

**1. Applicant's Name:**

- a. **Application Date:** 9 August 2023
- b. **Date Received:** 9 August 2023
- 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 an upgrade to honorable, a narrative reason change to "Secretarial Authority," and a retroactive medical board.

b. The applicant seeks relief contending, in effect, the characterization does not accurately reflect the circumstances surrounding the discharge. During active duty service, the applicant was diagnosed with grand mal epilepsy, mild TBI, and major depressive disorder.

(1) The applicant's military career was cut short on 13 April 2023, when the applicant suffered a TBI after a fall in the training battery. This injury occurred due to the applicant's lack of proper education on the use of crutches, a result of never having been injured before. After this incident, the applicant was deemed a fall risk by the TBI clinic but despite this designation, the applicant suffered a second TBI after a fall in the shower at the fitness rehabilitation unit, Bravo 95th Adjutant General, Fort Sill, OK. This required transportation to the Comanche County Hospital emergency room for treatment. Despite the applicant's best efforts to follow up with the providers and the TBI clinic, the applicant's symptoms were never adequately addressed.

(2) The applicant suffered from memory loss, tinnitus, persistent headaches, and blurry vision which prevented the applicant from being able to return to training. These symptoms are common in individuals who have suffered a TBI and indicated a need for continued medical support and intervention, which unfortunately was not provided.

(3) Following the two TBI incidents, the applicant experienced seizure-like activity, a serious condition that required medication. Dr. L\_\_\_ B\_\_\_, a staff neurologist at the Reynold Army Health Clinic, prescribed an anticonvulsant called Depakote. Despite this treatment, the seizure-like activity continued. This, alongside the persistent symptoms from the applicant's TBI, significantly impacted the applicant's ability to perform the applicant's duties and engage with the applicant's peers. It is important to note that the Army did not take appropriate steps to identify and treat the applicant's ongoing issues. The applicant believes this is a significant oversight that contributed to the applicant's inability to fulfill the applicant's duties and ultimately led to the applicant's discharge. This lack of proper medical attention and care also led to an unexplainable fear and mistrust of Army medical providers. The applicant was in constant pain, emotionally and physically distressed, and without adequate support, which resulted in conflicts with other trainees. Moreover, the applicant was reprimanded for not pulling fire guard despite the applicant's injured status and mental distress. While the applicant understands the importance of duty and the need for all service members to contribute their share, the applicant believes the Army failed to take into account the severity of the applicant's medical condition and its impact on the applicant's ability to perform such tasks.

(4) Dr. J\_\_ W\_\_, medical provider at the Sergeant B\_\_ Troop Medical Clinic (TMC), Fort Sill, suggested that a medical separation would be quicker and more beneficial. Under Dr. W\_\_'s guidance, the applicant signed an Against Medical Orders memorandum, unaware that it would result in an "Uncharacterized" discharge, which has unfairly marked the applicant as someone who could not complete what was started. The applicant believes that Dr. W\_\_ misled the applicant about the applicant's rights and the proper procedures that should have been followed.

(5) The TBIs and the subsequent complications were unforeseen events that the applicant could not control. Taking into account the lack of adequate medical care the applicant received and the severity of the applicant's condition, it is clear that the applicant was not able to perform the applicant's duties due to medical reasons, not lack of will or commitment. In addition, it is also important to consider the psychological toll that the applicant experiences and injuries took on the applicant. The constant pain, the lack of a clear diagnosis or effective treatment, and the fear and mistrust of the very people who were supposed to help the applicant took a significant toll on the applicant's mental health.

(6) The characterization of the applicant's discharge also has significant implications for the applicant's transition to civilian life. The term "Uncharacterized for Entry Level Performance and Conduct" paints an incomplete picture of the applicant's service and does not convey the severe medical and psychological challenges the applicant faced. The applicant believes that an honorable discharge is a fair and just recognition of the applicant's service, given the circumstances.

**c. Board Type and Decision:** In a Telephonic Personal Appearance Hearing conducted on 2 December 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 10 of this document for more detail regarding the Board's decision.*

### 3. DISCHARGE DETAILS:

**a. Reason / Authority / Codes / Characterization:** Entry Level Performance and Conduct / AR 635-200, Chapter 11 / JGA / RE-3 / Uncharacterized

**b. Date of Discharge:** 13 June 2023

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

(1) **Date of Notification of Intent to Separate:** 30 May 2023

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant has demonstrated an inability to adapt to the military environment. The applicant was recommended to follow up with neurology for clearance after falling down the stairs, and then receive an existed prior to service (EPTS) chapter for osteopenia. The applicant remained adamant about not wanting anything from the Army and refused medical care. These characteristics are not compatible with continued satisfactory service.

