

1. Applicant's Name:

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:**

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is honorable. The applicant is being reconsidered for a change to reentry code.

The applicant seeks relief contending, in effect, experiencing Post Traumatic Stress Disorder (PTSD)-related symptoms. The applicant contends their discharge was inequitable because the applicant conduct was a result of untreated PTSD, and the applicant notified the Army twice. The applicant was honorably discharged from active duty, received a commendation medal for service as part of the combat team, and served in the National Guard for almost four years with no incidents of misconduct. The applicant contends, as a matter of propriety, the applicant's absence should have been medically excused because the applicant submitted medical documentation to the applicant's NCO and were told the applicant was excused from drills. The applicant's discharge was in error because proper notice was required but not given, and the applicant's commander was required to determine if any cogent or emergency reasons existed which prevented the member from attending. The applicant's discharge from the National Guard was inequitable because it was due to circumstances beyond their control. The applicant is currently receiving service-connected disability compensation.

b. **Board Type and Decision:** In a records review conducted on 9 January 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable because the applicant was previously granted the full relief requested. *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:** Other designated physical or mental conditions. / NGR 600-200, Paragraph 6-35c(6) / NA / RE-3 / Honorable

b. **Date of Discharge:** 29 May 2012

c. **Separation Facts:** The applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file. The discharge orders dated 1 Jun 2012 reflect that the applicant was discharged from the Connecticut Army National Guard for unsatisfactory participation.

(1) **Date Entrance Physical Standards Board (EPSBD) convened:** NIF

(2) **EPSBD Findings:** NIF

(3) Date Applicant Reviewed and Concurred with the Findings, and Requested Discharge without Delay: NIF

(4) Separation Decision Date / Characterization: NIF

d. Additional Relief: on 19 October 2017, the Connecticut Army National Guard amended the applicant's separation orders to reflect that the applicant was discharged with an Honorable characterization of service, a narrative reason of "Hardship or Religious Reason" in accordance with NGR-200, paragraph 6-35c(6) and AR 135-178 Chapter 6. The undated National Guard Bureau Form 22 reflects the applicant was discharged with a Honorable Discharge for "Other designated physical or mental conditions in accordance with NGR 600-200, paragraph 6-35c(6) and AR 135-178, Chapter 6 effective 29 May 2012.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 24 December 2008 / 8 years

b. Age at Enlistment / Education / GT Score: 20 / some college / 111

c. Highest Grade Achieved / MOS / Total Service: E-4 / 88M10, Motor Transport Operator / 3 years, 5 months 6 days

d. Prior Service / Characterizations: ARNG, 24 December 2008 – 24 May 2009 / NA
IADT, 25 May 2009 – 2 October 2009 / HD
ARNG, 3 October 2009 – 17 November 2009 / NA
AD, 18 November 2009 – 26 December 2010 / HD

e. Overseas Service / Combat Service: SWA / Afghanistan (4 February 2010 – 11 November 2010)

f. Awards and Decorations: ARCAM, MUC, ARCOM, CMSR, ACM-CS, NATOACSM, AGCM, NDSM, GWOTSM, ASR, OSR, AFSMMD, CAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Orders 153-008, 1 June 2012, reflects the applicant was reassigned to the USAR Control Group.

The applicant provided a Letter of Instruction- Unexcused Absence, 7 May 2012, reflects the applicant was absent from the scheduled Multiple Unit Training on 2 March 2012; 14 and 15 April 2012; 4 and 6 May 2012; without excusal by proper authority.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant Provided: Department of Veterans affairs letter, 12 April 2012, reflects the applicant is being treated for Anxiety and Depression, R/O PTSD.

F.M., Department of Veteran Affairs, 5 August 2014 reflects the applicant started treatment with the provider in February 2012. The applicant exhibited symptoms of Post-Traumatic Stress Disorder, such as; hyper vigilance, hyperarousal, avoidances, and mood deregulator. The applicant had episodes of flashbacks during the daytime and then also grappling with severe

insomnia. The applicant's presentation and mood were miserable, the applicant found it hard to leave the house, did not have motivation to do anything, and was in bed several hours a day. The applicant's work hours became less and less. It was evident the applicant needed to have more intensive treatment and was referred to the Vet Center for individual counseling and then would attend MHC for medication management.

