

1. Applicant's Name:

- a. **Application Date:** 16 February 2021
- b. **Date Received:** 18 February 2021
- c. **Counsel:**

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is honorable. The applicant requests a change of their reentry code of "RE-3" to "RE-1."

(2) The applicant, through counsel, seeks relief stating the applicant served honorably and with distinction during their Army service. When the applicant had a permanent change of station to Joint Base Elmendorf Richardson (JBER), Alaska, they and their leadership suffered from a severe personality conflict and the applicant began to receive numerous counseling from their command. They received a Bar to Continued Service for substandard personal appearance, failure to follow orders, difficulties with fellow Soldiers, noncompetitive for promotion, slow rank progression resulting from a pattern of marginal conduct or performance and a lack of potential to become a leader. On 3 August 2020, they were discharged with an honorable characterization of service; however, their reentry code was "RE-3."

(3) It is respectfully submitted that the applicant's command made an error in discretion by discharging them with a RE-3 reentry code. Their military records clearly and convincingly demonstrate they were an outstanding prior to being stationed at JBER. However, the applicant and their command at JBER suffered from a severe case of personality conflict and the command took every opportunity possible to create a "paper trail" against them. They did not receive any meaningful feedback on their performance or an opportunity to overcome any perceived deficiencies in their performance until May 2019, at which point they had already been recommended for a Bar to Reenlistment.

(4) It is respectfully submitted the character letters and the applicant's statement provide an accurate portrayal of their true character, commitment, and ability to successfully serve in the United States military.

b. Board Type and Decision: In a records review conducted on 28 February 2024, and by a 5-0 vote, the board denied the request upon finding the separation was both proper and equitable.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Completion of Required Active Service / Army Regulation 635-200, Chapter 4 / KBK / RE-3 / Honorable

b. Date of Discharge: 3 August 2020

c. Separation Facts: The applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file. However, the applicant provided documents which are described below in 3c (1) through (6).

(1) Date of Notification of Intent to Separate: 15 November 2019

(2) Basis for Separation: received a Bar to Continued Service on 28 January 2019, after 6 months, failed to overcome the Bar to Continued Service that was imposed.

(3) Recommended Characterization: General (Under Honorable Conditions), under the provisions of Army Regulation 635-200, Chapter 13 (Unsatisfactory Performance)

(4) Legal Consultation Date: 26 November 2019

(5) Administrative Separation Board: On 26 November 2019, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon their separation being suspended, which is an option for the separation authority, until August 2020, when they achieve their Expiration Term of Service (ETS).

(6) Separation Decision Date / Characterization: NIF

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 4 August 2015 / 4 years

b. Age at Enlistment / Education / GT Score: 29 / master's degree / 108

c. Highest Grade Achieved / MOS / Total Service: E-5 / 92R2P, Parachute Rigger / 8 years, 8 months, 3 days.

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: ARCOM, AAM, AGCM-2, NDSM, NCOPDR, ASR, OSR

g. Performance Ratings: 1 December 2014 – 30 November 2015 / Marginal
1 December 2015 – 30 November 2016 / Qualified
30 November 2016 – 29 May 2017 / Highly Qualified
16 June 2017 – 15 June 2018 / Not Qualified
29 September 2018 – 28 September 2019 / Not Qualified

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 28 March 2013 the applicant was awarded the Army Achievement Medal for outstanding achievement covering the period 8 January 2013 to 29 March 2013.

(2) Headquarters, U.S. Army Maneuver Center of Excellence Orders 335-34424, dated 1 December 2014, reflects the applicant's promotion to the rank/grade of sergeant (SGT)/E-5, effective that date.

(3) A DA Form 2166-8 (NCO Evaluation Report), covering the period 1 December 2014 through 30 November 2015 shows in:

- Part IV (Army Values/Attributes/Skills/Actions) – their rater marked "No" for "Duty" and commented, in part, "good Soldier, but fails to self-improve by applying sound personal management skills."
- Part IVd (Leadership) – their rater marked "Needs Improvement (Some)" and commented, in part – "failed to perform appointed duties; ordered an unqualified subordinate to accomplish mission" and "occasional blatant challenge of authority affected [applicant's] ability to make sound decisions and to lead Soldiers"
- Part IVf (Responsibility & Accountability) – their rater marked "Need Improvement (Some)" and commented, in part, "was entrusted with our most critical and essential tasks but disappointed [applicant's] mentors
- Part IVi (Rater Overall Performance) – their rater rated their overall performance as "Marginal"
- Part V (Senior Rater Overall Potential) – their senior rater commented –
 - do not recommend for promotion at this time; with further mentorship and training this Soldier may be ready for greater responsibility
 - do not recommend for NCOES [NCO Education System] at this time
 - demonstrated weak potential for continued military service
- Part Vc (Senior Rater Overall Performance) – their senior rater rated their overall performance as "Successful" "3"
- Part Vd (Senior Rater Overall Potential) – their senior rater rated their overall potential as "Superior" "3"

(4) Headquarters, U.S. Army Maneuver Center of Excellence Orders 16158-14, dated 6 June 2016, reflects the applicant's permanent change of station to JBER, Alaska, with a reporting date of 10 July 2017.

(5) A DA Form 2166-9-1 (NCO Evaluation Report (SGT)), covering the period 1 December 2015 through 30 November 2016, show in –

- Part IVd (Presence) – their rater marked "Did Not Meet Standard" and commented, in part, "displayed lack of military bearing; multiple instances of disrespect towards senior NCOs"
 - Rater Overall Performance – their rater commented "rated #5 out of 5 SGTs I currently rate" and "showed improvement towards the later part of the rating period; requires development through experience"
 - Part V (Senior Rater Overall Potential) – their senior rater rated their overall potential as "Qualified" and commented, in part, "Not ready for the next leadership school at this time; requires additional experience and training"

(6) A DA Form 2166-9-1, covering the period 30 November 2016 through 29 May 2017, show in Part V (Senior Rater Overall Potential) their senior rater rated their potential as "Highly Qualified" and commented "[Applicant] is #3 out of 5 Sergeants I Senior Rate. [Applicant] is a hard working NCO and will make an outstanding Staff Sergeant. [Applicant] possesses great potential from promotion; continue to assign to positions of increased responsibility. Promote with peers and send to Advanced Leader Course [ALC] when available."

(7) On 12 June 2017 the applicant was awarded the Army Commendation Medal for outstanding meritorious service, covering the period 11 April 2013 to 10 June 2017.

(8) Two DA Forms 4856 (Developmental Counseling Form), dated 19 January 2018 and 12 February 2018, reflects the applicant receive counseling, by their section sergeant, for not

being recommended to the promotion board. Their section sergeant stated the applicant's performance in the last NCO of the month board was not up to par with the standards that an NCO should display. The applicant's uniform was not up to standard, and their lack of basic military knowledge showed that they aren't ready for the next level. The applicant agreed with the counseling and signed the form on 28 January 2018. In the Assessment block, it reflects the applicant did not make time to study for the board as they were already engaged in college courses.

(9) A DA Form 4856, dated 2 April 2018, reflects the applicant received event oriented counseling from their section sergeant for a poor performance at the promotion board. The applicant agreed with the counseling and signed the form on 4 April 2018.

(10) A DA Form 2166-9-1, covering the period 16 June 2017 through 15 June 2018,

- Part IVd (Presence) – their rater marked "Did Not Meet Standard" and commented, in part, "does not take initiative as a leader to achieve mission when unsupervised"
- Part IVf (Leads) – their rater marked "Did Not Meet Standard" and commented, in part, "failed to inform [Applicant's] leadership of the where about of [Applicant's] Soldiers on multiple occasions, requires more experience applying daily Soldier leadership skills"
- Rater Overall Performance – their rater commented, "performed at expected level, did not distinguish [themselves] from [Applicant's] peers; maintained professional ism and poise, but lacked the motivation to lead" and "Soldier accomplished assigned tasks; with detailed instruction and supervision"
- Part V (Senior Rater Overall Potential) – their senior rater rated their overall potential as "Not Qualified" and commented –
 - [Applicant] needs to take personal initiative to bring [themselves] to the competency level of [Applicant's] current rank
 - [Applicant] should not be sent to any military school until [Applicant] has addressed [Applicant's] shortcomings
 - Do not promote at this time; [Applicant] is not ready for ALC at this time

(11) Two DA Forms 4856, dated 17 January 2019, reflects the applicant received event oriented counseling by their platoon sergeant and company commander, for failure to follow instructions and failure to obey a lawful order. The Key Points of Discussion states, on 7 January 2019, the applicant was informed that they were not going on a TDY trip to Japan. On 8 January 2019 the applicant decided to go on the TDY trip anyway. They were marked as Failure to Report to formation on 8 January 2019. The applicant was informed that this is a failure to follow instruction/order which is punishable under Article 92 of the Uniform Code of Military Justice. Their company informed the applicant that they will be removed from their leadership position until they show they have the ability to follow and execute given orders. They will be reevaluated in 6 months on their ability. The applicant disagreed with the information stating –

(a) They were not aware they were not going to the TDY trip to Japan. They were only told that their leadership thought they were scratched, and failed to contact them of that until the day before they were supposed to leave.

