

**1. Applicant's Name:**

- a. **Application Date:** 28 March 2021
- b. **Date Received:** 31 March 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, the applicant's service connected disability prevented the applicant from continuing service at an adequate level, and continues to affect the applicant's day to day life as the applicant is not able to partake in activities that the applicant was able to do before due to the diagnosis of degenerative arthritis. The applicant requests that the narrative reason be corrected to reflect the nature of what occurred.

c. **Board Type and Decision:** In a records review conducted on 28 August 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:** Entry Level Performance and Conduct / AR 635-200, Chapter 11 / JGA / RE-3 / Uncharacterized

b. **Date of Discharge:** 10 March 2017

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 15 February 2017

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant demonstrated an inability to adapt to military life by continuing to refuse to train. Medical providers recommended the applicant transfer to Warrior Transition and Rehabilitation Program to continue healing from an injury and then complete training, and the applicant refused. By not completing training the applicant would not meet the guidelines to graduate basic combat training. Therefore, the applicant was recommended for a Chapter 11 discharge.

(3) **Recommended Characterization:** Uncharacterized

(4) **Legal Consultation Date:** On 15 February 2017, the applicant waived legal counsel.

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

**(6) Separation Decision Date / Characterization:** 16 February 2017 / Uncharacterized

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 14 October 2016 / 4 years
- b. **Age at Enlistment / Education / GT Score:** 20 / High School Graduate / 105
- c. **Highest Grade Achieved / MOS / Total Service:** E-1 / None / 4 months and 17 days
- d. **Prior Service / Characterizations:** NA
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** None
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:**

**(1)** On 16 January 2017, the applicant was counseled for refusing to train and recommendation of separation under AR 635-200, chapter 11.

**(2)** On 24 January 2017, the applicant was flagged for involuntary separation/field initiated (BA), effective 24 January 2017. On this same date, the company commander informed the applicant that the company commander was initiating action to separate the applicant for entry level performance and conduct under AR 635-200, Chapter 11. The applicant declined to undergo a complete military medical evaluation.

**(3)** 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 on 10 March 2017 under the authority of AR 635-200, Chapter 11, with a narrative reason of Entry Level Performance and Conduct. The DD Form 214 was authenticated with the applicant's electronic signature.

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** None

*The ARBA's medical advisor reviewed DoD and VA medical records.*

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; VA HealtheVet Account Summary; VA Radiology Reports; VA Summary of Benefits; and three character letters.

**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 ELS.

**(3)** Chapter 11 provides for the separation of personnel due to unsatisfactory performance, conduct, or both, while in an ELS.

**(4)** Paragraph 11-3a (2) stipulates the policy applies to Soldiers who are in ELS, undergoing IET, and, before the date of the initiation of separation action, have completed no more than 180 days of creditable continuous AD or IADT or no more than 90 days of Phase II under a split or alternate training option. (See the glossary for precise definition of ELS.)

**(5)** Paragraph 11-8, stipulates service will be described as uncharacterized under the provisions of this chapter.

**(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 ELS for RA Soldiers is the first 180 days of continuous AD or the first 180 days of continuous AD 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 "JGA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 11, entry-level performance and conduct.

**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 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 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. An honorable discharge may be given only in cases which are clearly warranted by unusual circumstances involving outstanding personal conduct and/or performance of duty. An HD is rarely ever granted.

c. The applicant contends, in effect, the narrative reason for the discharge should be corrected to reflect the nature of what occurred. The applicant's service connected disability prevented the applicant from continuing service at an adequate level, and continues to affect the applicant's day to day life as the applicant is not able to partake in activities that the applicant was able to do before due to the diagnosis of degenerative arthritis.

(1) The applicant was separated under the provisions of Chapter 11, AR 635-200, with an uncharacterized discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Entry Level Performance and Conduct" and the separation code is "JGA." Army Regulation 635-8 (Separation Processing and Documents), governs the 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 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.

(2) The applicant provided:

(a) VA Radiology Reports, 17 January 2020, shows the applicant was seen for bilateral knee pain. Standing AP view shows mild symmetrical narrowing of both medial compartments. The lateral compartments appear normal. There was normal alignment in mineralization of both knees.

(b) VA Summary of Benefits, 23 March 2021, shows the applicant was rated 30 percent disabled.

(3) The AMHRR contains evidence that states medical providers recommended the applicant transfer to the Warrior Transition and Rehabilitation Program to continue healing from an injury and then complete training, and the applicant refused. Analyst notes, the AMHRR does not specify the applicant's injury or a diagnosis. The applicant also declined to undergo a complete military evaluation.

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: Major Depressive Disorder (MDD).

(2) Did the condition exist or experience occur during military service? **No.** MDD developed post-service due to depressive concerns secondary to perceived and/or actual limitations due to physical ailments/conditions.

(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 documentation outlining conditions, treatment, improvement, and refusal of ongoing rehabilitation to RTD reflects an appropriate discharge. Additionally, there is nothing in the applicant's post-service records or file that suggest otherwise. Accordingly, no change is recommended.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the Board's application of liberal consideration, the Board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's MDD outweighed the Condition, not a Disability that precluded completion of BCT and fulfilling the enlistment contract.

b. Response to Contention: The applicant contends, in effect, the narrative reason for the discharge should be corrected to reflect the nature of what occurred. The applicant's service connected disability prevented the applicant from continuing service at an adequate level and continues to affect the applicant's day to day life as the applicant is not able to partake in activities that the applicant was able to do before due to the diagnosis of degenerative arthritis. The board considered this contention and 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 description of service accurately reflects the applicant's overall record of service. 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 there were no mitigating factors for the board to consider. The applicant was discharged for entry level performance based on refusing to participate in ongoing rehabilitation and to return to duty. Therefore, an Uncharacterized discharge 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 rationale, as the reason the applicant was discharged was both proper and equitable.

(3) The reentry 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:**

9/16/2024

**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  
UOTHHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs