

**1. Applicant's Name:**

- a. **Application Date:** 21 September 2020
- b. **Date Received:** 5 October 2020
- c. **Counsel:** None

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

(1) The current characterization of service for the period under review uncharacterized. The applicant requests a change of their separation code and reentry code.

(2) The applicant seeks relief stating they are requesting a change because they would like to enlist in the U.S. Army. They never stated that they didn't want to return to the military. They understood that they lied to originally enlist into the U.S. Army, but only because they were told by their recruiter. They have learned to control their anxiety under pressure. They were not ready to join at that time due to family issues. During basic training they faced family issues and spoke to a counselor disclosing everything and didn't think that it would result in getting discharged from the U.S. Army. They always wanted to be in the Army, they never wanted to go home, they just needed to talk, then proceed to training.

(3) They have learned different approaches to lighten and handle their anxiety. They have not had an anxiety attack since the end of August 2020. Their mental health is stronger than ever. They are asking that their reentry code be changed or that they be granted a waiver to enlist in the U.S. Army. They enjoyed being at Fort Leonard Wood even though they didn't get to Day 1 of training. They love the Army and everything that comes with it.

**b. Board Type and Decision:** In a records review conducted on 5 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:** Fraudulent Entry / Army Regulation 635-200, Chapter 7 / JDA / RE-3 / Uncharacterized

**b. Date of Discharge:** 7 August 2020

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 23 July 2020

(2) **Basis for Separation:** On 29 June 2020, the applicant was recommended for separation in accordance with Army Regulation 635-200, paragraph 5-11, conditions that existed prior to service. It was revealed during counseling that they had prior knowledge of this

condition which if known at the time of their enlistment would have precluded them from enlisting. Due to this nondisclosure they fraudulently enlisted in the U.S. Army.

**(3) Recommended Characterization:** Uncharacterized

**(4) Legal Consultation Date:** 27 July 2020

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

**(6) Separation Decision Date / Characterization:** 6 May 2021 / Uncharacterized

#### 4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 27 May 2020 / 4 years

b. **Age at Enlistment / Education / GT Score:** 18 / HS Graduate / 99

c. **Highest Grade Achieved / MOS / Total Service:** E-1 / NA / 2 months, 11 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)** A DD Form 2807-2 (Accessions Medical Prescreen Report), dated 25 February 2019, reflects the applicant marked "No" to all Learning, Psychiatric, and Behavioral health issues

**(2)** DD Form 2807-1 (Report of Medical History), dated 28 February 2019, reflects the applicant marked "No" to all questions "Have you ever had or do you now have:" except for item 11f (Worn contact lenses or glasses). The applicant also denied counseling for Attention-Deficit Disorder/Attention Deficit Hyperactivity Disorder and of taking any medication.

**(3)** A DD Form 2808 (Report of Medical Examination) dated 28 February 2019, the examiner marked "Normal" for psychiatric, and the applicant is qualified for service with no defects or diagnoses.

**(4)** A U.S. Army Medical Department Activity Form 980 (Medical Moment of Truth) dated 11 June 2020, the applicant marked "NO" to the question "Do you currently have a medical condition that was not cleared, did not receive a waiver for clearance from Military Entrance Processing Station, or your recruiter told you no to tell anyone?" The applicant stated they not taking any medication for the conditions listed and answer "NO" to all remaining questions addressing medical and mental health issues.

**(5)** DA Form 4707 (Entrance Physical Standards Board Proceedings) dated 29 June 2020, reflects the findings by the evaluating physicians that after careful considerations of medical records, the board finds that the Service Member (SM) was medically unfit for appointment or enlistment in accordance with current medical fitness standards and in the

opinion of the evaluating physicians the conditions existed prior to service. The brief narrative summary states

**(a)** Presenting Problem – the SM, since arriving to Fort Leonard Wood has experienced an exacerbation of a longstanding history of panic attacks.

**(b)** Past mental health history – the SM endorses a history of cutting, emotional dysregulation, disproportionately irritable moods, and tantrums, and isolating themselves in their room and feeling irritable and down most days. The SM's mother provided collateral information which validated and contributed to the history by the SM, that the SM began cutting themselves in 2014 and covered scars to their left inner forearm with tattoos; she also had a period of cutting their legs. They went to the Emergency Department for panic attacks during their senior year of high school 2 or 3 times. They went to the Emergency Department in March 2020 for panic attack and was prescribed antihistamine medication for the panic attacks.

