

**1. Applicant's Name:**

- a. **Application Date:** 11 February 2021
- b. **Date Received:** 5 April 2021
- 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 is general honorable conditions. The applicant requests an upgrade to honorable and a change of the separation code and the narrative reason for separation.

(2) The applicant seeks relief stating they incurred an injury on their right hand; the injury was disabling, which disqualified them from continuing in their Military Occupational Specialty (MOS). Their command afforded them the ability to reclassify into another MOS, but their only desire was to serve in the Infantry. Their chain of command expressed anger towards their decision, which subsequently resulted in their discharge. They never received any disciplinary measures that would be considered consistent with the characterization of service they were discharged with. They strongly believe the narrative reason for separation should state "Disability" as the injury they sustained was the root cause behind their failure to complete Basic Combat Training. They asked to be placed in the Disability Evaluation System twice and was denied by their command.

(3) Their command offered them the ability to reclassify into another MOS. They could not accept the option to reclass so they ended up signing their separation paperwork. In doing so, they feel that they were coerced into accepting a general (under honorable conditions) discharge without truly understanding what that meant. They felt they were under duress. Their command was not happy that they chose to separate rather than accept a new MOS and they believe that bitterness drove their intentions towards them as they were separated. It is for this reason they believe a disservice was done.

**b. Board Type and Decision:** In a records review conducted on 24 July 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:** Unsatisfactory Performance / Army Regulation 635-200, Chapter 13 / JHJ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 17 March 2020

**c. Separation Facts:** The applicant's case separation file is void from the Army Military Human Resource Record (AMHRR).

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 16 July 2019 / 3 years, 26 weeks
- b. **Age at Enlistment / Education / GT Score:** 18 / NIF / NIF
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / 11B1O, Infantryman, this MOS is not annotated on the DD Form 214 / 8 months, 2 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) Headquarters, U.S. Army Maneuver Center of Excellence Orders 20320-397 16 November 2019 reflects the applicant was awarded the MOS of 11B1O (Infantryman), effective 20 December 2019.

(2) A DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects that applicant was discharged from active duty on 17 March 2020, shows in:

- item 12c (Net Active Service This Period) – 8 months, 2 days
- item 18 (Remarks) –Member has not completed first full term of service
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 25 (Separation Authority) – Army Regulation 635-200, Chapter 13
- item 26 (Separation Code) – JHJ [Unsatisfactory Performance]
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Unsatisfactory Performance

- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):** None

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States), with letter
- 3rd Party Statement
- Medical Records
- Pictures of Injured Finger
- DD Form 214

**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 Instruction 1332.28.

**d.** Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation) establishes the Army Disability Evaluation System. It sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of their office, grade, rank or rating. If a Soldier is found unfit because of physical disability, this regulation provides for disposition of the Soldier according to applicable laws and regulations. Chapter 3 (MOS Administrative Retention Review (MAR2)) states Soldiers must be of sufficient medical fitness to satisfactorily perform their primary MOS. The MAR2 is an administrative process for Soldiers who meet the medical retention standards but who nonetheless may not be able to satisfactorily perform the duties of their primary MOS. The MAR2 process is used to determine whether a Soldier will be retained in their primary MOS or reclassified into another primary MOS. Soldier who do not meet primary MOS standards and who do not qualify for reclassification will be referred into the Disability Evaluation System.

**e.** Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), effective 19 December 2016, prescribed policies and standards to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. It prescribed the policies, procedures, and general provisions governing the separation of Soldiers before expiration term of service or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers.

**(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)** Chapter 13 (Separation for Unsatisfactory Performance) states a Soldier may be separated when it is determined that he or she is unqualified for further military service because of unsatisfactory performance. Commanders may initiate separation for a Soldier for unsatisfactory performance when the three following conditions are met; the Soldier's performance has been unsatisfactory; after sufficient counseling and rehabilitative efforts have been made, the Soldier's performance continues to be unsatisfactory; and the Soldier's performance and potential that he or she will not develop sufficiently to become a fully satisfactory Soldier. The service of Soldiers separated because of unsatisfactory performance will be characterized as honorable or general (under honorable conditions) as warranted by their military records.

**(5)** Chapter 15 (Secretarial Plenary Authority), currently in effect, 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.

f. 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 "JHJ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 13, separation for unsatisfactory performance.

g. 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 Instructions 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 an administrative irregularity in the proper retention of records, specifically the AMHRR is void of the case files for approved separation. Due to the lack of evidence the specific facts and circumstances surrounding the unsatisfactory performance to be discharged under the provision on Army Regulation 635-200, chapter 13 are unknown. However, the available evidence does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which provides the applicant was discharged under the provisions of Army Regulation 635-200, chapter 13, by reason of unsatisfactory performance, with a characterization of service of General (Under Honorable Conditions). They completed 8 months, and 2 days of net active service this period and did not complete their first full term of service.

c. Chapter 13 contains the policy and outlines the procedures for separating individuals for unsatisfactory performance, and provides, in pertinent part, commanders will separate a member under this Chapter when, in the commander's judgment, the member will not develop sufficiently to participate satisfactory in further training and/or become a satisfactory Soldier. The service of Soldiers separated because of unsatisfactory performance will be characterized as honorable or general (under honorable conditions) as warranted by their military records.

d. The applicant's AMHRR does not provide documentation showing their left middle finger condition was medically unacceptable at the time of their discharge from the U.S. Army, nor did the applicant provide documentation. Likewise, their AMHRR does not provide documentation of the applicant's unsatisfactory performance or their refusal to reclassify into another MOS.

e. 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? **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. Prior Decisions Cited:

c. Response to Contentions:

(1) The applicant contends they incurred an injury on their right hand; the injury was disabling, which disqualified them from continuing in their MOS. The Board considered this contention and determined that based on available medical records, the applicant had an injury to his finger in September 2019, but by December was returned to duty by ortho and reported no impairment or pain to OT.

(2) The applicant contends they never received any disciplinary measures that would be considered consistent with the characterization of service they were discharged with. The Board considered this contention along with the totality of the applicant's record and determined that an upgrade to the characterization of service is not warranted.

(3) The applicant contends they strongly believe the narrative reason for separation should state "Disability" as the injury they sustained was the root cause behind their failure to complete Basic Combat Training. The Board considered this contention along with the totality of the applicant's record and determined that an upgrade to the characterization of service is not warranted.

(4) The applicant contends they asked to be placed in the Disability Evaluation System twice and was denied by their command.

The Board considered this contention along with the totality of the applicant's record and determined that the applicant requested to be discharged and did not meet requirements for a MEB.

(5) The applicant contends their command offered them the ability to reclassify into another MOS. They could not accept the option to reclass so they ended up signing their separation paperwork.

The Board considered this contention along with the totality of the applicant's record and determined that the applicant denied the reclassification option and requested to be discharged.

(6) The applicant contends they feel that they were coerced into accepting a general (under honorable conditions) discharge without truly understanding what that meant. They felt they were under duress. It is for this reason they believe a disservice was done.

The Board considered this contention along with the totality of the applicant's record and determined that an upgrade to the characterization of service is not warranted.

d. 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.

e. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service based on the following reasons. The Board Members noted the applicant wanted to be discharged, the applicant did not meet requirements for a MEB, and opted for amputation to his knuckle for improved sports performance. The Board voted that 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 reasons, 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:**

8/8/2024

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