

**1. Applicant's Name:**

- a. **Application Date:** 14 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 uncharacterized. The applicant requests an upgrade to honorable.

b. The applicant seeks relief contending, in effect, upon separation from active duty the applicant was told by the discharging officer that completed their paperwork that they were being honorably discharged from the military. The applicant needs their DD Form 214 to reflect an honorable discharge.

c. **Board Type and Decision:** In a records review conducted on 3 April 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:** Failed Medical/Physical/Procurement Standards / AR 635-200, Paragraph 5-11 / JFW / RE-3 / Uncharacterized

b. **Date of Discharge:** 3 April 2009

c. **Separation Facts:**

(1) **Date Entrance Physical Standards Board (EPSBD) convened:** 17 March 2009

(2) **EPSBD Findings:** The findings of the evaluating physicians indicate the applicant was medically unfit for appointment or enlistment in accordance with current medical fitness standards and in the opinion of the evaluating physicians the condition existed prior to service (EPTS). The applicant was diagnosed with: Bipolar disorder and history of self-harm.

(3) **Date Applicant Reviewed and Concurred with the Findings, and Requested Discharge without Delay:** 24 March 2009

(4) **Separation Decision Date / Characterization:** 20 March 2009 / NIF

**4. SERVICE DETAILS:**

a. **Date / Period of Enlistment:** 121 August 2008 / 8 years

b. **Age at Enlistment / Education / GT Score:** 18 / GED / 102

c. **Highest Grade Achieved / MOS / Total Service:** E-2 / None / 7 months and 13 days

d. **Prior Service / Characterizations:** None

e. **Overseas Service / Combat Service:** None

f. **Awards and Decorations:** None

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:**

(1) Medical Prescreen Medical History Report, dated 12 August 2008, shows the examining medical physician noted negative medical history.

(2) On 3 February 2009, the applicant was ordered to IADT with a report date of 4 February 2009.

(3) Memorandum from the Patient Administration Division, Identification of EPSBD under provisions of paragraph 5-11, AR 635-200, dated 10 March 2009, states the applicant had a medical condition/physical impairment which, had it been identified, would have precluded their current induction or enlistment under the provisions of chapter 2, AR 40-501.

(4) On 17 March 2009, an EPSB recommended the applicant for immediate removal from all training, no access to weapons or sensitive information, and an expeditious separation from active duty in accordance with AR-40-501, chapter 2-27d (1) and 2-27j because the applicant was diagnosed with a bipolar disorder and history of self-harm.

(5) On 13 and 14 March 2009, the applicant was counseled by the Drill Sergeant and First Sergeant for recommendation for discharge under AR 635-200, chapter 5-11 for a bipolar disorder.

(6) On 18 March 2009, the applicant was counseled by the Reserve Liaison Noncommissioned Officer because the applicant was referred for EPTS counseling.

(7) On 26 March 2009, the applicant was counseled by the commander for recommendation for discharge under AR 635-200, chapter 5-11 on the basis of conditions EPTS.

(8) Orders 091-1312, dated 1 April 2009, shows the applicant was released from active duty for training, discharged from the Reserve of the Army, and returned to the Army National Guard (ARNG) effective 2 April 2009.

(9) The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), shows the applicant had not completed the first full term of service. The applicant was discharged from the Reserve of the Army, and returned to the ARNG on 2 April 2009 under the authority of AR 635-200, paragraph 5-11, with a narrative reason of Failed Medical/Physical/Procurement Standards. The DD Form 214 was authenticated with the applicant's signature.

(10) The applicant's National Guard Bureau Form 22 (Report of Separation and Record of Service), shows the applicant was discharged from the ARNG of TN and as a Reserve of the Army on 3 April 2009 under the authority of National Guard Regulation 600-200, paragraph 8-35c (5) (a), with a narrative reason of Fail to Meet Medical Procurement Standards. The National Guard Bureau Form 22 was not authenticated with the applicant's signature.

(11) Orders 091-1312, dated 5 August 2009, shows the applicant was discharged from the ARNG effective 3 April 2009 with an uncharacterized characterization of service.

i. **Lost Time / Mode of Return:** None

j. **Behavioral Health Condition(s):**

(1) **Applicant provided:** None

(2) **AMHRR Listed:** EPSBD findings as described in previous paragraph 3c.

*The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.*

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293, DD Form 214; NGB Form 22; ARNG Discharge Orders; and ARNG Retirement Pts History Statement.

**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 that a Soldier being separated under this paragraph will be awarded a characterization of service of honorable, general (under honorable conditions), or an uncharacterized description of service if in entry-level status.

(5) Paragraph 5-10 (previously paragraph 5-11), specifically provides that Soldiers who were not medically qualified under procurement medical fitness standards, when accepted for enlistment, or who became medically disqualified under these standards prior to entry on active duty or active duty training or initial entry training will be separated. A medical proceeding, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within six months of the Soldier's initial entrance on active duty, that the condition would have permanently or temporarily disqualified the Soldier for entry into

the military service had it been detected at that time, and the medical condition does not disqualify the Soldier from retention in the service under the provisions of AR 40-501, Chapter 3.

(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.

(7) 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), in effect at the time, provided the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JFW" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5-11, Failed Medical/ Physical/ Procurement Standards.

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 ARNG 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 an upgrade to honorable. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The proceedings of the EPSBD revealed the applicant had a medical condition (bipolar disorder and history of self-harm), which was disqualifying for enlistment and existed prior to

entry on active duty. These findings were approved by competent medical authority and the applicant agreed with the findings and proposed action for administrative separation from the Army.

c. The applicant contends, in effect, upon separation from active duty the applicant was told by the discharging officer that completed their paperwork that they was being honorably discharged from the military.

(1) The separation authority is not bound by the recommendations of the initiating or intermediate commander and has complete discretion to direct any discharge and characterization of service authorized by the applicable provisions of the regulation as stated in Army Regulation 635-200, chapter 2-2c.

(2) The applicant provided National Guard Bureau Form 22 showing in block 10a (Net Service This Period), 7 months and 13 days.

(3) AR 635-200, paragraph 5-1, states that a Soldier being separated under this paragraph will be awarded a characterization of service of honorable, general (under honorable conditions), or an uncharacterized description of service if in entry-level status.

d. 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? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnosis: EPTS Bipolar Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** EPTS Bipolar Disorder.

(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 was appropriately separated for pre-enlistment behavioral health conditions and treatment that preclude service.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant was proper and equitably discharged based on preexisting conditions.

b. Response to Contention: The applicant contends, in effect, upon separation from active duty the applicant was told by the discharging officer that completed their paperwork that they were being honorably discharged from the military. The Board considered this contention and determined that the applicant failed medical procurement standards and was proper and equitably discharged.

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 there were no mitigating factors for the Board to consider. Since the applicant was discharged for failing medical procurement standards due to a preexisting condition, Uncharacterized is proper and equitable. 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, 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:**

4/25/2024

**X**

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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