**(c)** Mental Status Examination was normal; however the applicant's diagnoses are shown as Panic Disorder, rule out disruptive mood dysregulation disorder; rule out borderline personality traits.

**(d)** Recommendations – conditions existing prior to service. If the SM's mental health problems had been detected at the time of enlistment, it would have prevented enlistment in the military. The SM should be expeditiously separated from active duty in accordance with Army Regulation 635-200, paragraph 5-11.

**(e)** A temporary 90-day behavioral health profile has been issued to the applicant.

**(6)** A DA Form 4856 (Developmental Counseling Form) dated 14 July 2020, reflects the applicant received counseling notifying them of the recommendation to separate them under Army Regulation 635-200, paragraph 7-17 (Incident of Fraudulent Entry). The applicant acknowledge that they and their recruiter were aware of their condition at the time of enlistment and shipment. Key Points of Discussion reflects the applicant has been seen by the medical professionals at the General Leonard Wood Army Community Hospital and diagnosed with adjustment disorder, mixed with anxiety and depression, and suicidal ideations. Upon arrival to the 43rd Adjutant General Battalion (Reception), the applicant filled out a Medical Moment of Truth document that afforded them on last opportunity to disclose medical information that could potentially disqualify them from their current enlistment. After reviewing their Medical Moment of Truth document, they did not disclose this information and therefore they will be recommended for a paragraph 7-17 in lieu of a paragraph 5-11 (conditions that existed prior to service). They knowingly withheld this medical information that would have disqualified them from service, and this constitutes fraud. Had they been honest and revealed this information on their Medical Moment of Truth document or anytime to their arrival at reception they would not be in their present situation. The applicant agreed with the information and signed the counseling form.

**(7)** A memorandum for record, Reception and Holding Unit, 43rd Adjutant General Battalion (Reception), Fort Leonard Wood, MO, subject: dated 17 July 2020, reflects the applicant states they do not request to remain in the military, and they elected not to make statements on their own behalf.

**(8)** A memorandum, Reception and Holding Unit, 43rd Adjutant General Battalion, Fort Leonard Wood, MO, subject: Separation under Army Regulation 635-200, Paragraph 7-17, Incident of Fraudulent Entry [Applicant], dated 23 July 2020, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, paragraph 7-17, Incident of Fraudulent Entry, with a recommended

characterization of service as uncharacterized. On that same day, the applicant's acknowledgement of receipt of separation notice.

**(9)** On 27 July 2020, the applicant completed their election of rights signing they had been advised by counsel of the basis for their separation and its effects and of the rights available to them. They elected not to submit statements on their own behalf.

**(10)** A memorandum, Reception and Holding Unit, 43rd Adjutant General Battalion, Fort Leonard Wood, MO, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Paragraph 7-17, Incident of Fraudulent Entry, [Applicant], dated 28 February 2019, the applicant's company commander submitted a request to separate them prior to their expiration term of service. The company commander states it is not feasible or appropriate to accomplish other disposition as the applicant fraudulently enlisted.

**(11)** A memorandum, Headquarters, 14th Military Police Brigade, subject: Separation under Army Regulation 635-200, Paragraph 7-17, Incident of Fraudulent Entry, [Applicant], undated, the separation authority having reviewed the separation packet of the applicant, directed the applicant be separated from the Army prior to the expiration of current term of service and their service be characterized as uncharacterized. After reviewing he rehabilitative transfer requirement, the commander determined the requirements do not apply to this action.

**(12)** A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 7 August 2020, with 2 months, and 11 days of net active service this period. The applicant has not completed their first full term of service. The DD Form 214 shows in –

- item 24 (Character of Service) – Uncharacterized
- item 26 (Separation Code) – JDA [Fraudulent Entry]
- item 27 (Reentry Code) – 3 [Nonwaiverable Disqualification]
- item 28 (Narrative Reason for Separation) – Fraudulent Entry

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

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

**(1) Applicant provided:** Medical Documents reflecting a medical primary encounter on 20 February 2020, with diagnoses of chest pain and generalized anxiety disorder. Problem List reflects, chest pain, generalized anxiety disorder, asthma, attention deficit hyperactivity disorder evaluation, cellulitis, history of anxiety, history of vaginitis, knowledge deficit, orbital wall fracture, seasonal allergies, and skin nodule.

