

1. Applicant's Name:

- a. **Application Date:** 15 October 2020
- b. **Date Received:** 20 October 2020
- 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 honorable. The applicant requests a RE code change from RE-3 to RE-1.

b. The applicant seeks relief contending, in effect, they received a RE-3 from the TX Army National Guard (ARNG) for rheumatoid arthritis due to the nature of a low immune system. The Trinity Vista Dermatology informed the applicant that they was misdiagnosed and that they actually have a mild case of psoriasis. The applicant has no symptoms and does not have "flare ups" and can fully function without medication. Because of this finding and having already served 13 years between the active Army and ARNG, the applicant would like to continue to serve their country.

c. **Board Type and Decision:** In a records review conducted on 8 May 2024, 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:** Medically unfit for retention per AR 40-501 / Chapter 6, paragraph 6-35I(8), NGR 600-200 / NA / RE-3 / Honorable

b. **Date of Discharge:** 9 December 2013

c. **Separation Facts:**

- (1) **Date of the Physical Evaluation Board Proceedings:** NIF
- (2) **Basis for Separation:** NIF
- (3) **Recommended Characterization:** NIF
- (4) **Legal Consultation Date:** NIF
- (5) **Administrative Separation Board:** NA
- (6) **Separation Decision Date / Characterization:** NIF

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 26 November 2013 / NIF

b. **Age at Enlistment / Education / GT Score:** 26 / High School Graduate / 96

c. Highest Grade Achieved / MOS / Total Service: E-5 / 12B20, Combat Engineer / 12 years and 9 months

d. Prior Service / Characterizations: RA, 10 March 2004 - 25 November 2013 / HD

e. Overseas Service / Combat Service: Germany, SWA / Iraq (28 June 2006 - 28 September 2007; 20 January 2009 - 18 January 2010) / Afghanistan (25 July 11 - 27 June 2012)

f. Awards and Decorations: ACM-CS, ICM-3CS, PH, ARCOM-4, AAM-4, JMUA, MUC, VUA, ASUA-2, AGCM-3, NDSM, GWOTSM, NCOPDR-3, ASR, OSR-4, NATOMDL, CAB

g. Performance Ratings: 6 May 2015 - 4 May 2016 / Highly Qualified

h. Disciplinary Action(s) / Evidentiary Record:

(1) Orders 174-031, 23 June 2017, shows the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 9 December 2016 from the ARNG.

(2) The applicant's NGB Form 22 (Report of Separation and Record of Service), shows the applicant was discharged on 9 December 2016, under the authority of National Guard Regulation (NGR) 600-200, chapter 6, paragraph 6-35L (8), with a narrative reason of Medically Unfit for Retention per AR 40-501 (Standards of Medical Fitness). The NGB Form 22 was not authenticated with the applicant's electronic signature.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149; Trinity Vista Dermatology 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 Service member discharged from active military service within 15 years of the Service member'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. NGR 600-200 (Enlisted Personnel Management), establishes standards, policies, and procedures for the management of the ARNG and the 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 6-10, Service will be described as uncharacterized if separation processing is initiated while a Soldier is in an entry level status.

(4) Paragraph 6-34, prescribes Reentry Eligibility codes are determined at separation. They provide information concerning the Soldier's service in the ARNG, which will be considered upon future enlistment. If a Soldier will receive a discharge under other than honorable conditions, and the reason for discharge is non-waivable for enlistment, the RE code will be RE 4. If the reason for separation is waivable, the RE code will be RE 3. If a Soldier receives a bad conduct or dishonorable discharge, the RE code is RE 4. Table 6-1 defines the differences between RE codes: RE-4 Applies to a person who is: Ineligible for enlistment.

(5) Chapter 6-35 prescribes for the separation/discharge from State ARNG and/or Reserve of the Army and the reasons, applicability, and codes for administrative separation or discharge from the Reserve of the Army, the State ARNG only, or both. These reasons may be used for separation from the State ARNG only.

