

1. Applicant's Name:

- a. **Application Date:** 7 October 2014
- b. **Date Received:** 13 October 2014
- 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 uncharacterized. The applicant requests an upgrade to honorable and the narrative reason changed from Condition, Not a Disability to Disability.

b. The applicant seeks relief contending, in effect, the discharge was because the applicant was injured during training. The VA Board of Appeal Decision, dated 17 August 2020, states the applicant has veteran status and their discharge is because of a disability and has service connection for that disability. The applicant requires an upgrade to obtain a Certificate of Eligibility for housing.

c. **Board Type and Decision:** In a records review conducted on 5 April 2021, 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:** Condition, Not a Disability / AR 635-200, Chapter 5-17 / JFV / RE-3 / Uncharacterized

b. **Date of Discharge:** 23 October 2014

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 10 October 2014

(2) **Basis for Separation:** The applicant was informed of the following reasons: Thigh pain that is significantly limiting the ability to train. Captain A__ D__, feels that separation from the military is best at this time. Diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood.

(3) **Recommended Characterization:** Uncharacterized

(4) **Legal Consultation Date:** On 9 October 2014, the applicant waived legal counsel.

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

(6) **Separation Decision Date / Characterization:** 14 October 2014 / Uncharacterized

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 13 March 2013 / 8 years
- b. **Age at Enlistment / Education / GT Score:** 18 / High School Graduate / 98
- c. **Highest Grade Achieved / MOS / Total Service:** E-1 / None / 7 months and 11 days
- d. **Prior Service / Characterizations:** IADT, 24 August 2014 - 22 October 2014 / UNC
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** None
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:**

(1) On 24 July 2014, the applicant was ordered to IADT with a report date of 25 August 2014.

(2) On 19 September 2014, the applicant was flagged for involuntary separation/field initiated (BA) effective 19 September 2014.

(3) Memorandum for record, (Applicant), dated 19 September 2014, shows the physical therapist recommended to the chain of command to consider the applicant for discharge under AR 635-200, chapter 5-17, because the applicant had a muscular imbalance with weakness causing continued pain that was significantly limiting the applicant's ability to train and further profiling would have made it very difficult for the applicant to graduate in a timely manner with peers.

(4) On 19 September 2014, the applicant was counseled by the Drill Sergeant, First Sergeant, and commander, for recommendation for discharge under AR 635-200, chapter 5-17 because of an adjust disorder.

(5) Memorandum, Separation Under AR 635-200, Chapter 5-17, Other Designated Physical or Mental Conditions, (Applicant), dated 1 October 2014, shows the commander initiated separation action to separate the applicant for thigh pain, Adjustment Disorder with Mixed Anxiety and Depressed Mood under AR 635-200, paragraph 5-17.

(6) The applicant provided a DD Form 214 (Certificate of Release or Discharge from Active Duty), that shows the applicant had not completed the first full term of service. The applicant was released from active duty training and discharged from the Reserve of the Army, and returned to the ARNG on 22 October 2014, with an uncharacterized character of service and a narrative reason of Condition, Not a Disability. The DD Form 214 was authenticated with the applicant's electronic signature.

(7) The applicant's National Guard Bureau Form 22 (Report of Separation and Record of Service), shows the applicant was discharged from the ARNG of AL and as a Reserve of the Army on 23 October 2014 under the authority of under AR 635-200, paragraph 5-17 and National Guard Regulation 600-200, paragraph 6-36y, discharge of Soldiers who were previously discharged from Reserve of the Army by the active component of the United States Army. The National Guard Bureau Form 22 was not authenticated with the applicant's signature.

(8) The applicant provided:

(a) VA Form 21-256EZ, Application for Disability Compensation and Related Compensation Benefits, dated 7 January 2015, showing the applicant filed a claim for left thigh IT band syndrome.

(b) VA Form 9, Appeal to Board of Veterans' Appeals, dated 20 March 2017, showing the appealed issues sent to them by their local VA office which was reviewed by an American Legion representative. The appealed issues is not annotated on the form.

