

**1. Applicant's Name:**

- a. **Application Date:** 1 April 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 of their character of service.

(2) The applicant seeks relief stating their DD Form 214 (Certificate of Release or Discharge from Active Duty) indicates in item 12c (Net Active Service This Period) 7 months and 20 days, which is over the 180-day limit for an "Uncharacterized" character of service. They reviewed their military documents and which reflects their out-processing did not start until 21 August 2012, which is still over the 180-day limit. They enclosed an Army document "Trial Defense Service" which states Soldiers separated under paragraph 5-17 (Other Designated Physical or Mental Conditions) may receive an honorable or general discharge.

**b. Board Type and Decision:** In a records review conducted on 31 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 details regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Condition, Not a Disability / Army Regulation 635-200, Paragraph 5-17 / JFV / RE-3 / Uncharacterized

**b. Date of Discharge:** 3 October 2012

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 13 September 2012

(2) **Basis for Separation:** Complaining of having left side sacral pain without there being any evidence of structural damage that has been determined by the medical community. These complaints have limited the applicant's ability to fully participate in training and they have also indicated that they do not wish to continue their service in the military.

(3) **Recommended Characterization:** Uncharacterized

(4) **Legal Consultation Date:** 13 September 2012

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

**(6) Separation Decision Date / Characterization:** 26 September 2012 / Uncharacterized

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 10 June 2011 / 8 years (Army National Guard (ARNG))
- b. **Age at Enlistment / Education / GT Score:** 17 / HS Graduate / 91
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / NA / 7 months, 20 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 Department of Defense Military Entrance Processing Station Orders: 1045001 dated 23 June 2011 reflects the applicant was ordered to initial active duty for training (IADT) with a report date to Basic Training of 15 February 2012.

**(2)** A memorandum, General Leonard Wood Army Community Hospital, subject: Medical Assessment for [Applicant], dated 20 August 2012, reflects –

**(a)** The applicant has been followed by medical providers for complaints of left sided sacral pain since 17 July 2012. Their most recent Magnetic Resonance Imaging (MRI) results are reviewed as normal and Orthopedics has evaluated and reviewed their MRI and notes no medical condition requiring attention. Their previous old injury affecting their right side is completely healed and they no longer report any pain on this side. From a medical standpoint, they do not have any structural damage to account for their current complaints. However, they continue to complain of pain that limits their ability to fully participate in training and they indicate they no longer wish to continue their service in the military. It is projected that they will fully recover from these injuries and is not expected to suffer from any long-term or permanent disability.

**(b)** The applicant has no medical condition that does not meet retention standards. They also have no conditions that warrants an Existed Prior to Service. From a medical perspective, they are being returned to their unit commander to determine appropriate disposition for training and/or for any administrative action as deemed necessary by command. The applicant has made it clear to this provider that they no longer wish to continue their service in the military. Initiating an Army Regulation 635-200, paragraph 5-17 could be an appropriate option for this Soldier.

**(3)** A DA Form 4856 (Developmental Counseling Form) dated 21 August 2012, reflects the applicant received counseling from their drill sergeant with a recommendation for an administrative separation. The Key Points of Discussion states, it is the applicant's doctor's recommendation, based on their current medical condition and of the applicant stating that they do not wish to continue on with Basic Combat Training, that they be released from active

service on an Army Regulation 635-200, paragraph 5-17. The applicant agreed with the information and signed the form.

(4) Three DA Forms 4856 dated 22 August 2012 reflects the applicant received counseling from the Reserve Component Liaison Noncommissioned Officer, their Basic Combat Training unit first sergeant, and their company commander, with a recommendation for an Entry Level Separation pursuant to Army Regulation 635-200, paragraph 5-17. Their company commander states the counseling is to notify the applicant that they have been recommended to receive an Entry Level Separation in accordance with their doctor's recommendation. The pain in their left sacral is unidentifiable by the doctors yet it continues to prevent the applicant's participation in training. The applicant agreed with the information on the three counseling forms and signed each form.