(6) Paragraph 6-35I defers to AR 135-178 (Enlisted Administrative Separations), Chapter 14 and for the following reason for separation: Medically unfit for retention per AR 40-501, chapter 3. Commanders, who suspect that a Soldier may not be medically qualified for retention, will direct the Soldier to report for a complete medical examination per AR 40-501. If the Soldier refuses to report as directed, see paragraph 6-36t. Commanders who do not recommend retention will request the Soldier's discharge. When medical condition was incurred in line of duty, the procedures of AR 600-8-4 (Line of Duty Policy, Procedures, and Investigations) will apply. Discharge will not be ordered while the case is pending final disposition. This paragraph also includes those Soldiers who refuse or are ineligible to reclassify into a new MOS or ineligible for a non-regular retirement. RE 3. LC: MG, if Soldier is not eligible for non-regular retirement. LC: XM if eligible for 15, but fewer than 20 non-regular retirement or LC: CC if eligible for 20 years non-regular retirement.

e. 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 waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaiverable 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 a RE code change from RE-3 to RE-1. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR is void of the specific facts and circumstances concerning the events which led to the discharge from the ARNG. 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 applicant's NGB Form 22 indicates the applicant was discharged under the provisions of NGR 600-200, Chapter 6, paragraph 6-35l(8), by reason of being medically unfit for retention per AR 40-501, with a characterization of service of honorable.

c. The applicant requests a RE code change from RE-3 to RE-1 to continue to serve their country. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on AR 601-210, the applicant was appropriately assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of RE codes if appropriate.

d. The applicant contends, in effect, that they was discharged for rheumatoid arthritis due to the nature of a low immune system. Trinity Vista Dermatology informed the applicant that they was misdiagnosed and that they actually have a mild case of psoriasis that does not affect the skin like others. The applicant has no symptoms and does not have "flare ups" and can fully function without medication. The applicant provided a letter from Trinity Vista Dermatology, 15 October 2020, that states after taking into account the applicant's clinical history and performing a skin biopsy, they was diagnosed with psoriasis and psoriatic arthritis. The applicant's blood work was negative for rheumatoid factor and CCP. Although there can be seronegative rheumatoid arthritis patients, their findings favor a diagnosis of psoriatic arthritis over rheumatoid arthritis.

e. 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.** While the applicant has been diagnosed with several potentially mitigating Behavioral Health conditions (Post-Traumatic Stress Disorder, Concussion, Cerebral Contusion, Adjustment Disorder with anxiety and depressed mood, Traumatic Brain Injury), the applicant is

not requesting discharge upgrade. Rather, the applicant is requesting an RE code change from RE3 to RE1.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the diagnoses of Post-Traumatic Stress Disorder, Traumatic Brain Injury, Concussion and Adjustment Disorder with anxiety and depressed mood were made while applicant was on active duty.

(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.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's RE code remain 3 given that applicant has been diagnosed with Traumatic Brain Injury and Post-Traumatic Stress Disorder, is 70% service connected for Post-Traumatic Stress Disorder and, as per the applicant's civilian medical documentation, the applicant has been diagnosed with psoriasis and psoriatic arthritis for which the applicant is taking a biologic medication (Taltz). Prudent medical judgment dictates that, in order for the applicant to re-enter active duty, the applicant will need to obtain a waiver for these three conditions first.

b. Response to Contention: The applicant contends, in effect, that they were discharged for rheumatoid arthritis due to the nature of a low immune system. Trinity Vista Dermatology informed the applicant that they were misdiagnosed and that they actually have a mild case of psoriasis that does not affect the skin like others. The applicant has no symptoms and does not have "flare ups" and can fully function without medication. The Board considered this contention and voted to maintain the RE-code of a RE-3, which is a waivable code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. 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.

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 found the re-entry code associated with the Honorable characterization proper and equitable voted not to change the re-entry code despite applying liberal consideration of all the evidence before the Board. The applicant has been diagnosed with Traumatic Brain Injury and Post-Traumatic Stress Disorder, is 70% service connected for Post-Traumatic Stress Disorder and, as per the applicant's civilian medical documentation, the applicant has been diagnosed with psoriasis and psoriatic arthritis for which the applicant is taking a biologic medication (Taltz). Prudent medical judgment dictates that, in order for the applicant to re-enter active duty, the applicant will need to obtain a waiver for these three conditions first.

(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.

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AR20210006113

(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: No

- a. Issue a New DD-214 / Separation Order: No Change
- 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:

12/9/2024

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
UOTH – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs