

**1. Applicant's Name:**

- a. **Application Date:** 1 December 2020
- b. **Date Received:** 7 December 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, the applicant was on active duty for 7 and a half months, however the applicant received an uncharacterized discharge which is given to Soldiers that serve less than 6 months. While in training during the 7 and a half months, the applicant was diagnosed with over seven stress fractures and placed in medical hold after 4 weeks. The applicant did physical therapy and was prepared to return to training once healed from the stress fractures. The applicant's fractures improved, however the applicant had 11 additional fractures. In late June, the applicant was cleared to begin a walk to run program. One of the drill sergeants from the applicant's company decided to do a "smoke" session for the applicant before the applicant departed for the fitness training unit. This session caused the applicant to be admitted into the local hospital and being diagnosed with Rhabdomyolysis. The applicant remained in the hospital for 6 days until the applicant's Creatine phosphokinase levels fell into normal ranges. The applicant was diagnosed with possible Brugada but was never sent in for a follow up. Shortly after release, behavioral health requested the applicant for a pre-existing Attention-deficit hyperactivity disorder (ADHD) diagnosis during the applicant's adolescence years in which the applicant's recruiter told the applicant not to record on the applicant's application since waivers take too long. It was obvious the applicant's body and mind could not handle the rigor of the military.

c. **Board Type and Decision:** In a records review conducted on 16 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:** Fraudulent Entry / AR 635-200, Chapter 7, SEC IV / JDA / RE-3 / Uncharacterized

b. **Date of Discharge:** 30 October 2020

c. **Separation Facts:** The applicant's AMHRR contains the case separation file, however, the applicant provided the case separation file which are described below in 3c (1) through (6).

(1) **Date of Notification of Intent to Separate:** 8 October 2020

(2) **Basis for Separation:** The applicant was informed of the following reasons: On 11 September 2020, the applicant was recommended for separation in accordance with AR 635-

200, chapter 5-11, Existed Prior to Service. It was revealed during counseling that the applicant had prior knowledge of a condition which if known at the time of the applicant's enlistment would have precluded the applicant from enlisting. Due to this nondisclosure the applicant fraudulently enlisted in the U.S. Army.

**(3) Recommended Characterization:** Uncharacterized

**(4) Legal Consultation Date:** On 9 October 2020, the applicant waived legal counsel.

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

**(6) Separation Decision Date / Characterization:** 28 October 2020 / Uncharacterized

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 17 March 2020 / 3 years and 19 weeks

**b. Age at Enlistment / Education / GT Score:** 20 / High School Graduate / 90

**c. Highest Grade Achieved / MOS / Total Service:** E-2 / None / 7 months and 14 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)** Accessions Medical Pre-screen Report, 24 January 2020 and Report of Medical Examination, 13 February 2020, reflects no medical issues.

**(2)** The applicant provided:

**(a)** Medical Moment of Truth, 18 March 2020, shows the applicant did not annotate any medical conditions.

**(b)** Patient discharge summary shows the applicant was admitted to the hospital on 27 June 2020 for evaluation of the applicant's left elbow, Rhabdomyolysis, and abnormal EKG (Brugada pattern). It also shows the applicant was currently on medical hold due to recent bilateral lesser trochanteric stress reactions that was presented to the General Leonard Wood Army Community Hospital Emergency Department on 27 June 2020 with a history of 2 days of bilateral arm pain following intense upper body work out as part of the applicant's training.

**(c)** Sick Call Slip, 13 July 2020, shows the applicant was seen for a follow-up for Rhabdomyolysis. The applicant was instructed to continue their previous profile for physical training.

**(d)** Entrance Physical Standards Board (EPSBD) Proceedings, 11 September 2020, shows the applicant was diagnosed with: History of ADHD and adjustment disorder with anxiety. The applicant went to the TRADOC Behavioral Health provider secondary to feelings of anxiety,

problems concentrating, and focusing that worsened after being told by medical staff the applicant would not be recommended for separation in spite of being on medical profile for almost 6 months with at least another 3 to 4 months of healing time expected. The applicant disclosed history of diagnosed psychiatric conditions and treatment which the applicant did not disclose on the Medical Moment of Truth. The applicant concurred with the proceedings and requested to be discharged from the U.S. Army without delay.

(3) Developmental Counseling Form, 25 September 2020, shows the applicant was counseled for recommendation of a chapter 5-11, condition existed prior to enlistment.

(4) The applicant provided Developmental Counseling Form, 1 October 2020, showing the applicant was counseled for recommendation to be discharged under AR 635-200, chapter 7-17, fraudulent entry.

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

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

(1) **Applicant provided:** Report of Mental Status Evaluation, 18 September 2020, shows the applicant was seen for a follow-up. The applicant could understand and participate in administrative proceedings; and could appreciate the difference between right and wrong. The applicant had been screened for PTSD, depression, TBI, substance misuse, and sexual trauma. The applicant was diagnosed with adjustment disorder with anxiety and pending separation.

(2) **AMHRR Listed:** None

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

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; self-authored letter; case separation packet; patient discharge summary; sick call slip; and medical records.

