

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** [REDACTED]**1. 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 a change of the narrative reason for separation to reflect the applicant's Post Traumatic Stress Disorder diagnosis. .

The applicant seeks relief contending, in effect, having been improperly discharged from the Army in January 2003 for a personality disorder, and was suffering from PTSD. Because the military did not follow the rules or prerequisites for separation under the chapter, the separation for personality disorder was unjust and inequitable. The applicant was denied medical and disability benefits for PTSD. The VA has since granted the applicant 70 percent disability. The Korea foreign service ribbon and the AAM award should also be listed on the DD Form 214. The applicant was never given an MEB or PEB for the injuries sustained in the line of duty. The discharge should have been under AR 635-40 for PTSD and the injuries incurred.

b. Board Type and Decision: In a records review conducted on 1 August 2023, and by a 5-0 vote, the Board determined the narrative reason for the applicant's separation is inequitable based on the applicant's 13 year post-service VA diagnosed PTSD resulting from MST. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The Board determined that the reentry eligibility code is proper and equitable and voted not to change it.
Please see Section 9 of this document for more detail regarding the Board's decision.

(Board member names available upon request)

2. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Condition, Not a Disability / AR 635-200, Chapter 5-17 / JFV / RE-3 / Honorable

b. Date of Discharge: 31 January 2003

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 8 January 2003

(2) Basis for Separation: Pursuant to AR 635-200, Paragraph 5-13, the applicant was informed of the following reasons: The applicant was diagnosed with Borderline Personality Disorder (BPD), which was characterized in the DSM-IV as a pervasive pattern of instability of interpersonal relationships, self-image problems, mood disturbances, impulsive behaviors, inappropriate displays

of anger, and recurrent suicidal behavior, and the applicant represented a command liability and impairs the overall readiness of the unit.

(3) Recommended Characterization: Honorable

(4) Legal Consultation Date: On 8 January 2003, the applicant waived legal counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 16 January 2003 / Honorable

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 11 April 2002 / 4 years

b. Age at Enlistment / Education / GT Score: 19 / GED / 101

c. Highest Grade Achieved / MOS / Total Service: E-4 / 63B10, Light Wheeled Vehicle Mechanic / 3 years, 4 days

d. Prior Service / Characterizations: RA, 27 January 2000 – 10 April 2002 / HD

e. Overseas Service / Combat Service: Korea / None

f. Awards and Decorations: NDSM, ASR, AAM, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Developmental Counseling Form for initiating a separation action because of being at risk to engage in self-destructive behaviors.

Memorandum for the Commander, dated 5 November 2002, rendered by a Division Psychologist, reflects the applicant was evaluated for mental status. The evaluation reflected diagnoses of "Axis I – Adjustment Disorder with Mixed Anxiety and Depressed Mood; Alcohol Abuse" and "Axis II – Borderline Personality Disorder." There was no psychiatric disease or defect warranting disposition through the medical channels. The applicant could understand and participate in administrative proceedings and met medical retention requirements. The recommendations were for the chain of command to expeditiously as possible and to separate the applicant for Borderline Personality Disorder under AR 635-200, Chapter 5-13.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: The applicant's VA Personal Health Record, dated 28 December 2016, contains the following information: The applicant's rated disabilities was 70 percent service-connected Post-Traumatic Stress Disorder, and Treatment Plan Notes, dated in July 2016, reflect the applicant was being treated for "PTSD/MST" and diagnosis: "AXIS I Clinical Disorder" as PTSD, and significant depression and anxiety.

Attorney letter, dated 11 January 2022, reflects while representing the applicant, the requested change in discharge is to medical retirement by way of PTSD, and the applicant, who was raped

during military service, struggles to maintain consistent employment and living arrangements because of the trauma from the MST incident.

Third-party letter provided by a mental health provider reflects the applicant “suffers from a persistent and debilitating traumatic mental illness ... brought about by the events occurring during the military service.”

(2) AMHRR Listed: Evaluation described in previous paragraph 4h.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 with listed attachments and attorney letter with a third-party letter.

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 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. A general (under honorable conditions) discharge is normally inappropriate for individuals separated under the provisions of paragraph 5-14 (previously paragraph 5-17) unless properly notified of the specific factors in the service that warrant such characterization.

(5) Paragraph 5-14 (previously paragraph 5-17) specifically provides that a Soldier may be separated for other physical or mental conditions not amounting to a disability, which interferes with assignment to or performance of duty and requires that the diagnosis be so severe that the Soldier's ability to function in the military environment is significantly impaired.

(6) 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 memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides 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 identifies the SPD code of "JFV" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5-14 (previously Chapter 5-17), Condition, Not a Disability.