(c) Board of Veterans' Appeals Decision, dated 17 August 2020, showing the board granted service connection for a left hip disorder, claimed as IT band syndrome. The applicant's appeal was approved because the applicant served on active duty for training from 24 August 2014 to 22 October 2014.

(d) VetraSpec shows the applicant was granted a 10 percent rating for left hip Trochanteric Pain Syndrome (includes Trochanteric Bursitis), effective 24 October 2014.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Mental Status Evaluation, dated 22 September 2014, shows the applicant self-referred themselves. The applicant was found unfit for duty because of a personality disorder or mental condition that did not amount to a medical disability. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The command was advised to consider the influence of these conditions. The applicant was diagnosed with an Adjustment Disorder with Mixed Anxiety and Depressed Mood and Left IT Band Syndrome. The applicant met psychiatric criteria for an expeditious administrative separation under chapter 5-17, AR 635-200

The ARBA's medical advisor reviewed DoD and VA medical records and not solely the document listed in 4j (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Two DD Forms 149; DD Form 214; Congress Release of Information; VA Form 21-22, Appointment of Veterans Service Organization as Claimant's Representative; two VA Forms 21-4138, Statement in Support of Claim; VA Form 21-256EZ, Application for Disability Compensation and Related Compensation Benefits; VA Form 9, Appeal to Board of Veterans' Appeals; American Legion Appeal Pre-Certification Review; Board of Veterans' Appeals Decision; and VetraSpec, VA Rating.

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 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(1) 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.

(2) Paragraph 3-9 states a separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status.

(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) Glossary prescribes entry-level status for ARNGUS and USAR Soldiers begins upon enlistment in the ARNG or USAR. For Soldiers ordered to IADT for one continuous period, it terminates 180 days after beginning training. For Soldiers ordered to IADT for the split or alternate training option, it terminates 90 days after beginning Phase II advanced individual training (AIT). (Soldiers completing Phase I BT or basic combat training remain in entry-level status until 90 days after beginning Phase II.)

e. Army Regulation 635-5-1 (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:

(1) 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.

(2) 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.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

8. SUMMARY OF FACT(S): The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. The applicant requests an upgrade to honorable and the narrative reason changed from Condition, Not a Disability to Disability. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR includes evidence the applicant, while in training status, was evaluated by competent medical authority and determined the applicant had a muscular imbalance with weakness causing continued pain that was significantly limiting the applicant's ability to train and further profiling would have made it very difficult for the applicant to graduate in a timely manner with peers. A Report of Mental Status Evaluation, dated 22 September 2014, shows the applicant was diagnosed with an Adjustment Disorder with Mixed Anxiety and Depressed Mood and Left IT Band Syndrome.

c. The applicant's NGB Form 22 shows the applicant served 7 months and 11 days. The applicant was discharged on 23 October 2014 under the provisions AR 635-200, paragraph 5-17 and National Guard Regulation 600-200, paragraph 6-36y, with a characterization of service of uncharacterized.

d. AR 635-200, 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.

e. The applicant contends, in effect, the narrative reason for the discharge should be changed from Condition, Not a Disability to Disability. The applicant was separated under the provisions, at the time, of Chapter 5, paragraph 5-17, AR 635-200 with a uncharacterized 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 (SPD Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

f. The applicant contends, in effect, the discharge was because the applicant was injured during training. The AMHRR contains a memorandum for record, (Applicant), dated 19 September 2014, that shows the physical therapist informed the commander that the applicant had a muscular imbalance with weakness causing continued pain that was significantly limiting the applicant's ability to train and further profiling would have made it very difficult for the applicant to graduate in a timely manner with peers. The physical therapist recommended separation under AR 635-200, chapter 5-17.

g. The applicant contends, in effect, the VA Board of Appeal Decision, dated 17 August 2020, states the applicant has veteran status and their discharge is because of a disability and has service connection for that disability.

