

1. Applicant's Name:

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

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

a. **Applicant's Requests and Issues:** The current characterization of service for period under review is honorable. The Board will determine any possible upgrades to the narrative reason, separation program designator, or reentry eligibility code.

The applicant seeks relief contending, in effect, PTSD, type two bipolar disorder, and other physical injuries prevent them from working. The applicant requires medical assistance and has been admitted to the VA hospital in Murfreesboro, Tennessee. The applicant has done well after starting new medication. The applicant states their diagnosis was incorrect prior to their release. When the psychiatrist asked the applicant if they were okay with an under other than honorable discharge, the applicant was unsure of what they were signing. The applicant's first sergeant (1SG) discharged them as quickly as possible because they considered the applicant to be a menace to the unit.

b. **Board Type and Decision:** In a records review conducted on 16 January 2025, 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:** Misconduct (Minor Infractions) / AR 635-200, Chapter 14-12a / JKN / RE-3 / Honorable

b. **Date of Discharge:** 17 February 2011

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 25 January 2011

(2) **Basis for Separation:** The applicant was informed of the following reasons: On or about the following listed dates, the applicant either missed a scheduled appointment or failed to be on time for duty or formation: 20 and 31 May 2010; 28 and 29 August 2010; and 4 November 2010.

On 28 August 2010, the applicant stated they were "tired and going to lie down for a couple of hours". The applicant wrongfully absented themselves from performing their daily duties and proceeded to go and lie down in a room (#61) within the hospital.

The applicant disregarded the nursing orders of a provider by opting to "double ace wrap" a patient's injury versus splinting it as directed. Also on this date, it was noted the applicant provided substandard care to another patient, leaving the individual "crying and bloody" and in an unclean state. When the provider endeavored to speak with the applicant about the situation,

the applicant became “insolent and presented an extremely unprofessional demeanor” towards nurse.

On 4 November 2010, the applicant attended a meeting regarding their failure to repair with a commissioned officer and a noncommissioned officer, both senior to them. During the meeting, the applicant demonstrated “disrespect and insubordination” towards both individuals by way of their verbal and nonverbal methods of communicating. These actions, coupled with many serious civil and domestic incidents, demonstrate their lack of regard for the Army way are not in keeping with the good order and discipline of the armed forces.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: On 26 January 2011, the applicant waived legal counsel.

(5) Administrative Separation Board: On 26 January 2011, the applicant unconditionally waived consideration of the case before an administrative separation board.

(6) Separation Decision Date / Characterization: 11 February 2011 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 6 February 2009 / 4 years

b. Age at Enlistment / Education / GT Score: 26 / High School Graduate / 115

c. Highest Grade Achieved / MOS / Total Service: E-4 / 68W10, Health Care Specialist / 4 years, 1 month, 9 days

d. Prior Service / Characterizations: RA, 9 January 2007 – 5 February 2009 / HD

e. Overseas Service / Combat Service: Germany, SWA / Iraq (31 October 2007 – 14 May 2008)

f. Awards and Decorations: ARCOM, AAM, AGCM, NDSM, GWOTSM, ICM-CS, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: FG Article 15, 1 June 2013, for failing to at the time prescribed to their appointed place of duty on three occasions 20 May; 31 May and 29 August 2010. On or about 28 August 2010, leave their place of duty to go and sleep in Room #61 of the Urgent Care Clinic, conduct, being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces. The punishment consisted of a reduction to E-3; forfeiture of \$448 pay (suspended); and extra duty for 14 days.

Military Police Report, undated, reflects the applicant was charged with Domestic assault and Reckless endangerment.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Behavioral Health Evaluation (BHE), 16 November 2010, reflects the applicant had been diagnosed with adjustment disorder depress with anxiety.

Report of Medical History, 2 December 2010, the examining medical physician noted in the comments section: Anxiety and depression.

Report of Behavioral Health Evaluation (BHE), 19 January 2011, reflects the applicant had been diagnosed with adjustment disorder.

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge; Email from applicant.

6. POST SERVICE ACCOMPLISHMENTS: The applicant sought treatment for their mental health from the VA.

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), 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 (Active Duty Enlisted Administrative Separations), 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) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(4) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(5) Paragraph 14-12a addresses minor disciplinary infractions, defined as a pattern of misconduct, consisting solely of minor military disciplinary infractions.

(6) 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 "JKN" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (minor infractions).

e. 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-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 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 contends being diagnosed with PTSD, type two bipolar disorder, and other physical injuries which prevent them from working. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR includes a Report of Behavioral Health Evaluation (BHE), 16 November 2010 and 19 January 2011, reflecting the applicant has been diagnosed with adjustment disorder and depression with anxiety. Also, a Report of Medical History, 2 December 2010, the examining medical physician noted in the comments section: Anxiety and depression. All medical documents were considered by the separation authority.

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

The applicant contends when the psychiatrist asked them if they were okay with an under other than honorable discharge, the applicant was unsure of what they were signing. Their first sergeant discharged them as quickly as possible because they considered the applicant to be a menace to the unit. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends seeking help from the VA for their mental health. 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.

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 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: Adjustment Disorder, PTSD, Major Depression, Dysthymic Disorder, Anxiety Disorder NOS, IPV. Additionally, the applicant asserts Bipolar II Disorder, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that the applicant was diagnosed in service with Adjustment Disorder, PTSD, Major Depression, Dysthymic Disorder, and Anxiety Disorder NOS, and the VA has service connected the PTSD. There is also evidence that the applicant was the victim of IPV during military service, and the applicant self-asserts Bipolar II Disorder which is supported by the VA medical record.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions do not mitigate the discharge. The applicant was diagnosed in service with Adjustment Disorder, PTSD, Major Depression, Dysthymic Disorder, and Anxiety Disorder NOS, and the VA has service connected the PTSD. There is also evidence that the applicant was the victim of IPV during military service, and the applicant self-asserts Bipolar II Disorder which is supported by the VA medical record. Given the nexus between PTSD, Major Depression, Anxiety Disorder NOS, Bipolar II Disorder and avoidance, as well as the nexus between PTSD and difficulty with authority, it is likely that the applicant's BH conditions contributed to all of the misconduct in the basis of separation to include FTRs, disrespect, insubordination, and disregarding nursing orders. In addition, the applicant was experiencing significant IPV at the time of the misconduct that led to the separation. Victims of IPV experience a great deal of stress which can impair behavior, attitude, and performance.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Post Traumatic Stress Disorder, Major Depression, Dysthymic Disorder, Anxiety Disorder NOS, Intimate Partner Violence victimization, and self-asserted Bipolar Disorder outweighed the applicant's discharge as the applicant already holds an honorable characterization of service with a Misconduct (Minor Infractions) narrative reason for separation.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD, type two bipolar disorder, and other physical injuries which prevent them from working. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Post Traumatic Stress Disorder, Major Depression, Dysthymic Disorder, Anxiety Disorder NOS, Intimate Partner Violence victimization, and self-asserted Bipolar Disorder outweighed the applicant's discharge as the applicant already holds an

honorable characterization of service with a Misconduct (Minor Infractions) narrative reason for separation.

(2) The applicant contends an upgrade of the discharge would allow veterans benefits. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(3) The applicant contends that when the psychiatrist asked them if they were okay with an under other than honorable discharge, the applicant was unsure of what they were signing. Their first sergeant discharged them as quickly as possible because they considered the applicant to be a menace to the unit. The Board considered this contention but ultimately did not address it because the applicant now holds an honorable characterization.

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 as the applicant already holds an honorable characterization and further relief is not available.

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

AR20210000513

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:

1/23/2025

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