(b) In addition, their [missing word] has shown a pattern of failing to tell them vital information and [illegible] take accountability for the missing detail that would had prevented them from making the mistake that had occurred. They had an order to go to the Japan TDY and they communicated with their leadership of where they were and what they were doing.

(12) A DA Form 4856, dated 30 January 2019, reflects the applicant received initial counseling for a Bar to Reenlistment and with a plan of action, with specific tasks to complete for the removal of the Bar to Reenlistment. The applicant agreed with the information and signed the form on 5 February 2019.

(13) A DA Form 4126 (Bar to Continued Service), dated 6 February 2019, reflects the applicant received a Bar to Continued Service, with the reason stated as; substandard personal appearance, cannot follow orders, difficulties with fellow Soldiers, noncompetitive for promotion, slow rank progression resulting from a pattern of marginal conduct or performance, and a lack of potential to become a supervisor.

(14) A memorandum, 241st Brigade Aerial Delivery Support Company, subject: Performance Assessment of [Applicant], dated 8 May 2019, reflects the applicant's platoon sergeant's assessment of their, stating –

- Applicant does not process the information when given to them by leadership
- when briefed on a tasking, applicant does not write down the information that is given to them
- Applicant does not take initiative when a tasking is briefed to them
- Applicant takes initiative when the tasking assigned to them can be very easily completed
- Applicant does not comprehend the aspect of taking charge or taking initiative on being an NCO
- Applicant does not aspire to learn from their mistakes
- they have been given direction and mentorship on their lack of leadership

(15) A DA Form 4856, dated 15 August 2019, reflects the applicant received event oriented on their Bar to Continued Service by their company commander. The commander stated over the past 6 months, the applicant failed to meet the total Soldier Concept or accomplish specified tasks within their original counseling. They are being recommended for separation. The applicant disagreed with the information; however, their remarks are illegible.

(16) A DA Form 2166-9-1, covering the period 29 September 2018 through 28 September 2019,

- Part IVc (Character) – their rater marked "Did Not Meet Standard" and commented, in part, "demonstrated a serious lack of integrity and poor judgment when [Applicant's] TDY trip was cancelled but still decided to leave the country"
- Part IVe (Intellect) – their rater marked "Did Not Meet Standard" and commented, "made unnecessary hasty decisions without consideration of effects," "failed to follow orders which resulted in the company not being 1005 accounted for in personnel for over five hours" and "communicated poorly with subordinates; peers and the chain of command"
- Part IVf (Leads) – their rater marked "Did Not Meet Standard" and commented in part, "lost trust and integrity with [Applicant's] chain of command by undermining the units discipline standard"
- Rater Overall Performance – their rater commented, "has displayed poor integrity; requires supervision to perform common Non Commissioned Officer task" and "overall performance was severely impacted due to [Applicant's] lapse in judgement during rating period; failed to uphold two of the Army Values , Respect and Integrity"
- Part V (Senior Rater Overall Potential) – their senior rater rated their overall potential as "Not Qualified" and commented –
 - Rated NCO unavailable for signature

- NCO shows initial potential when given a task; with proper guidance [Applicant] could be a great asset to an organization
- Send to ALC and promote when ready

(17) A memorandum, Headquarters, 4th Infantry Brigade Combat Team (Airborne), 25th Infantry Division, subject: Separation under Army Regulation 635-200, Chapter 13, Unsatisfactory Performance, [Applicant], dated 15 November 2019, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Chapter 13, for Unsatisfactory Performance. The reason for the proposed action is the applicant received a Bar to Continued Service on 28 January 2019 and after 6 months they failed to overcome the Bar to Continued Service. with a recommended characterization of service general (under honorable conditions) for adverse action described in previous paragraph 3c(2). On the same date, the applicant acknowledged the basis for the separation and of the right available to them.

(18) A memorandum, U.S. Army Trial Defense Service – Alaska Field Office, subject: Conditional Wavier, Separation under the Provisions of Army Regulation 635-200, Chapter 13, Unsatisfactory Performance, [Applicant], dated 26 November 2019, the applicant states –

(a) They have been advised by consulting counsel of the basis for the contemplated action to separate them for unsatisfactory performance under Army Regulation 635-200, Chapter 13, and its effect; of the rights available to them; and the effect of any action taken by them in waiving their rights.

