

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, in 2018 (sic), an application for an upgrade was denied. The Army Physical Fitness Test (APFT) failures formed the basis for the discharge. The applicant believes there would have been a better chance of passing the APFT and earning more points if the current updated APFT standards had been in effect in 2012. The Army focused only on muscular strength and cardiovascular endurance in 2012. An upgrade would allow the applicant to receive the Montgomery GI Bill educational benefits and VA home loan to secure a home for the children. The applicant also suffered emotional trauma and was treated unethically by the chain of command after marrying and becoming pregnant. Despite having a pregnant profile, the applicant was made to perform strenuous physical training, work long hours in the motor pool while exposed to toxic fumes, and was harassed by the superiors. The applicant received punishment under Article 15 for refusing to perform the corrective rigorous physical training. Shoveling snow for extra duty caused the applicant to bleed. Because of the unethical treatment and stress the applicant endured, the child, who was delivered prematurely, currently suffers from a mixed developmental condition. The applicant was the best chaplain assistant on post and loved the job.

b. **Board Type and Decision:** In a records review conducted on 27 July 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, Chapter 15 / JFF / RE-3 / Honorable

b. **Date of Discharge:** 10 August 2012

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 27 June 2012

(2) **Basis for Separation:** Pursuant to AR 635-200, Chapter 13, Unsatisfactory Performance, the applicant was informed of the following reasons: The applicant failed four consecutive record Army Physical Fitness Tests; had multiple counts of disrespecting a commissioned officer; and multiple counts of failing to go at the time prescribed to the appointed place of duty.

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

(4) Legal Consultation Date: 27 June 2012

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 18 July 2012 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 23 February 2011 / 4 years

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

c. Highest Grade Achieved / MOS / Total Service: E-3 / 56M10, Chaplain Assistant / 1 year, 5 months, 18 days / The DD Form 214, block 18, should reflect member has not completed first full term of service.

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Alaska / None

f. Awards and Decorations: NDSM, GWOTSM, ASR

g. Performance Ratings: NA

/

h. Disciplinary Action(s) / Evidentiary Record: Fourteen Developmental Counseling Forms for various acts of misconduct and APFT failures.

A Developmental Counseling Form for exceptional chaplain assistant performance during an Airborne Operation crisis.

Army Physical Fitness Test Scorecard reflects the applicant failed record APFTs on 21 September, 27 October, and 16 December 2011, and on 9 January 2012.

Physical Profile, dated 2 March 2012, reflects the applicant had the following medical conditions: Normal pregnancy with expected date of delivery on 9 October 2012.

FG Article 15, dated 7 March 2012, for disobeying an order on 10 February 2012, and posting disrespectful comments about a chaplain onto Facebook on 11 February 2012. The punishment is NIF.

A Body Fat Content Worksheets reflect not being in compliance with the standards and was recommended for weight loss.

Report of Mental Status Evaluation, dated 13 June 2012, reflects the applicant was cleared for administrative separation. 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 and mTBI with negative results. There was no behavioral health diagnosis.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: VA Medical Center letter and medical records, dated 26 July 2021, rendered by a Psychiatrist, indicate the applicant was diagnosed with PTSD and Borderline personality disorder, and was being treated and prescribed medication. The records reflect the applicant was rated 50 percent service-connected for PTSD.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293; DD Form 214; and listed attachments. Additional evidence: VA Medical Records; Supplemental Social Security letter; third-party letters; counseling statements; email correspondence; and Active-Duty health records.

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 15 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 15, 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-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 contends an upgrade would allow the applicant to receive the Montgomery GI Bill educational benefits and secure a VA home loan. Eligibility for veterans' 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.

The applicant contends having suffered emotional trauma and was treated unethically by the chain of command after marrying and becoming pregnant. The applicant provided VA letter with medical records indicating diagnoses of PTSD and borderline personality disorder and a rating of 50 percent service-connected disability for PTSD. The applicant's AMHRR contains no documentation of any behavioral health diagnosis. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 13 June 2012, which indicates the applicant was mentally responsible and recognized right from wrong. The MSE does not indicate any diagnosis. The MSE was considered by the separation authority.

The applicant contends, despite having a pregnant profile, the applicant was made to perform strenuous physical training, work long hours in the motor pool while exposed to toxic fumes, and was harassed and treated unethically by the chain of command. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment and the unethical treatment. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends being the best chaplain assistant on post and loved the job. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

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: PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant is service connected for PTSD. Service connection establishes that applicant's PTSD existed during military service.

(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 is service connected for PTSD, which is a mitigating BH condition for applicant's Unsatisfactory Performance. Given the nexus between PTSD, avoidance, and difficulty with authority, applicant's PTSD mitigates the disrespect and FTRs. Applicant's service-connected trauma is associated with harassment and maltreatment by applicant's chain of command to include applicant's report that applicant's pregnancy profile was not followed. As such, applicant's PTSD also mitigates the multiple APFT failures. The applicant's RE Code should remain a 3 due to service connection for a PTSD diagnosis.

(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 PTSD outweighed the unsatisfactory performance due to 4 APFT failures basis for separation for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant contends an upgrade would allow the applicant to receive the Montgomery GI Bill educational benefits and secure a VA home loan. The Board considered this contention and determined that 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.

(2) The applicant contends having suffered emotional trauma and was treated unethically by the chain of command after marrying and becoming pregnant. The Board considered this contention and determined the current characterization of service is honorable with a narrative reason of Secretarial Authority, there is no further relief available with respect to characterization and narrative reason. Due to applicant's PTSD diagnosis the Board determined the RE-code is proper and equitable.

(3) The applicant contends, despite having a pregnant profile, the applicant was made to perform strenuous physical training, work long hours in the motor pool while exposed to toxic fumes, and was harassed and treated unethically by the chain of command. The Board considered this contention and determined the current characterization of service is honorable with a narrative reason of Secretarial Authority, there is no further relief available with respect to characterization and narrative reason. Due to applicant's PTSD diagnosis the Board determined the RE-code is proper and equitable.

(4) The applicant contends being the best chaplain assistant on post and loved the job. The Board considered this contention and determined the current characterization of service is honorable with a narrative reason of Secretarial Authority, there is no further relief available with respect to characterization and narrative reason. Due to applicant's PTSD diagnosis the Board determined the RE-code is proper and equitable.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001744

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 a prior ADRB has upgraded the discharge with a characterization of Honorable and a narrative reason of Secretarial Authority; therefore no further relief is available.

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

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

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:

12/29/2023

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