(1) The applicant provided a VetraSpec printout that shows the applicant was granted a 10 percent rating for left hip Trochanteric Pain Syndrome (includes Trochanteric Bursitis), effective 24 October 2014.

(2) The AMHRR contains a memorandum, Separation Under AR 635-200, Chapter 5-17, Other Designated Physical or Mental Conditions, (Applicant), dated 1 October 2014, shows the commander initiated separation because the applicant had thigh pain that was significantly limiting the ability to train as well as a diagnosis for Adjustment Disorder with Mixed Anxiety and Depressed Mood.

h. The applicant contends an upgrade of the discharge would assist with obtaining a Certificate of Eligibility for housing. Eligibility for veteran's benefits 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.

i. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

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 DoD and VA medical records and found the applicant was separated with an uncharacterized discharge under chapter 5-17 due to Left Iliotibial (IT) Band Syndrome and Adjustment Disorder with mixed anxiety and depressed mood. As no misconduct occurred while applicant was on active duty, there is no case for mitigation under liberal consideration.

(2) Did the condition exist or experience occur during military service? **No.** Applicant was diagnosed with Adjustment Disorder while on active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's Uncharacterized Chp 5-17 separation was proper and equitable. Record review indicates that the applicant suffered from two conditions, a Behavioral Health condition, Adjustment Disorder with mixed anxiety and depressed mood, and Left Iliotibial (IT) Band Syndrome, both of which resulted in him being unable to complete his military training. Iliotibial Band Syndrome is not considered a permanent condition and generally responds to appropriate treatment. At time of separation, the Iliotibial Band Friction Syndrome did not fail medical retention standards IAW AR 40-501 chapter 3. The condition did not constitute a disability under the provisions of AR 635-40 and therefore did not warrant entry into the Disability Evaluation System. The applicant is currently 10% service connected by the VA for limited extension of the knee for which the applicant feels the applicant should receive military medical disability. Of note, VA examinations

are based on different standards and parameters; they do not address whether a medical condition was a ratable condition during a period of military service. Therefore, a VA disability rating does not indicate failure to meet Army retention standards resulting in referral to IDES at the time of service. Based on the documentation available for review, there is no indication that any omission or error occurred that would warrant referral to the IDES process. In summary, the applicant's separation process was proper, equitable and free of error.

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s):

(1) The applicant contends, in effect, the narrative reason for the discharge should be changed from Condition, Not a Disability to Disability. The Board considered this contention and determined in accordance with AR 635-200 that, based on the applicant's official record, the applicant was separated while in an entry level status and an Uncharacterized Discharge is the proper characterization of service except when the DCS, G-1 determines that an Honorable Discharge is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

(2) The applicant contends, in effect, the discharge was because the applicant was injured during training. The Board considered this contention and determined in accordance with AR 635-200 that, based on the applicant's official record, the applicant was separated while in an entry level status and an Uncharacterized Discharge is the proper characterization of service except when the DCS, G-1 determines that an Honorable Discharge is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

(3) The applicant contends, in effect, the VA Board of Appeal Decision, dated 17 August 2020, states the applicant has veteran status and their discharge is because of a disability and has service connection for that disability. The Board considered this contention and determined that the criteria used by the VA in determining whether a former servicemember is eligible for benefits are different than that used by the Army when determining a member's discharge characterization. After liberally considering all the evidence, including the VA determination, the Board found that the applicant had unmitigated basis for separation.

(4) The applicant contends an upgrade of the discharge would assist with obtaining a Certificate of Eligibility for housing. The Board considered this contention but does not grant relief to obtain Certificates of Eligibility for Housing or enhance housing opportunities.

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 voted not to change the applicant's characterization of service because, in accordance with AR 635-200 and based on the applicant's official record the applicant was separated while in an entry level status and Uncharacterized discharge is the proper characterization of service except when the DCS, G-1 determines that an Honorable discharge is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210005937

(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, as the current code is consistent with the procedural and substantive requirements of the regulation.

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:

4/24/2024

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