(b) They hereby voluntarily waive consideration of their case by an administrative separation board contingent upon their separation being suspended, which is an option for the separation authority, until August 2020, their ETS.

(19) A memorandum, Headquarters, 4th Infantry Brigade Combat Team (Airborne), 25th Infantry Division, subject: Conditional Waiver for [Applicant], undated, the applicant's brigade commander (separation authority), reviewed the separation packet and the applicant's conditional waiver request to waive their administrative separation board contingent upon receiving a suspended separation until 3 August 2020. The commander approved the applicant's conditional waiver and directed the applicant be separated with a General (under Honorable Conditions) discharge, but that separation be suspended until 3 August 2020.

(10) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 3 August 2020, with 8 years, 8 months, and 3 days of net active service this period completing their first full term of service. Their DD Form 214 shows in –

- item 24 (Character of Service) – Honorable
- item 25 (Separation Authority) – Army Regulation 635-200, Chapter 4
- item 26 (Separation Code) – KBK
- item 27 (Reentry Code) -3
- item 28 (Narrative Reason for Separation) – Completion of Required Active Service

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s): NIF

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Brief in Support of Application for Correction of Records, with 20 exhibits
 - Exhibit 1 – DD Form 214
 - Exhibit 2 – Enlisted Record Brief
 - Exhibit 3 – two DA Forms 4856
 - Exhibit 4 – DA Form 4856
 - Exhibit 5 – A Memorandum for Record, 241st Brigade Aerial Delivery Support Company, subject: Equal Opportunity by [Applicant], which conclude with the finding being negative
 - Exhibit 6 – A Memorandum for Record, 241st Brigade Aerial Delivery Support Company, subject: Preliminary Investigation of Unauthorized TDY Travel, and three DA Forms 2823 (Sworn Statement), which reflects the applicant's TDY incident
 - Exhibit 7 – DA Form 4856
 - Exhibit 8 – DA Form 4856
 - Exhibit 9 – A Memorandum for Record, 241st Brigade Aerial Delivery Support Company, subject: Failed to Follow Order, reflecting the applicant's company commander's statement regarding the applicant's TDY incident
 - Exhibit 10- A Memorandum for Record, 241st Brigade Aerial Delivery Support Company, subject: Lying to a Commissioned Officer, reflecting the applicant's company commander's statement regarding the applicant lying to them
 - Exhibit 11 – DA Form 4856
 - Exhibit 12 – DA Form 4126
 - Exhibit 13 - A Memorandum for Record, 241st Brigade Aerial Delivery Support Company, subject: Performance Assessment of [Applicant], reflecting the applicant's platoon sergeant's assessment of the applicant's performance
 - Exhibit 14 – DA Form 4856
 - Exhibit 15 – Separation Packet
 - Exhibit 16 - A memorandum, U.S. Army Trial Defense Service – Alaska Field Office, subject: Conditional Waiver, Separation under the Provisions of Army Regulation 635-200, Chapter 13, Unsatisfactory Performance, [Applicant], reflecting the applicant's request for a Conditional Waiver
 - Exhibit 17 - A memorandum, Headquarters, 4th Infantry Brigade Combat Team (Airborne), 25th Infantry Division, subject: Conditional Waiver for [Applicant], reflecting the approval of the applicant's Conditional Waiver
 - Exhibit 18 – Resume, reflecting the applicant's education and training, awards and decorations, work history, additional skills, and volunteer skills
 - Exhibit 19 – three Character Statements, attesting to the applicant's character and to support the applicant's desire to continue their service in the U.S. Army
 - Exhibit 20 – Applicant's statement reflecting their accomplishments in their military career, their struggles after their discharge from the U.S. Army and their desire to get their discharge [reentry code] upgraded so they can continue to serve in the U.S. Army

6. POST SERVICE ACCOMPLISHMENTS: The applicant's resume includes their work history after their discharge from the U.S. Army.

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Title 10, U.S. Code, Section 1553, (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, Title 10, U.S. Code, Section 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 (DoD) 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; Title 10, U.S. Code, Section 1553; and DoD Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 19 December 2016, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(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) A General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(3) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 1 (General Provisions) sets policies, standards, and procedures to ensure readiness and competency of the force while providing for the orderly administrative separation of Soldiers, it provides in pertinent part:

(a) When a separation is ordered, the approved proceedings will be sent to the commander who has the Soldier's records for separation processing. The original copy of the proceedings will be filed in the permanent part of the Soldiers official personnel record.