Clinical Psychologist R.D., 16 August 2012, reflects the letter was written with the intent of verifying the applicant had been actively participating in pain management treatment with the provider since 10 May 2012, in addition to chronic pain in the applicant's back and neck. It was the opinion of the provider the applicant met criteria for a diagnosis of PTSD, chronic. Moreover, since the onset of the applicant's participation in the pain-management program, the applicant had been receiving mental health treatment aimed at helping the applicant to more effectively manage issues related to chronic pain as well as symptoms of PTSD. Of note, the applicant had been diagnosed with PTSD by multiple providers dating back to February of 2012

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293; legal brief and enclosures a through q.

6. POST SERVICE ACCOMPLISHMENTS: The applicant sought help for the applicant's mental health.

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 AR 135-91 (Service obligations, methods of fulfillment, participation requirements and enforcement procedures) paragraph 4-9 Documentary evidence a Soldier excused for a reason shown in paragraph 4-8 may be required to document the reason for the absence. If the unit commander requires this evidence, the Soldier will normally be notified within 14 days of the absence. Evidence submitted by the Soldier will be in the form of an affidavit when the absence was beyond the Soldier's control. Absence caused by sickness or injury requires certification from a physician or medical officer. The Soldier must furnish the required evidence within 15 days of the commander's request.

e. Army Regulation 135-178 (Enlisted Administrative Separations), prescribes the policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) Paragraph 2-9a prescribes an honorable characterization 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.

(2) Paragraph 2-9b, prescribes, if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as general (under honorable conditions). Characterization of service as general (under honorable conditions) is warranted when

significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

(3) Chapter 6, prescribes the reasons a Soldier may be separated for the convenience of the Government.

(4) Paragraph 6-7, the separation authority (para 1-10) may approve discharge under this paragraph on the basis of other physical or mental conditions not amounting to disability (AR 635-40) that potentially interfere with assignment to or performance of military duty. Such conditions may include, but are not limited to, chronic airsickness or seasickness, enuresis, sleepwalking, dyslexia, severe nightmares, claustrophobia, personality disorder, and other disorders manifesting disturbances of perception, thinking, emotional control or behavior sufficiently severe that the Soldier's ability to perform military duties effectively is significantly impaired.

(5) Paragraph 6-8, prescribes the service of a Soldier separated under this chapter will be characterized as honorable, unless an uncharacterized description of service is required by paragraph 2-11, or a characterization of general (under honorable conditions) is warranted under chapter 2, section III.

f. National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management), establishes standards, policies, and procedures for the management of the Army National Guard (ARNG) and the Army National Guard of the United States (ARNGUS) enlisted Soldiers in the functional areas of: Classification and Reclassification; Personnel Management; Assignment and Transfer, including interstate transfer; Special Duty Assignment Pay; Enlisted Separations; and Command Sergeant Major Program.

(1) Chapter 6 sets the policies, standards, and procedures for the separation of enlisted Soldiers from the ARNG/ARNGUS.

(2) Paragraph 6-8a, prescribes an honorable characterization 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 6-35c(6), provides for separation of enlisted Soldiers who other designated physical or mental conditions. Administrative separation board procedures per paragraph 6-32 are required.

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 is being reconsidered for a change to reentry code.

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 National Guard. The applicant's record does contain a properly constituted NGB Form 22 (National Guard Report of Separation and Record of Service), which was not authenticated with the applicant's electronic signature. The NGB Form 22, indicates the applicant was discharged under the provisions of NGR 600-200, Paragraph 6-35c(5)(a), by reason of other designated or mental conditions with a characterization of service of honorable.

The applicant contends the applicant's discharge was inequitable because the applicant's conduct was a result of untreated PTSD, the applicant notified the Army twice, and the applicant was experiencing PTSD-related symptoms. The applicant provided a Department of Veterans affairs letter, 12 April 2012, reflecting the applicant was treated for Anxiety and Depression, R/O PTSD. The applicant provided a letter from a Clinical Psychologist stating, 16 August 2012, the applicant had been actively participating in pain management treatment since 10 May 2012. In addition to chronic pain in the applicant's back and neck, it was the opinion of the psychologist, the applicant met the criteria for a diagnosis of Posttraumatic Stress Disorder (PTSD), chronic. Since the onset of their participation in the pain-management program, the applicant had been receiving mental health treatment aimed at helping the applicant to more effectively manage issues related to chronic pain and symptoms of PTSD. The third-party statement provided with the application reflects, the provider stated the initial clinical impression was the applicant was struggling from readjustment issues related to deployment because of traumatic experiences while on deployment. The AMHRR is void of a mental status report.

The applicant contends, as a matter of propriety, the applicant's absence should have been medically excused because the applicant submitted medical documentation to the applicant's NCO and was told they were excused from drills. The applicant's discharge was in error because proper notice was required but not given, and the applicant's commander was required to determine if any cogent or emergency reasons existed which prevented the member from attending. The applicant provided a letter from a counselor from the VA, 12 April 2012, reflecting the applicant was in active treatment for Anxiety and Depression, R/O PTSD; and advised the applicant was undergoing new treatment and being trialed on a new medication. The applicant's symptoms were such the provider advised the applicant not to attend drill at the time. The provider stated they would like the applicant to be dismissed until June and the applicant's status for attendance would be reassessed. Army Regulation 135-91 paragraph 4-9 Documentary evidence, a Soldier excused for a reason shown in paragraph 4-8 may be required to document the reason for the absence. If the unit commander requires this evidence, the Soldier will normally be notified within 14 days of the absence. Evidence submitted by the Soldier will be in the form of an affidavit when the absence was beyond the Soldier's control. Absence caused by sickness or injury requires certification from a physician or medical officer. The Soldier must furnish the required evidence within 15 days of the commander's request.

The applicant contends good service, including a combat tour.

The applicant contends seeking help for the applicant's mental health. 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? **No.** The Board determined that, based on the Board Medical Advisor opine, medical records, the applicant received an Honorable characterization of service and a change the narrative reason to "Condition, Not a Disability." As a result, the applicant's behavior health

conditions do not mitigate or excuse the applicant's discharge because the applicant's current discharge is based on the applicant's behavioral health conditions, not based on misconduct.

- (2) Did the condition exist or experience occur during military service? **N/A.**
- (3) Does the condition or experience actually excuse or mitigate the discharge? **N/A.**
- (4) Does the condition or experience outweigh the discharge? **N/A.**

b. Response to Contention(s):

(1) The applicant contends the applicant's discharge was inequitable because the applicant's conduct was a result of untreated PTSD, and the applicant notified the Army twice, they were experiencing PTSD-related symptoms. The Board considered this contention and determined the applicant received the granted the full relief requested. The Board further determined that the applicant's current RE Code is proper and equitable based on the need for the applicant's behavioral conditions to be reviewed prior to any reentry into military service.

(2) The applicant contends, as a matter of propriety, the applicant's absence should have been medically excused because they submitted medical documentation to their NCO and were told they were excused from drills. The applicant's discharge was in error because proper notice was required but not given, and the applicant's commander was required to determine if any cogent or emergency reasons existed which prevented the member from attending. The Board considered this contention and determined the applicant received the granted the full relief requested. The Board further determined that the applicant's current RE Code is proper and equitable based on the need for the applicant's behavioral conditions to be reviewed prior to any reentry into military service.

(3) The applicant contends good service, including a combat tour. The Board considered this contention and determined the applicant received the granted the full relief requested. The Board further determined that the applicant's current RE Code is proper and equitable based on the need for the applicant's behavioral conditions to be reviewed prior to any reentry into military service.

(4) The applicant contends seeking help for the applicant's mental health. The Board considered this contention and determined the applicant has an honorable discharge. The applicant seeking help for mental health is not a sufficient contention to support a change to the applicant's narrative reason and RE code due to the applicant's BH conditions warranting consideration prior to reentry into military service. Eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do 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 discharge is, at this time, proper and equitable, in light of 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 the applicant received a discharge with a Character of Honorable. Therefore, no further relief is available.

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AR20210001404

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, as the reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change, due to the need for the applicant's BH conditions to be reviewed prior to any reentry into military service.

10. BOARD ACTION DIRECTED:

- a. **Issue a New NGB Form 22a:** No
- b. **Change Characterization to:** No Change
- c. **Change Reason:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

Authenticating Official:

9/18/2024

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