

1. Applicant's Name:

- a. **Application Date:** 22 August 2022
- b. **Date Received:** 24 August 2022
- c. **Counsel:** Yes

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

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is uncharacterized. The applicant requests, through counsel, a narrative reason and reentry (RE) code change.

The applicant's counsel seeks relief contending, in effect, a mental health provider erroneously concluded the applicant had a history of depression and anxiety based on scarce and incomplete evidence. The facts establish the applicant does not have a condition that would have precluded the applicant from enlistment. The applicant has been unable to secure meaningful employment due to the nature of the applicant's discharge. The applicant would like to be eligible for future service.

b. **Board Type and Decision:** In a records review conducted on 7 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:** Failed Medical / Physical / Procurement Standards / AR 635-200 / Chapter 5-11 / JFW / RE-3 / Uncharacterized

b. **Date of Discharge:** 30 January 2019

c. **Separation Facts:**

(1) **Date Entrance Physical Standards Board (EPSBD) convened:**
18 December 2018

(2) **EPSBD Findings:** After careful considerations of medical records, laboratory, findings, and medical examinations, the board found the applicant was medically unfit for enlistment according to current medical fitness standards and that in the opinion of the evaluating physicians the following medical condition(s) existed prior to service. The applicant went to Forward Site Behavioral Health Provider secondary to feelings of anxiety and depression. The applicant reported having these feelings since arriving but has gotten worse since missing FTX due to having pneumonia and being recycled. Sleep was reported to be "6 hours" per night. The applicant had some difficulty falling asleep, though it had improved. Loss of interest in activities denied. Guilt is reported because the applicant "wasn't able to make it."

Energy level was reported to be "moderate." Concentration was "sometimes it's poor; it varies." Appetite was fair. The applicant did not wish to remain in the service. The applicant reported a history of anxiety and depression that started in elementary school secondary to not wanting to go to school. Forward site provider spoke to applicant's father who confirmed history of anxiety and depression and stated he took the applicant to a child psychologist for about three sessions at age 11. Father states the applicant often talked about feeling depressed and anxious throughout elementary and high school and stated they tried to get the applicant to go to counseling and felt the applicant probably also needed medication, but the applicant refused. The applicant's father stated he tried to tell the applicant it was not a good idea to join the military because of the applicant's anxiety and depression but the applicant would not listen. The applicant's father also reported a family history of depression. The applicant's father was being treated for depression, and reported the applicant's grandmother was treated for depression. The applicant voiced understanding of the purpose of this evaluation, limits of confidentiality, and the right to a second opinion. The applicant's general appearance and hygiene was average. The applicant presented in a calm and engaged manner. Motor behavior was normal. Speech was normal. Eye contact was adequate. Affect was mildly dysphoric, congruent with stated mood. Mood was reported to be "decent." Thought content mood congruent and focused on the purpose of this evaluation. Thought process was logical and linear. The applicant did not report or present with any current suicidal or homicidal ideations, plans, or intent. The applicant did not report or present any delusions, hallucinations, or mania. The applicant did not report or present with any obsessional ideations or compulsive behaviors. Concentration appeared adequate. The applicant was oriented to time, place, and person. Comprehension appeared average. General fund of knowledge appeared average. Abstract ability appeared average. Judgement appeared fair. Impulse control appeared fair. The applicant was diagnosed with adjustment disorder with Mixed Anxiety and Depressed Mood. Psychological insight appeared adequate. Based on the medical condition that existed prior to service, it was recommended the applicant be separated from the service.

(3) Date Applicant Reviewed and concurred with the Findings and Requested to be discharged from the Army without delay: 23 January 2019

(4) Separation Decision Date / Characterization: 28 January 2019 / Uncharacterized

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 11 September 2018 / 5 years
- b. **Age at Enlistment / Education / GT Score:** 18 / HS Graduate / 100
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / None / 4 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:** See EPSBD as described in item 3c(1).
- i. **Lost Time / Mode of Return:** None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: See EPSBD as described in item 3c (1).

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, Counsel's Brief with 8 exhibits (33 total pages)

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), 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) Paragraph 3-9 states a separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status. Unless the DCS, G-1, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, convenience of the Government, and Secretarial plenary authority. A Soldier is in an entry-level status (ELS) if the Soldier has not completed more than 180 days of creditable continuous active duty prior to the initiation of separation action.

(5) Paragraph 5-11 specifically provides that Soldiers who were not medically qualified under procurement medical fitness standards, when accepted for enlistment, or who became medically disqualified under these standards prior to entry on active duty or active-duty training or initial entry training will be separated. A medical proceeding, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within six months of the Soldier's initial entrance on active duty, that the condition would have permanently or temporarily disqualified the Soldier for entry into the military service had it been detected at that time, and the medical condition does not disqualify the Soldier from

retention in the service under the provisions of AR 40-501, Chapter 3. The characterization of service for Soldiers separated under this provision of the regulation will normally be honorable. However, for Soldiers in entry-level status, it will be uncharacterized. AR 635-200 states that a Soldier is in an entry-level status (ELS) if the Soldier has not completed more than 180 days of creditable continuous active duty prior to the initiation of separation action.

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 "JFW" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, paragraph 5-11, Failed Medical/Physical/Procurement Standards.

f. Army Regulation 601-210, Regular Army and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

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.

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.

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 a narrative reason and RE code change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's counsel requests the applicant's narrative reason for the discharge be changed. The applicant was separated under the provisions of AR 635-200, paragraph 5-11 due failed medical/physical procurement standards, with an uncharacterized discharge and a RE code of "3." The narrative reason specified by Army Regulations for a discharge under this paragraph is "failed medical/physical procurement standards," and the separation code is "JFW." Army Regulation 635-8, Separation Processing and Documents, governs the preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be listed in tables 2-2 or 2-2 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant's counsel requests the applicant's RE code be changed. Army Regulation 601-210 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. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1 defines reentry eligibility (RE) codes. 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.

The applicant's counsel contends a mental health provider erroneously concluded the applicant had a history of depression and anxiety based on scarce and incomplete evidence. The facts establish the applicant does not have a condition that would have precluded the applicant from enlistment. The proceedings of the EPSBD revealed the applicant had a medical condition which was disqualifying for enlistment and existed prior to entry on active duty. These findings were approved by competent medical authority and the applicant agreed with the findings and proposed action for administrative separation from the Army.

The applicant's counsel contends the applicant has not been able to secure meaningful employment due the nature of the applicant's discharge. The Board does not grant relief to gain employment or enhance employment opportunities.

The applicant's counsel states the applicant would like to be eligible for future service. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-201, the applicant was assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of RE codes if appropriate.

An uncharacterized discharge is neither positive nor negative and it is not meant to be a negative reflection of a Soldier's military service. It merely means that the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. The applicant was in an ELS at the time of the separation.

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: Depression, Anxiety, Adjustment Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** Depression, Anxiety, 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 contrary to the applicant's assertion, documentation does support the applicant had pre-existing symptoms and treatment which would have required reporting and assessment for a waiver.

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

b. Response to Contention(s):

(1) The applicant's counsel contends a mental health provider erroneously concluded the applicant had a history of depression and anxiety based on scarce and incomplete evidence. The facts establish the applicant does not have a condition that would have precluded the applicant from enlistment. 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 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's counsel contends the applicant has not been able to secure meaningful employment due the nature of the applicant's discharge. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

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 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

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