

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 the period under review is honorable. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, being prepped for a medical discharge when the applicant's parent took ill. The applicant went AWOL to be with a parent until their death. After their parent's death the applicant returned to military control at Fort Knox. The applicant believes the mitigating circumstances surrounding their discharge should be considered in their request for an upgrade. As a result of their parent's death, the applicant's judgment was clouded. The applicant had behavioral issues after their return to military control and was later diagnosed with PTSD, severe depression, and anxiety. The applicant was also made aware their other parent had delayed getting help for their parent, which led to their death. The applicant just lost it at Fort Knox when a battle buddy committed suicide.

b. **Board Type and Decision:** In a records review conducted on 14 December 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-1 / Honorable

b. **Date of Discharge:** 17 August 2005

c. Separation Facts:

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

(2) **Basis for Separation:** The applicant was informed of the following reasons: AWOL from 22 December 2004 to 3 January 2005 and from 7 January 2005 to 20 April 2005.

(3) **Recommended Characterization:** Under Other Than Honorable Conditions

(4) **Legal Consultation Date:** 14 July 2005

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

(6) **Separation Decision Date / Characterization:** 9 August 2005 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 1 July 2004 / 3 years
- b. **Age at Enlistment / Education / GT Score:** 23 / GED / 105
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 21C10, Bridge Crewmember / 9 months, 22 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** Germany / None
- f. **Awards and Decorations:** NDSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Charge Sheet, 14 July 2005, reflects the applicant was charged with a violation of the UCMJ, Article 86:

Specification 1: On or about 22 December 2004, without authority, absent oneself from their organization, and did remain so absent until on or about 3 January 2005.

Specification 2: On or about 7 January 2005, without authority, absent oneself from their organization and did remain so absent until on or about 20 April 2005.

Four Personnel Action forms, reflect the applicant's duty status changed as follows:

From "OLV" to "AWOL," effective 22 December 2004.
From "AWOL" to "PDY," effective 3 January 2005.
From "OLV" to "AWOL," effective 7 January 2005; and
From "DFR" to "PDY," effective 20 April 2005.

- i. **Lost Time / Mode of Return:** 3 months, 23 days:

AWOL, 22 December 2004 – 2 January 2005) / Apprehended by Civil Authorities
AWOL, 7 January 2005 – 19 April 2005) / Surrendered to Military Authorities

- 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 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 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.

(6) 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 waiverable and nonwaiverable 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.

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 contends the mitigating circumstances surrounding their discharge should be considered in their request for an upgrade. The applicant received a Red Cross message stating their parent's death, was imminent and they were given very little time to be with them. The applicant went AWOL to be with their parent until their death. After their parent's death the applicant returned to military control at Fort Knox. The applicant's judgment was clouded. The applicant was charge with two specifications of AWOL. The applicant contends having behavioral issues after their return to military control and was later diagnosed with PTSD, severe depression, and anxiety. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR is void of a mental status evaluation.

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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: PTSD. Additionally, the applicant asserts Depression and Anxiety, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the 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 PTSD. Service connection establishes that the applicant's PTSD existed during military service. The applicant also self-asserted having Depression and Anxiety at the time of 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 is diagnosed and service connected by the VA for PTSD. Given the nexus between PTSD and avoidance, the AWOLs that led to the applicant's separation are mitigated. The applicant's discharge has already been upgraded by a previous board to HD with Secretarial Authority and an RE Code of 1. This indicates that the proper mitigation has already been applied. The applicant's asserted Depression and Anxiety are inconsequential given the full mitigation already applied for PTSD.

(4) Does the condition or experience outweigh the discharge? **No.** The Board concurred with the opinion of the Board's Medical Advisor in that the applicant's PTSD mitigates the basis of separation (AWOL). However, full mitigation has already been applied by a previous board, so no further relief is possible.

b. Prior Decisions Cited: AR20150007605

c. Response to Contention(s): The applicant contends having behavioral issues after their return to military control and was later diagnosed with PTSD, severe depression, and anxiety. The Board liberally considered this contention, but ultimately did not address it given full mitigation has already been applied.

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d. The Board determined that the discharge is, at this time, proper and equitable considering the current evidence of record. The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. 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.

e. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization. The applicant already has an Honorable discharge, so no further relief is possible.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts.

(3) The RE code will not change under the same pretexts.

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:

12/28/2023

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