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 waiverable. 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 the narrative reason for the discharge needs changed to medical retirement. The applicant was separated under the provisions, at the time, of Chapter 5, paragraph 5-17, AR 635-200 with an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Condition, Not a Disability," and the separation code is "JFV." Army Regulation 635-8, Separation Processing and Documents, governs preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be exactly as listed in tables 2-2 or 2-3 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends being improperly discharged from the Army for personality disorder, while the applicant was suffering from PTSD. The applicant provided several medical documents showing a diagnosis of PTSD with depression and anxiety, and prescribed medication. Veterans Administration summary of benefits letter, dated 29 November 2016, reflects the applicant was rated 70 percent service-connected disability. The AMHRR shows the applicant underwent an independent mental status evaluation on 5 November 2002, which indicates the applicant met the retention standards of AR 40-501, Chapter 3, and there was no psychiatric disease or defect which warranted disposition through medical channels. The evaluation provided diagnoses of an adjustment disorder with mixed anxiety and depressed mood, alcohol abuse, and borderline personality disorder. The evaluation was considered by the separation authority.

The applicant contends because the military did not follow the rules or prerequisites for separation under the chapter, the separation for personality disorder was unjust and inequitable. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service by providing documentary evidence.

The applicant contends not being considered for an MEB or PEB for the injuries sustained in the line of duty and should have been discharged under AR 635-40 for PTSD and the injuries incurred. The evaluation provided by the Division Mental Health Psychologist found the applicant met the retention standards according to AR 40-501, Chapter 3, and there was no psychiatric disease or defect which warranted disposition through medical channels.

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'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 that the applicant was separated with a Ch 5-13, Personality Disorder, which a previous ADRB determined warranted a narrative reason change to Ch 5-17, Condition not amounting to a disability based on a change of policy that Soldiers diagnosed with a Personality Disorder with more 24 months or more of active duty service may be separated under Chapter 5-17. While the applicant provided evidence that the applicant was diagnosed by the VA with PTSD 13 years post-service resulting from a MST, the applicant was separated based on a medical condition not misconduct, which cannot be mitigated by the same or another medical condition that does not amount to a disability. Therefore, neither Borderline Personality Disorder or PTSD mitigates the applicant's Chapter 5-17 discharge.

(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 narrative reason for the discharge needs changed to medical retirement. The Board considered this contention but determined that this issue is outside the purview of the ADRB and would need to be considered by the Army Board for the Correction of Military Records. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 149 regarding this matter. A DD Form 149 may be obtained from a Veterans' Service Organization.

(2) The applicant contends being improperly discharged from the Army for personality disorder, while the applicant was suffering from PTSD. The Board liberally considered this contention and determined, based on the Board Medical Advisor opine, determined that the applicant was appropriately diagnosed with Borderline Personality Disorder at the time of separation IAW AR 635-200, paragraph 5-13. However, the Board determined that a narrative reason change is warranted based on the applicant's 13 year post-service VA diagnosed PTSD resulting from MST warranted a narrative reason change to "Secretarial Authority".

(3) The applicant contends because the military did not follow the rules or prerequisites for separation under the chapter, the separation for personality disorder was unjust and inequitable. The Board considered this contention during proceedings but ultimately did not address the contention because the Board determined that a narrative reason change is warranted based on

the applicant's 13 year post-service VA diagnosed PTSD resulting from MST warranted a narrative reason change to "Secretarial Authority".

(4) The applicant contends good service, by providing documentary evidence. The Board considered this contention during proceedings but ultimately did not address the contention because the Board determined that a narrative reason change is warranted based on the applicant's 13 year post-service VA diagnosed PTSD resulting from MST warranted a narrative reason change to "Secretarial Authority".

(5) The applicant contends not being considered for an MEB or PEB for the injuries sustained in the line of duty and should have been discharged under AR 635-40 for PTSD and the injuries incurred. The Board considered this contention but determined that this issue is outside the purview of the ADRB and would need to be considered by the Army Board for the Correction of Military Records..

c. The Board determined the narrative reason for the applicant's separation is inequitable based on the applicant's 13 year post-service VA diagnosed PTSD resulting from MST warranted a narrative reason change to "Secretarial Authority".. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The Board determined that the reentry eligibility code is proper and equitable.

d. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service as the applicant already holds an Honorable characterization of service and no further upgrade is available.

(2) The Board voted to change the reason for discharge to Secretarial Authority due to the applicant's 13 year post-service VA diagnosed PTSD resulting from MST, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JFF.

(3) The RE code will not change, as the current code of RE-3 is consistent with the procedural and substantive requirements of the regulation considering the applicant's behavioral health diagnoses. RE-3 applies to persons not considered fully qualified for reentry or continuous service at time of separation, but the disqualification is waiverable. 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.

10. BOARD ACTION DIRECTED:

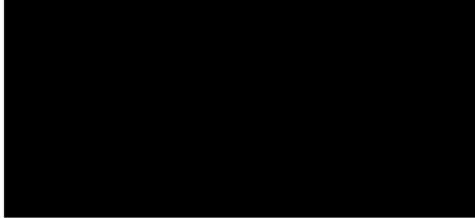
- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** No Change
- c. **Change Reason / SPD Code to:** Secretarial Authority / JFF
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** AR 635-200, Chapter 15

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001805

Authenticating Official:

1/30/2024



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