(5) A memorandum, 3rd Battalion, 10th Infantry Regiment, subject: Separation under Army Regulation 635-200, Paragraph 5-17, Other Designated Physical or Mental Conditions, [Applicant], dated 13 September 2012, notified the applicant of initiating actions to separate them for Other Designated Physical or Mental Condition. The reason for the proposed action is as described above in paragraph 3c(2). The company commander recommends the applicant receive an entry level separation (uncharacterized). On the same day the applicant acknowledged receipt of notification for separation and of the rights available to them.

(6) In the applicant's memorandum, subject: Election of Rights Regarding Separation under Army Regulation 635-200, Paragraph 5-17, Other Designated Physical or Mental Conditions, [Applicant], dated 13 September 2012, the applicant states they have been advised by their consulting counsel of the basis of the contemplated action to separate them for Commission of a Serious Offense and its effects; of the rights available to them, and of the effect of any action taken by them in waiving their rights.

(a) They requested consideration of their case by an administrative separation board with a personal appearance. They elected to submit statements in their own behalf and requested consulting counsel. [Note: statements in their own behalf are not in evidence for review, nor was the applicant eligible for an administrative separation board as they had less than 6 years of total active and reserve service at the time of separation, nor were they notified of being considered for a characterization of service under other than honorable conditions.]

(b) They understood they may expect to encounter substantial prejudice in civilian life if a General (Under Honorable Conditions) discharge is issued to them. They further understand that as the result of issuance of a discharge that is less than honorable, they may be ineligible for many or all benefits as a veteran under both Federal and State laws.

(7) A memorandum, 3rd Battalion, 10th Infantry Regiment, subject: Commander's Report - Proposed Separation under Army Regulation 635-200, Paragraph 5-17, Other Designated Physical or Mental Conditions, [Applicant], dated 13 September 2012, the applicant's company commander submitted a request to separate them prior to their expiration current term of service. The company commander states the factual reason for action recommended is the applicant has left side sacral pain. There is no radiographic evidence of structural damage, has missed critical training, and is unable to complete Basic Combat Training.

(8) A memorandum, 3rd Chemical Brigade, U.S. Army Chemical, Biological, Radiological and Nuclear School, subject: Separation under Army Regulation 635-200, Paragraph 5-17, Other Designated Physical or Mental Conditions, [Applicant], dated 26 September 2012, the separation authority reviewed the applicant's separation packet and after careful consideration

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

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of all matters, directed the applicant be separated from the Army prior to the expiration of current term of service and be given an entry level separation (uncharacterized). The requirements for a rehabilitative transfer have been waived.

(9) On 3 October 2012, the applicant was discharged accordingly, their DD Form 214 provides the applicant completed 7 months and 20 days of net active service this period and they did not complete their first full term of service. Their DD Form 214 show in –

- item 12a (Date Entered Active Duty This Period) – 14 February 2012
- item 12b (Separation Date This Period) – 3 October 2012
- item 12c (Net Active Service This Period) – 7 months, 20 days
- item 18 (Remarks) – Member has not completed first full term of service, release from Active Duty Training and discharged from the Reserve of Army and Return to ARNG
- item 24 (Character of Service) – Uncharacterized
- item 25 (Separation Authority) – Army Regulation 635-200, Paragraph 5-17
- item 26 (Separation Code) – JFV
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Condition, Not a Disability

(10) A National Guard Bureau Form 22 (National Guard Report of Separation and Record of Service) reflects the applicant was separated from the ARNG on 24 October 2012. Their form shows in –

- item 10a (Net Service This Period) – 1 year, 4 months, 15 days
- item 18 (Remarks) – RE-3 due to condition not a disability
- item 23 (Authority and Reason) – National Guard Regulation 600-200, paragraph 6-36p, as a result of discharge from the Reserve of the Army
- item 24 (Character of Service) – Uncharacterized
- item 26 (Reenlistment Eligibility) – RE-3

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

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

(1) **Applicant provided:** Department of Veterans Affairs (VA) Rating Decision reflecting the applicant's 70 percent disability rating for Persistent Depressive Disorder with Anxious Distress due to Pelvic Fracture

(2) **AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- DD Form 214
- Trial Defense Service Reference regarding Army Regulation 635-200, paragraph 5-17 administrative discharge
- VA Rating Decision

**6. POST SERVICE ACCOMPLISHMENTS:** none submitted with 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 635-200 (Active Duty Enlisted Administrative Separations), dated 6 September 2011, 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)** An Entry-Level Status is a separation with service uncharacterized if processing is initiated while a Soldier is in entry-level status except when, to include, the Soldier has less than 181 days of continuous active military service, has completed Initial Entry Training, has been awarded a military occupational specialty, and has reported for duty at a follow-on unit of assignment.

