leave, misuse of Government Travel Card, and failure to manage personal finances.

Memorandum for Record, 23 July 2014, reflects the applicant's immediate commander recommended the applicant's bar to reenlistment be removed because the command is initiating Chapter 14-12c proceedings.

Citibank Government Card Service bill, 11 January 2014, reflects the applicant had a previous balance of \$873.78 and a new balance of \$0. The last payment was made on 30 September 2013.

Numerous Developmental Counseling Forms, in part for:

Misusing government funds on multiple occasions,
Failing to overcome the bar to reenlist,
Pending administrative separation for improper use of government funds,
Performing to standard or above standard during the month of January 2014,
Failing to meet financial obligations,
Lying to a senior NCO, and
Being recommended for removing the Bar to Reenlistment to be separated from the service.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Mental Status Evaluation, 9 May 2014, 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 PTSD with negative results, and mild traumatic brain injury (mTBI) with positive results. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions. The applicant reported a concussion in 2011 for which the applicant was evaluated and cleared. However, the applicant reported symptoms during the mental status evaluation. The applicant was referred to the TB Clinic.

Report of Medical Examination, 27 May 2014, the examining medical physician noted in the comments section: History of TBI concussion, found to have negative neurological exam in October 2011, no further workup, cleared to separate / chapter.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149; 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 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 that 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.

(5) Chapter 5-3 (Chapter 15 current regulation) provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memorandums. Secretarial separation authority is normally exercised on a case-by-case basis.

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 "JFF" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5, paragraph 5-3, Secretarial Authority.

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 waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

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 a reentry eligibility code change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant requests a reentry eligibility (RE) code change. 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.

The applicant contends using the Government Travel Card to support the family but paid the card in full while deployed to Afghanistan. The applicant's AMHRR reflects the applicant did have a \$0 balance on the GTC, last payment made on 30 September 2013. 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'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 [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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Post Traumatic Stress Disorder, Traumatic Brain Injury.

(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 PTSD and TBI. Service connection establishes that the conditions 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's PTSD and TBI do not mitigate or excuse the applicant's violation of a lawful order and wrongful use of a Government Travel Credit Card. There is no natural sequela between PTSD or TBI and failing to obey an order to report a change to authorized leave or wrongfully using a Government Travel Card since neither condition interferes with the ability to distinguish between right and wrong and act in accordance with the right.

(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 PTSD and TBI outweighed the medically unmitigated offenses of violating of a lawful order and wrongful use of a Government Travel Credit Card on three occasions.

b. Response to Contention(s):

(1) The applicant requests a reentry eligibility (RE) code change. The Board considered this contention and determined that the applicant's service-connected behavioral conditions should receive a medical waiver prior to reenlistment. The Board voted to maintain the RE-code at 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

(2) The applicant contends using the Government Travel Card to support the family but paid the card in full while deployed to Afghanistan. The Board found that the applicant did repay the debt while deployed. The Board also found that the applicant received an Honorable characterization with a Secretarial Authority narrative reason for discharge from a previous Army Discharge Review Board. Therefore, further upgrade is not available.

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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 the 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 determined the discharge is proper and equitable as a prior ADRB upgraded the discharge characterization to Honorable and a narrative Reason of Secretarial Authority. Therefore, no further relief is available.

(2) The RE code will not change. The Board determined that the applicant's service-connected behavioral health conditions should receive a medical waiver prior to reenlistment. The Board voted to maintain the RE-code at RE-3, which is a waivable code. An RE Code of "3" indicates the applicant requires a waiver for reenlistment.

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:

2/15/2024

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