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:**

- two DD Forms 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Medical Record – primary encounter

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**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 DoD 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)** Paragraph 7-17 provides, in pertinent part, a fraudulent entry is the procurement of an enlistment, reenlistment, or period of active service through any deliberate material misrepresentation, omission, or concealment of information which, if known and considered by the Army at the time of enlistment or reenlistment, might have resulted in rejection. This includes all disqualifying information requiring a waiver. A Soldier who concealed his or her conviction by civil court of a felonious offense normally will not be considered for retention.

**(5)** Paragraph 7-23 stipulates a Soldier discharged under the provisions of this chapter will be furnished DD Form 256A or assigned a character of service of under other than honorable conditions. If in entry-level status, service will be described as uncharacterized, as appropriate. In addition to chapter 3, section II, the following factors will be considered in determining the character of service to be issued during the current period of service:

**(a)** Evidence of pre-service misrepresentation that would have precluded, postponed, or otherwise affected the Soldier's enlistment eligibility.

**(b)** Characterization will normally be under other than honorable conditions if the fraud involves concealment of a prior separation in which service was not characterized as honorable.

**(c)** The offense of fraudulent enlistment (10 USC 883; Art 83 UCMJ) occurs when the Soldier accepts pay or allowances following enlistment procured by willful and deliberate false representation or concealment of his/her qualifications. Therefore, upon receipt of pay and allowances, it becomes an in-service activity by the Soldier and may be considered in characterizing his/her period of service, even though he/she is not tried for the offense.

(d) When the individual is in an AWOL status, or in desertion, or in the hands of civil authorities, the provisions of chapter 2, section III, must be followed.

(6) Glossary defines entry-level status for Regular Army Soldiers is the first 180 days of continuous Active Duty or the first 180 days of continuous Active Duty following a break of more than 92 days of active military service.

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 "JDA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 7, paragraph 7-17, fraudulent entry.

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 Instruction 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 waivable and nonwaivable 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):

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's deliberate material misrepresentation, omission, or concealment of their medical and behavioral health condition that existed prior to service which constitutes fraudulent entry. The Army Military Human Resource Record contains the Entrance Physical Standards Board Proceedings reflecting their conditions existed prior to serve and if the applicant's mental health problems had been detected at the time of enlistment, it would have prevented enlistment in the military. The DD Form 214 provides the applicant was discharged with a character of service of uncharacterized. They completed 2 months, and 11 days of net active service this period; however, they did complete their 4-year contractual enlistment obligation.

c. Paragraph 7-17 provides, in pertinent part, a fraudulent entry is the procurement of an enlistment, reenlistment, or period of active service through any deliberate material misrepresentation, omission, or concealment of information which, if known and considered by the Army at the time of enlistment or reenlistment, might have resulted in rejection. This includes all disqualifying information requiring a waiver.

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 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 diagnoses/experiences: Adjustment Disorder with anxiety; Panic Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found both Adjustment Disorder and Panic Disorder were diagnosed during military 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 5-11 separation was proper and equitable. Record review indicates that both the applicant and the applicant's mother reported applicant had a significant Existed Prior To Service history of mental illness. Regarding applicant's request for a change in separation code and Re-entry code, the writer does not recommend a change in Re-entry code given the applicant's history of panic attacks, emotional dysregulation, and self-injurious behavior. Writer will defer decision regarding change in SPD code to the board for determination.

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

b. Response to Contention(s):

(1) The applicant contends they are requesting a change because they would like to enlist in the U.S. Army. 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 they understood that they lied to originally enlist in the U.S. Army, but only because they were told by their recruiter. 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 they have learned different approaches to lighten and handle their anxiety. They have not had an anxiety attack since the end of August 2020. Their mental health is stronger than ever. 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.

**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.

**(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:**

4/26/2024

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