(b) Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to Soldiers. It is essential that Soldiers who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. Except as otherwise indicated, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and ensure it occurs prior to initiating separation proceedings for reason to include Minor Disciplinary Infractions (14-12a) or a Pattern of Misconduct (14-12b).

(5) Chapter 4 (Separation for Expiration of Service Obligation) stated a Soldier will be separated upon expiration of enlistment or fulfillment of service obligation. All Soldiers will be informed of any reasons that make them ineligible for re-enlistment, extensions, or, if in Indefinite status, ineligible for continued service. A Soldier being separated upon expiration of enlistment or fulfillment of service obligation will be awarded a characterization of service of honorable.

(6) Chapter 15 (Secretarial Plenary Authority), currently in effect, 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 "KBK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 4, (Completion of Required Active Service).

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 DoD Instructions 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):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. A review of the available evidence provides the applicant received multiple developmental counseling for substandard personal appearance, failure to follow orders, difficulties with fellow Soldiers, noncompetitive for promotion, slow rank progression resulting from a pattern of marginal conduct or performance, and a lack of potential to become a supervisor, which led to a Bar to Continued Service. A DD Form 214 provides the applicant was discharged with a character of service of honorable; however, their reentry code is shown as "3" reflecting the applicant 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. They completed 8 years, 8 months, and 13 days of net active service this period, completed their first full term of service and their reenlistment contractual obligation.

c. Army Regulation 635-200, chapter 4 stated a Soldier will be separated upon expiration of enlistment or fulfillment of service obligation. All Soldiers will be informed of any reasons that make them ineligible for re-enlistment, extensions, or, if in Indefinite status, ineligible for continued service. A Soldier being separated upon expiration of enlistment or fulfillment of service obligation will be awarded a characterization of service of honorable.

d. Published DoD 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 [REDACTED] the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **No.** Applicant has an Honorable DC and is requesting a change in RE code from 3 to 1.

(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? **No.** The Board's Medical Advisor applied liberal consideration and opined that it is the BH Advisor's opinion that the applicant's RE code remain at 3 given his history of significant childhood trauma which places him at increased risk of re-traumatization should he return to the military.

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

b. Response to Contention(s):

(1) The applicant contends they served honorably and with distinction during their Army service. The board considered the applicant's eight years of service and the numerous awards received by the applicant but determined that these factors did not outweigh the applicant's bar to continued service for substandard personal appearance, failed to follow orders, difficulties with fellow Soldiers, noncompetitive for promotion, slow rank progression resulting from a pattern of marginal conduct or performance, and a lack of potential to become a supervisor. Therefore, the reentry code is proper and equitable.

(2) The applicant requests a change of their reentry code of "RE-3" to "RE-1." The board considered this contention and voted to maintain the reentry code RE-3. Army Regulation 635-200, 13-2 (3c) state that Commanders will initiate separation for unsatisfactory performance. Also, the reentry code the applicant received is in accordance with AR 601-210, Table 3-1 which states that a RE-3 is given to a Soldier who is not considered fully qualified for reentry or continuous service at the time of separation. However, this disqualification of reentry into the Army can be waived. The applicant should contact a recruiter who 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.

(3) The applicant contends their command made an error in discretion by discharging them with a RE-3 reentry code. Their military records clearly and convincingly demonstrate they were an outstanding prior to being stationed at JBER. The board considered this contention and determined that after a review of the applicant military record the board found that the applicant signed the DD Form 214 (block 21a) on 04 June 2020 showing the reentry code (RE-3) in block 27. Therefore, the reentry code is proper and equitable.

(4) The applicant contends they did not receive any meaningful feedback on their performance or an opportunity to overcome any perceived deficiencies in their performance until May 2019, at which point they had already been recommended for a Bar to Reenlistment. The

board considered this contention and determined that after a review of the applicant military record the board found that the applicant received multiple developmental counseling for substandard personal appearance, failure to follow orders, difficulties with fellow Soldiers, noncompetitive for promotion, slow rank progression resulting from a pattern of marginal conduct or performance, and a lack of potential to become a supervisor, which led to a Bar to Continued Service.

(4) The applicant contends their character letters and their personal statement provide an accurate portrayal of their true character, commitment, and ability to successfully serve in the U.S. Army. The board considered this contention but determined that the evidence did not outweigh the basis of separation - received a bar to continued service.

c. The Board determined that the reentry code 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, despite applying liberal consideration of all the evidence before the board, the applicant did not have any mitigating behavioral health diagnosis to consider. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process.

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

3/7/2024

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