

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 28 April 2021
- b. **Date Received:** 10 May 2021
- c. **Counsel:** None

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

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

The applicant seeks relief contending, in effect, the applicant was forced to participate in the Army Physical Fitness Tests (APFT) and training while injured. The applicant had honorable service and never received any nonjudicial punishment.

b. **Board Type and Decision:** In a records review conducted on 7 August 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, post service accomplishments and the characterization was too harsh for failing two record Army Physical Fitness Tests (APFT) and no other misconduct in the file. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. There will be no change to the narrative reason, SPD code, or the reentry code.

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:** Physical Standards / AR 635-200 / Chapter 13-2E / JFT / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 20 September 2018

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 24 July 2018

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant failed two consecutive record Army Physical Fitness Tests on 27 February 2018 and 29 March 2018.

(3) **Recommended Characterization:** General (Under Honorable Conditions)

(4) **Legal Consultation Date:** 10 September 2018

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

(6) **Separation Decision Date / Characterization:** NIF / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 4 April 2016 / 3 years, 16 weeks
- b. **Age at Enlistment / Education / GT Score:** 24 / HS Graduate / 99
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 11B10, Infantryman / 2 years, 5 months, 17 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Kosovo (6 March 2017 – 17 July 2017)
- f. **Awards and Decorations:** AAM, NDSM, AFEM, GWOTSM, ASR, NATO MDL
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** The applicant was counseled on two occasions due to failure of the APFT.
- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):**
 - (1) **Applicant provided:** None
 - (2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, personal statement, letters of support-2, medical documents

6. POST SERVICE ACCOMPLISHMENTS: The applicant is employed with the Food and Drug Administration (FDA).

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), dated 25 September 2019, sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states 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.

(3) Paragraph 3-7b states 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.

(4) Chapter 13-2e states in pertinent part, that separation proceedings will be initiated for Soldiers without medical limitations that have two consecutive failures of the Army Physical Fitness Test. The reason for discharge will be shown as physical standards. The service of Soldiers separated because of unsatisfactory performance for failure to meet physical standards will be characterized as honorable or general (under honorable conditions).

8. SUMMARY OF FACT(S): The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) indicates the applicant was discharged under the provisions of AR 635-200, paragraph 13-2e, by reason of Physical Standards with a characterization of service of General (Under Honorable Conditions).

The applicant contends the applicant was forced to participate in the APFT and training while injured. The applicant's AMHRR is void of evidence showing the applicant was issued a physical profile.

The applicant contends the applicant had honorable service and never received any nonjudicial punishment. The Board will consider the applicant service accomplishments and the quality of service according to the DODI 1332.28.

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.** There is no support for condition existing in-service. Any symptoms were secondary to the discharge stress.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that medical records do not support the applicant had an ongoing physical or behavioral health condition impacting Army Physical Fitness Test (APFT) failure.

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

b. Response to Contention(s):

(1) The applicant contends they had honorable service and never received any nonjudicial punishment. The Board determined that this contention was valid and voted to upgrade the characterization of service to Honorable.

(2) The applicant contends they were forced to participate in the APFT and training while injured. The Board considered this contention and voted to upgrade the characterization of service to Honorable.

c. The Board determined that the characterization of service was inequitable and too harsh for failing two consecutive record APFTs, and the applicant had no other misconduct in their file. The Board considered the applicant's length and quality of service, to include combat service, and post service accomplishments and voted to grant relieve in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14-12a. There will be no change to the narrative reason for separation or the reentry code.

d. Rationale for Decision:

(1) Based on a preponderance of evidence, the Board determined that the reason for the applicant's separation and character of service the applicant received upon separation were inequitable. The Board Members noted the applicant's length and quality of service, to include combat service, and post service accomplishments. Those positive factors mitigated the failing two consecutive record APFTs. The Board did not change the reason for discharge because the reason accurately reflects why the applicant was discharged, "Physical Standards."

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code, 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210013869

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes**
- b. Change Characterization to: Honorable**
- c. Change Reason / SPD Code to: No Change**
- d. Change RE Code to: No Change**
- e. Change Authority to: AR 635-200**

Authenticating Official:

8/8/2024



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