**(5)** Chapter 5 (Separation for Convenience of the Government) stated unless the reason for separation requires a specific characterization, a Soldier being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conduction, or an uncharacterized description of service if in entry-level status.

**(6)** Paragraph 5-17 (Other Designated Physical or Mental Conditions) stated commanders may approve separation under this paragraph on the basis of other physical or mental conditions not amounting to disability and excluding conditions appropriate for separation processing under paragraph 5-11 (Separation of Personnel Who did not Meet Procurement Medical Fitness Standards) or 5-13 (Separation Because of Personality Disorder) that potentially interfere with assignment to or performance of duty.

**(7)** 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.

**(8)** Section II (Terms) states the service of Soldiers in entry-level status is normally described as uncharacterized. For Soldiers order to IADT for one continuous period, entry-level status terminates 180 days after beginning training.

**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 "JFV" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, paragraph 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 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 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 waiverable. Eligibility: Ineligible unless a waiver is granted.

**(3)** RE-4 Applies to: Person separated from last period of service with a nonwaiverable 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.

**g.** Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

## **8. SUMMARY OF FACT(S):**

**a.** The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

**b.** A review of the available evidence provides the applicant was ordered to their IADT on 14 January 2012 and was notified of the recommendation for separation for Entry Level Separation on 22 August 2012, 191 days after the start of their IADT; however, the applicant did not complete their IADT, was not awarded a MOS, and did not report for duty at a follow-on unit

of assignment.. Their DD Form 214 provides the applicant was discharged with a character of service of uncharacterized, with a narrative reason for separation as "Condition, Not a Disability." They completed 7 months and 20 days of net active service this period. Their National Guard Bureau Form 22 provides the applicant completed 1 year, 4 months, and 15 days of total service for pay; however, they did not complete their 8-year enlistment service obligation.

c. Paragraph 5-17 (Other Designated Physical or Mental Conditions) stated commanders may approve separation under this paragraph on the basis of other physical or mental conditions not amounting to disability and excluding conditions appropriate for separation processing under paragraph 5-11 (Separation of Personnel Who did not Meet Procurement Medical Fitness Standards) or 5-13 (Separation Because of Personality Disorder) that potentially interfere with assignment to or performance of duty.

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: MDD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant asserts depressive symptoms after learning she'd be discharged.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that medically the discharge was proper and equitable. Additionally, symptoms developing into the service connected condition started after discharge was decided; symptoms did not drive the discharge from medical, command, or the applicant.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition or experience did not outweigh the basis of separation.

b. Prior Decisions Cited: None

c. Response to Contention(s): the applicant contends their DD Form 214 (Certificate of Release or Discharge from Active Duty) indicates in item 12c (Net Active Service This Period) 7 months and 20 days, which is over the 180-day limit for an "Uncharacterized" character of service.

The Board considered this contention and determined in accordance with AR 635-200 that, based on the applicant's official record, applicant was separated while in an entry level status, did not complete Initial Entry Training or awarded an MOS, and an Uncharacterized is the proper characterization of service except when the DCS, G-1 determines that an HD 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.

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 considered the applicant's statement, record of service, and the reason for separation. The Board found insufficient evidence of in-service mitigating factors and the Board's Medical Advisor opined that medically the discharge was proper and equitable. Additionally, symptoms developing into the service-connected condition started after discharge was decided; symptoms did not drive the discharge from medical, command, or the applicant. Based on a preponderance of evidence, the Board determined the reason for the applicant's separation and the character of service the applicant received upon separation were 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 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:**

9/9/2024

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