**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) 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)** An under other than honorable conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

**(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 their conviction by civil court of a felonious offense normally will not be considered for retention.

**(a)** The following tests must be applied in each case of suspected fraudulent enlistment or re-enlistment. These tests will establish whether the enlistment or re-enlistment is fraudulent.

**(i)** First test. Commanders will determine if previously concealed information is, in fact, disqualifying. This information will be evaluated using the criteria for enlistment or re-enlistment in AR 601-210 or AR 601-280. Any waivable or nonwaivable disqualification concealed, omitted, or misrepresented constitutes fraudulent entry. This includes concealing information with alleged or actual recruiter connivance. If, however, the newly revealed information does not amount to a disqualification from enlistment or re-enlistment under the appropriate regulation, there is no fraudulent enlistment or reenlistment. Hence, the enlistment or re-enlistment is valid, and separation may not be directed.

**(ii)** Second test. Commanders must verify the existence and true nature of the apparently disqualifying information. Verification of the actual offense may reveal that the enlistee was not disqualified and, therefore, is not a fraudulent enlistee.

**(5)** Paragraph 7-23 stipulates a Soldier discharged under the provisions of this chapter will be furnished DD Form 256A (Honorable Discharge Certificate) 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:

**(6)** Glossary prescribes entry-level status 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 (Certificate of Release or Discharge from Active Duty). It identifies the SPD code of "JFC" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 7, Section III, Erroneous 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 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. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. AR 635-200, paragraph 7-23 stipulates a Soldier discharged under the provisions of chapter 7 will be furnished DD Form 256A (Honorable Discharge Certificate) 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. Commanders will determine if previously concealed information is, in fact, disqualifying. This information will be evaluated using the criteria for enlistment or re-enlistment in AR 601-210 or AR 601-280. Any waivable or nonwaivable disqualification concealed, omitted, or misrepresented constitutes fraudulent entry. This includes concealing information with alleged or actual recruiter connivance.

c. The applicant served 7 months and 14 days. The applicant was recommended for separation for having a medical condition that existed prior to service and due to this nondisclosure, the applicant fraudulently enlisted in the U.S. Army. The applicant's DD Form 214 shows the applicant was discharged on 30 October 2020 under the provisions of AR 635-200, Chapter 7, by reason of Fraudulent Entry with a characterization of service of uncharacterized.

d. The applicant contends, in effect, the applicant was on active duty for 7 and a half months prior to being discharged, however the applicant received an uncharacterized character of service which is given to Soldiers that serve less than 6 months. AR 635-200 states a separation will be described as entry-level with service uncharacterized if, at the time separation action is initiated, the Soldier has less than 180 days of continuous active-duty service. The acknowledgement of notification memorandum provided by the applicant reflects the applicant was notified on 8 October 2020 of the intent to initiate separation proceedings from the Army. At the time of the notification, the applicant had 206 days of continuous active-duty service. Based on the time in service, the applicant was not in an entry-level status, and the uncharacterized discharge was not appropriate.

e. The applicant contends, in effect, the applicant's recruiter told the applicant not to record on the applicant's application an ADHD diagnosis during the applicant's adolescence years because waivers take too long.

(1) The AMHRR contains an Accessions Medical Pre-screen Report, 24 January 2020 and Report of Medical Examination, 13 February 2020, that reflects no medical issues.

(2) The applicant provided:

(a) Medical Moment of Truth, 18 March 2020, shows the applicant did not annotate any medical conditions.

(b) EPSBD Proceedings, 11 September 2020, shows the applicant was diagnosed with: History of ADHD and adjustment disorder with anxiety. The applicant disclosed history of diagnosed psychiatric conditions and treatment which the applicant did not disclose on the Medical Moment of Truth. The applicant concurred with the proceedings and requested to be discharged from the U.S. Army without delay.

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 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: Attention Deficit Hyperactivity Disorder (ADHD), Anxiety Disorder, Adjustment Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** Attention Deficit Hyperactivity Disorder (ADHD), Anxiety Disorder, and Adjustment 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 discharge was proper and equitable with the appropriate documentation and evaluation supporting the discharge. Regarding the pre-enlistment diagnoses, they do not impair an individual's ability to know right from wrong, consequences, and make a conscious decision to repeatedly deny multiple conditions as the applicant went through the enlistment process. Moreover, a pre-enlistment provider specifically discussed the applicant's diagnosis/es being disqualifying.

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

b. Response to Contention(s):

(1) The applicant contends, in effect, the applicant was on active duty for seven and a half months prior to being discharged, however the applicant received an uncharacterized character of service which is given to Soldiers that serve less than six months. 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, in effect, the applicant's recruiter told the applicant not to record on the applicant's application an Attention-deficit hyperactivity disorder diagnosis during the applicant's adolescence years because waivers take too long. The Board considered this contention but found insufficient evidence in the applicant's AMHRR or applicant-provided evidence to show that the command acted in an arbitrary or capricious manner other than the applicant's contention. Therefore, a discharge upgrade is not 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, 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:**

8/28/2024

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