(3) **Recommended Characterization:** Uncharacterized

(4) **Legal Consultation Date:** On 30 May 2023, the applicant waived legal counsel.

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

**(6) Separation Decision Date / Characterization: NIF****4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 20 March 2023 / 6 years and 26 weeks

**b. Age at Enlistment / Education / GT Score:** 18 / Bachelor's Degree / NIF

**c. Highest Grade Achieved / MOS / Total Service:** E-3 (Army National Guard orders number 0008575339.00, 22 June 2024, shows the applicant was promoted to E-4 effective 23 June 2024, however the applicant was discharged from the Regular Army on 13 June 2023) / None / 11 months and 21 days

**d. Prior Service / Characterizations:** ARNG, 23 June 2022 - 19 March 2023 / HD

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** None

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** The applicant provided:

**(1)** DD Form 689, Individual Sick Slip, 28 March 2023, shows the applicant was seen for ankle pain. The applicant received a profile that included the use of crutches with a follow up appointment.

**(2)** DD Form 689, Individual Sick Slip, 31 March 2023, shows the applicant was seen for left ankle pain. The applicant was to receive an x-ray and a magnetic resonance imaging (MRI) with a follow up after the MRI.

**(3)** Comanche County Memorial Hospital Discharge Instructions, 31 March 2023, shows the applicant was seen for a minor head injury.

**(4)** DD Form 689, Individual Sick Slip, 3 April 2023, shows the applicant was seen for a follow up (reason unspecified). Received physical therapy referral, medication prescription, and labs.

**(5)** Physical Profile Record shows the applicant had a profile for left ankle/foot injury/pain which limited the applicant's duties.

**(6)** Two Developmental Counseling Forms, for missing training, disobeying an order from a commissioned officer, disrespect, and failure to adapt.

**(7)** DD Form 689, Individual Sick Slip, 10 April 2023, shows the applicant was seen for ringing ear, headache, and memory issues.

**(8)** Physical Profile Record shows the applicant had a profile for a concussion which limited the applicant's duties.

**(9)** Reynolds Army Community Hospital TBI Clinic, 19 April 2023, shows the applicant was referred to the TBI Clinic due to a concussion evaluation from a week ago. While

attempting to transfer from the applicant's wheelchair to the shower chair the applicant fell and struck the applicant's head on the floor. Prior to this incident, the applicant fell down the stairs while using crutches around 1 April 2023. On 12 April 2023, the applicant had a positive TBI screen.

**(10)** Law Enforcement Report - Initial - Final, 24 April 2023, shows an investigation states the applicant reported on 30 March 2023, trainee abuse by a drill sergeant while in basic training. The applicant accused the drill sergeant of pushing the applicant to the ground, causing the applicant to severely sprain an ankle with torn ligaments.

**(11)** Reynolds Army Community Hospital TBI Clinic Office and Clinic Notes, 26 April 2023, shows the applicant was seen as a follow-up after a concussion evaluation 1 week ago. The applicant stated that there has been no change in the applicant's headaches, light sensitivity, or ringing in ears.

**(12)** Reynolds Army Community Hospital emergency room provider note, 2 May 2023, states the applicant was seen for having two seizures prior to arriving to the emergency room.

**(13)** Reynolds Army Community Hospital Office and Clinic Notes, 2 May 2023, shows Lieutenant Colonel T\_\_ E. P\_\_ submitted a referral for neurology, use of a wheelchair, and quarters until cleared by neurology.

**(14)** Reynolds Army Community Hospital Office and Clinic Notes, 4 May 2023, states the applicant was seen for syncope and post falls with TBI, hip fractures, and current headache. It was assessed that the applicant had posttraumatic headaches which had a migraine character. Status post two events on yesterday of uncertain etiology. Findings on physical examination which suggest functional overlay.

**(15)** Developmental Counseling Form, 8 May 2023, shows the applicant was counseled for violating the applicant's profile.

**(16)** Reynolds Army Community Hospital TBI Clinic Office and Clinic Notes, 10 May 2023, shows the applicant was cleared for the TBI and would continue with neurological care.

**(17)** Developmental Counseling Form, 11 May 2023, shows the applicant was counseled for failure to meet bay standards.

**(18)** Dr. W\_\_'s Memorandum for Record (MFR), 15 May 2023, states the applicant was diagnosed with post concussive state. After an MRI brain and cervical spine showed normal, the applicant was recommended to follow up with neurology for clearance then EPTS/ chapter for osteopenia. The applicant did not want to wait or want anything from the Army, refused medical care and wanted to go home. Counseling for refusal of medical care was recommended to include strict profile limitations, and a chapter 11 based on the inability to complete training/basic training.

**(19)** Company Commander MFR, 15 May 2023, subject: (Applicant) Request for Separation in accordance with AR 635-200, Chapter 11, Entry Level Performance and Conduct, shows the company commander planned to initiate action to separate the applicant for Entry Level Performance and Conduct, due to not meeting the minimum standards to complete training due to lack of aptitude, ability, motivation, and self-discipline. The applicant could not or would not adapt socially or emotionally to military life. In addition, the applicant suffered from multiple injuries and refused further medical care.

(20) Developmental Counseling Form, 15 May 2015, shows the company commander counseled the applicant for refusing medical care and orders and initiation of administrative separation under AR 635-200, chapter 11. On this same date, the applicant declined to undergo a complete military medical examination.

(21) Developmental Counseling Form, 26 May 2015, shows the applicant was counseled for initiation of an adverse action (AA) flag.

(22) DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), 26 May 2015, shows the applicant was flagged for adverse action (AA), effective 26 May 2015.

(23) Federal Bureau of Investigation (FBI) Letter, 10 July 2023, revealed no prior arrests at the FBI.

(24) Georgia Army National Guard Order Number 0008575339.00, 22 June 2024, shows promotion from E-3 to E-4, effective 23 June 2024.

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

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

(1) **Applicant provided:**

(a) Department of Veterans Affairs Disability Rating Decision, 3 May 2024, shows the applicant was rated 100 percent disabled (includes 100 percent for epilepsy grand mal epilepsy with absence seizures and 50 percent for major depressive disorder with anxious distress and insomnia disorder, and TBI).

(b) Southern Arizona VA Health Care System Progress Notes, shows the following active problems for 2024: suicidal ideation, major depression, and history of TBI.

(c) VA Board of Veterans Appeal Intake Center Certification, 26 July 2024, shows the applicant was discharged because of service-connected disability.

(2) **AMHRR Listed:** None

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

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; DD Form 214; partial case separation packet; FBI Letter; Divorce Decree; VA medical progress notes; two VA Rating Decision Letters; two VA Benefits Decision Letters; and VA Board of Veterans Appeal Intake Center Certification.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant worked as a 911 dispatcher for the Hill County Sheriff's Office. The applicant received recognition from the Hill County Sheriff's Office for assisting with a lifesaving rescue and recommendation for a meritorious conduct award.

**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.** 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 that agency.

**c.** 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.

**d.** 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.

**e.** 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)** 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.

**(4)** Chapter 11 provides for the separation of personnel due to unsatisfactory performance, conduct, or both, while in an entry level status (ELS).

**(5)** Paragraph 11-3a (2) stipulates the policy applies to Soldiers who are in entry-level status, undergoing IET, and, before the date of the initiation of separation action, have completed no more than 180 days of creditable continuous AD or IADT or no more than 90 days of Phase II under a split or alternate training option. (See the glossary for precise definition of entry-level status.)

**(6)** Paragraph 11-8, stipulates service will be described as uncharacterized under the provisions of this chapter.

**(7)** Chapter 15 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)** Glossary defines 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.

**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 "JGA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 11, entry-level performance and conduct.

**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 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:

**(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.

**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, a narrative reason change to "Secretarial Authority," and a retroactive medical board. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

**b.** An honorable discharge may be given only in cases which are clearly warranted by unusual circumstances involving outstanding personal conduct and/or performance of duty. An honorable discharge is rarely ever granted.

**c.** The applicant's DD Form 214 shows the applicant served 2 months and 24 days for service in the Regular Army. The applicant received developmental counselings for missing training, disobeying an order from a commissioned officer, disrespect, failure to adapt, violating the applicant's profile, failure to meet bay standards, and for refusing medical care and orders. The applicant's DD Form 214 shows the applicant was discharged on 13 June 2023 under the provisions of AR 635-200, Chapter 11, by reason of Entry-level performance and conduct, with a characterization of service of uncharacterized.

**d.** Army Regulation 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 DD Form 214 shows the applicant was notified on 30 May 2023 of the intent to initiate separation proceedings from the Army. At the time of the notification, the applicant had 72 days of continuous active duty service. Based on the time in service, the applicant was in an ELS status, and the uncharacterized discharge was appropriate.



e. The applicant contends, in effect, the narrative reason for the discharge should be changed to "Secretarial Authority." The applicant was separated under the provisions of Chapter 11, AR 635-200, with an uncharacterized discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Entry Level Performance and Conduct" and the separation code is "JGA." 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 as listed in tables 2-2 or 2-3 of AR 635-5-1 (SPD Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

f. The applicant contends, in effect, the characterization does not accurately reflect the circumstances surrounding the discharge. The applicant suffered a TBI after a fall in the training battery. This injury occurred due to the applicant's lack of proper education on the use of crutches, a result of never having been injured before. After this incident, the applicant was deemed a fall risk by the TBI clinic but despite this designation, the applicant suffered a second TBI after a fall in the shower at the fitness rehabilitation unit, Bravo 95th Adjutant General, Fort Sill, OK. During active duty service, the applicant was diagnosed with grand mal epilepsy, mild TBI, and major depressive disorder.

(1) The applicant states in the applicant's application that there was a lack of a clear diagnosis.

(2) The applicant's AMHRR does not reflect documentation of a diagnosis of grand mal epilepsy, mild TBI, and major depressive disorder while in service nor did the applicant provide such evidence.

(3) The applicant provided:

(a) DD Form 689, Individual Sick Slip, 28 March 2023, shows the applicant was seen for ankle pain and received a profile that included the use of crutches.

(b) Reynolds Army Community Hospital TBI Clinic, 19 April 2023, shows the applicant was seen at the TBI Clinic due to a concussion evaluation from a week ago. While attempting to transfer from the applicant's wheelchair to the shower chair the applicant fell and struck the applicant's head on the floor. Prior to this incident, the applicant fell down the stairs while using crutches around 1 April 2023. On 12 April 2023, the applicant had a positive TBI screen.

(c) Dr. W\_\_'s MFR, 15 May 2023, states the applicant was diagnosed with post concussive state.

(d) Department of Veterans Affairs Disability Rating Decision, 3 May 2024, shows the applicant was rated 100 percent disabled (includes 100 percent for epilepsy grand mal epilepsy with absence seizures and 50 percent for major depressive disorder with anxious distress and insomnia disorder, and TBI) effective 14 June 2023.

(e) Southern Arizona VA Health Care System Progress Notes, shows the following active problems for 2024: in part, major depression and history of TBI.

g. The applicant contends, in effect, that despite the applicant's best efforts to follow up with the providers and the TBI clinic, the applicant's TBI symptoms and seizure-like activity were never adequately addressed and the Army did not take appropriate steps to identify and treat the applicant's ongoing issues. Evidence the applicant provided shows the applicant was seen on multiple occasions between the Reynolds Army Community Hospital emergency room, TBI

Clinic, neurology, and Sergeant B\_\_ TMC. The applicant received medication, profiles, physical therapy, use of a wheelchair, quarters, and referral for neurology. Dr. W\_\_'s MFR, 15 May 2023, states the applicant was diagnosed with post concussive state. After an MRI brain and cervical spine showed normal, the applicant was recommended to follow up with neurology for clearance then EPTS/chapter for osteopenia.

h. The applicant contends, in effect, Dr. W\_\_ suggested that a medical separation would be quicker and more beneficial. Under Dr. W\_\_'s guidance, the applicant signed an Against Medical Orders memorandum, unaware that it would result in an "Uncharacterized" discharge, which has unfairly marked the applicant as someone who could not complete what was started. The applicant believes that Dr. W\_\_ misled the applicant about the applicant's rights and the proper procedures that should have been followed.

