

1. Applicant's Name:

- a. **Application Date:** 18 December 2020
- b. **Date Received:** 3 February 2021
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant's Requests and Issues:** The current characterization of service for period under review is uncharacterized. The applicant requests an upgrade to honorable and a narrative reason change.

b. The applicant seeks relief contending, in effect, on 23 November 2012, the applicant was injured during their eighth week of basic training. This occurred during the 3 to 5 second rush training exercise. During the exercise the applicant heard/felt a pop in the applicant's left leg. The applicant pushed through and finished the exercise and went to lunch. Upon finishing lunch, the applicant fell to the floor and could not put any weight on the applicant's left leg. The applicant went to the hospital and was told the applicant had a grade 2 stress fracture in the femoral neck of the applicant's left leg. Due to this the applicant was given convalescent leave so the applicant would be able to heal the applicant's hip and continue training. When the applicant returned to basic the applicant was given a physical training test which the applicant was unable to finish because of the applicant's left leg. Soon after the applicant went back to the hospital and was then told they had a destabilized femur which was impacting on the applicant's knee, preventing the applicant from running or even carrying heavy loads. With this new issue they submitted the applicant's discharge paperwork. Since then if the applicant did too much walking, sitting, or even carry too much at any given time the applicant would be in great pain for a while.

c. **Board Type and Decision:** In a records review conducted on 9 February 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:** Condition, Not a Disability / AR 635-200, Chapter 5-17 / JFV / RE-3 / Uncharacterized

b. **Date of Discharge:** 5 April 2013

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 13 March 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant has pain in the left hip and knee and is unable to complete basic combat training at this time.

(3) **Recommended Characterization:** Uncharacterized

(4) **Legal Consultation Date:** On 14 March 2013, the applicant waived legal counsel.

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

(6) **Separation Decision Date / Characterization:** 22 March 2013 / Uncharacterized

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 18 September 2012 / 4 years

b. **Age at Enlistment / Education / GT Score:** 22 / Associate Degree / 102

c. **Highest Grade Achieved / MOS / Total Service:** E-3 / None / 6 months and 18 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) Memorandum for Commander, Moncrief Army Community Hospital, 12 February 2013, reflects the applicant was evaluated by a physical therapist for pain in the left hip and knee as a result of normal physical activities required in training (marching, running, jumping). The applicant was diagnosed earlier with bone stress injuries of the femoral heads and was sent on 30 days convalescent leave to assist with the healing process. Recent diagnostic studies show that the applicant did not have any current stress fractures or joint injuries; however, on examination, the applicant was found to have flat feet and poor functional strength in the hips, making it difficult to effectively tolerate impact related activities without further injury. Because these injuries are a factor of overuse and poor biomechanics and not a stress fracture or other significant joint injury, the applicant was not a candidate for the Physical Training and Rehabilitation Program or existed prior to service and did not meet criteria for a medical board. The recommendation was the applicant receive a Chapter 5-17.

(2) DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), 4 March 2013, shows the applicant was flagged for involuntary separation/field initiated (BA), 4 March 2013.

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 293; applicant self-authored letter; DD Form 214.

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 provides the basic authority for the separation of enlisted personnel.

(1) An honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

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

(3) Chapter 5 provides for the basic separation of enlisted personnel for the convenience of the government.

(4) Paragraph 5-1, states a Soldier being separated under this paragraph will be awarded a characterization of service of honorable, general (under honorable conditions), or an uncharacterized description of service if in entry-level status. A general (under honorable conditions) discharge is normally inappropriate for individuals separated under the provisions of paragraph 5-14 (previously paragraph 5-17) unless properly notified of the specific factors in the service that warrant such characterization.

(5) Paragraph 5-14 (previously paragraph 5-17) specifically provides that a Soldier may be separated for other physical or mental conditions not amounting to a disability, which interferes with assignment to or performance of duty and requires that the diagnosis be so severe that the Soldier's ability to function in the military environment is significantly impaired.

(6) 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 defines entry-level status for RA 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 (SPD Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JFV" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5-14 (previously Chapter 5-17), Condition, Not a Disability.

f. Army Regulation 601-210, Regular Army and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into

the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for 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): The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. The applicant requests an upgrade to honorable and a narrative reason change. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR includes evidence the applicant, while in training status, was evaluated by competent medical authority and determined the applicant had flat feet and poor functional strength in the hips, making it difficult to effectively tolerate impact related activities without further injury. Because these injuries were a factor of overuse and poor biomechanics and not a stress fracture or other significant joint injury, the applicant was not a candidate for the Physical Training and Rehabilitation Program or existed prior to service and did not meet criteria for a medical board.

c. The applicant's DD Form 214 shows the applicant served 6 months and 18 days (200 days). The physical therapist stated the applicant received 30 days convalescent leave.

d. The applicant requests the narrative reason for the discharge be changed. The applicant was separated under the provisions, at the time, of Chapter 5, paragraph 5-17, AR 635-200 with a uncharacterized discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Condition, Not a Disability," and the separation code is "JFV." Army Regulation 635-8, Separation Processing and Documents, governs preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be exactly as listed in tables 2-2 or 2-3 of AR 635-5-1, SPD Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

e. The applicant requests an upgrade and narrative reason change to obtain a Veterans Affairs medical card for health issues. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

f. 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 [REDACTED] the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused or mitigated a discharge.

(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? **N/A**

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

b. Response to Contention(s): None

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, despite applying liberal consideration of all the evidence before the Board, the applicant's characterization is appropriate based on the applicant's time in service and non-completion of basic combat training. 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210007883

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:

3/5/2024

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