Dr. W\_\_'s MFR, 15 May 2023, states the applicant did not want to wait or want anything from the Army, refused medical care and wanted to go home. Dr. W\_\_ explained that at the time recommendation was for follow up with neurology and anything less would be refusal of medical care/orders. The applicant remained very adamant about not wanting anything from the Army and wanted to refuse medical care and to go home.

i. The applicant requests a retroactive medical board. The applicant's request does not fall within this Board's purview. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

j. The applicant contends to have worked as a 911 dispatcher for the Hill County Sheriff's Office. The applicant received recognition from the Hill County Sheriff's Office for assisting with a lifesaving rescue and recommendation for a meritorious conduct award. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

k. 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. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE:** In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

a. **The applicant submitted the following additional document(s):** None

b. **The applicant presented the following additional contention(s):** None

c. **Counsel:** Mr. James Phillips

**10. 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/experiences: TBI, Major Depressive DO (50% SC), Epilepsy (100% SC).

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found TBI was diagnosed during active service. VA service connection for epilepsy and MDD establishes nexus with active service.

(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 applicant's separation was proper and equitable. While the applicant has been service connected by the VA for epilepsy, TBI and Major Depressive DO, record review indicates that there is insufficient evidence to support that the applicant's contention that his separation should be upgraded to an Honorable discharge based on his allegation that the Army did not appropriately identify and treat his ailments. Record review indicates that, on 15 May 2023, while he was being worked up by the Army for osteopenia and a possible seizure disorder, he refused medical care, stating he did "not want to wait or want anything from the Army". Record review also indicates that he did not have a disqualifying condition requiring a referral to DES (per AR 40-501 chapter 3) at the time of discharge.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the available evidence did not support a conclusion that the applicant's conditions outweighed the reason for discharge.

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) The applicant contends, in effect, the narrative reason for the discharge should be changed to "Secretarial Authority." The Board acknowledged and considered this contention during the board proceedings.

(2) The applicant contends, in effect, the characterization does not accurately reflect the circumstances surrounding the discharge. The applicant suffered a TBI after a fall in the training battery. This injury occurred due to the applicant's lack of proper education on the use of crutches, a result of never having been injured before. After this incident, the applicant was deemed a fall risk by the TBI clinic but despite this designation, the applicant suffered a second TBI after a fall in the shower at the fitness rehabilitation unit, Bravo 95th Adjutant General, Fort Sill, OK. During active duty service, the applicant was diagnosed with grand mal epilepsy, mild TBI, and major depressive disorder. The Board acknowledged and considered this contention during the board proceedings.

(3) The applicant contends, in effect, that despite the applicant's best efforts to follow up with the providers and the TBI clinic, the applicant's TBI symptoms and seizure-like activity

were never adequately addressed and the Army did not take appropriate steps to identify and treat the applicant's ongoing issues.

The Board acknowledged this contention and determined the record review indicates on 15 May 2023, while the applicant was being worked up by the Army for osteopenia and a possible seizure disorder, the applicant refused medical care, stating he did "not want to wait or want anything from the Army". Record review also indicates the applicant did not have a disqualifying condition requiring a referral to DES (per AR 40-501 chapter 3) at the time of discharge.

(4) The applicant contends, in effect, Dr. W\_\_\_ suggested that a medical separation would be quicker and more beneficial. Under Dr. W\_\_\_'s guidance, the applicant signed an Against Medical Orders memorandum, unaware that it would result in an "Uncharacterized" discharge, which has unfairly marked the applicant as someone who could not complete what was started. The applicant believes that Dr. W\_\_\_ misled the applicant about the applicant's rights and the proper procedures that should have been followed.

The Board considered this contention and determined that the discharge was consistent with the procedural and substantive requirements of the regulation.

(5) The applicant contends to have worked as a 911 dispatcher for the Hill County Sheriff's Office. The applicant received recognition from the Hill County Sheriff's Office for assisting with a lifesaving rescue and recommendation for a meritorious conduct award. The Board acknowledged and considered this contention and the applicant's post service accomplishments during the board proceedings.

d. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. The applicant has exhausted all available appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. 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. Panel members concurred with the Board Medical Advisor's opine that when the applicant was receiving follow up by the Army for osteopenia and a possible seizure disorder, the applicant refused medical care, stating he did not want to wait or want anything from the Army. Additionally, the applicant did not have a disqualifying condition requiring a referral to DES (per AR 40-501 chapter 3) at the time of discharge. 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, 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.

**11. 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:**

1/9/2025

**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