

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 general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, suffering from PTSD, the applicant turned to alcohol as a coping mechanism. The applicant was having issues with their significant other and was placed in the barracks with no contact with their child. The applicant used alcohol to take away the pain of the stress. Since the discharge, the applicant does not drink and has a PTSD diagnosis and is receiving treatment through the VA. The applicant described the circumstances and events surrounding the events which led to their discharge in a statement provided with the application. After the discharge, the applicant moved back home to be closer to their family. The applicant enrolled in a treatment center in July 2012, and completed the program in February 2013. The applicant also started working as a forklift driver at a distribution center from July 2012 to June 2013. The applicant moved to Georgia and enrolled in college to pursue a degree in criminal justice. The applicant realizes making some mistakes because of alcohol abuse while in the military. Since completing the addiction program, the applicant thinks clearly and is making better decisions.

b. **Board Type and Decision:** In a records review conducted on 3 December 2024, and by a 3-2 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 9 of this document for more details regarding the Board's decision.
Board member names available upon request.*

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 7 December 2011

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 13 October 2011

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant was involved in a domestic violence incident on 16 December 2010, where the applicant pulled out their weapon and discharged it. The applicant also received a Driving Under the influence (DUI) on 17 September 2011.

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

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 3 November 2011 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 22 April 2009 / 3 years, 23 weeks

b. Age at Enlistment / Education / GT Score: 22 / High School Graduate / 99

Highest Grade Achieved / MOS / Total Service: E-4 / 92F1P, Petroleum Supply Specialist / 2 years, 7 months, 16 days

c. Prior Service / Characterizations: None

d. Overseas Service / Combat Service: SWA / Iraq (11 December 2009 – 23 July 2010)

e. Awards and Decorations: ARCOM, MUC, NDSM, GWOTSM, ICM-CS, ASR, OSR

f. Performance Ratings: NA

g. Disciplinary Action(s) / Evidentiary Record: FG Article 15, 20 September 2011, for on or about 12 March 2011, disobeyed a lawful order from a superior commissioned officer. On or about 16 December 2010, was disorderly which conduct was of a nature to bring discredit upon the armed forces. On or about 16 December 2010, through negligence, discharge a firearm at the quarters of PFC S. P., at 16 Cargo Master Avenue, Pope Air Force Base, NC, which conduct was of a nature to bring discredit upon the armed forces. On or about 16 December 2010, wrongfully and recklessly engage in conduct, to wit: handling a loaded firearm during a fight with PFC D. W., conduct likely to cause death or grievous bodily harm to PFC D. W., which conduct was of a nature to bring discredit upon the armed forces. The punishment consisted of a reduction to E-1; forfeiture of \$733 pay per month for two months; and extra duty and restriction for 45 days and oral reprimand.

General Officer Memorandum Of Reprimand, 22 September 2011, reflects the applicant was driving while impaired, on 17 September 2011, the Military Police stopped the applicant for driving 53 miles per hour (MPH) in a 40 MPH zone and failing to maintain the limits of their lane. Standard field sobriety tests were conducted after the Military Police detected an odor of alcohol. The test determined the applicant blood alcohol content to be .16 percent, which was over the legal limit to operate a motor vehicle in the State of North Carolina.

Two Developmental Counseling Forms, for driving under the influence and intent to separate.

h. Lost Time / Mode of Return: None

i. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Behavioral Health Evaluation (BHE), 7 February 2011, reflects the applicant was mentally responsible with a clear-thinking process and had the mental

capacity to understand and participate in the proceedings. The applicant was cleared for any administrative actions deemed appropriate by command. It was the professional opinion of the undersigned evaluator the applicant would not respond to command efforts at rehabilitation (such as transfer, disciplinary action, or reclassification), or to any behavioral health treatment methods currently available in any military behavioral health facility. The applicant was diagnosed with adult antisocial behavior and legal problems.

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: Two Certificates of Release or Discharge from Active Duty; Application for the Review of Discharge; self-authored letter.

6. POST SERVICE ACCOMPLISHMENTS: The applicant enrolled in a treatment center in July 2012 and completed the program in February 2013. The applicant also started working as a forklift driver at a distribution center from July 2012 to June 2013, and enrolled in college to pursue a degree in criminal justice.

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) 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 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.

(5) 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.

(6) Paragraph 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

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-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 turning to alcohol as a coping mechanism to handle their stress; and being diagnosed with PTSD by the VA. 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), 7 February 2011, reflecting the applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. The applicant was cleared for any administrative actions deemed appropriate by command. It was the professional opinion of the evaluator the applicant would not respond to command efforts at rehabilitation (such as transfer, disciplinary action, or reclassification), or to any behavioral health treatment methods currently available in any military behavioral health facility. The applicant was diagnosed with adult antisocial behavior and legal problems.

The applicant contends enrolling in a treatment center in July 2012 and completed the program in February 2013. The applicant also started working as a forklift driver at a distribution center from July 2012 to June 2013, and enrolled in college to pursue a degree in criminal justice. 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's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 70 percent service connected for PTSD.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions partially mitigate the discharge. Given the nexus between PTSD and the use of substances to self-medicate, the applicant's DUI is mitigated. The applicant's offenses of negligent discharge, engaging in a fight while carrying a loaded weapon (conduct likely to cause death/harm), and violating a military protective order are not mitigated as these actions are not part of the natural sequela of PTSD.

(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 Post Traumatic Stress Disorder outweighed the medically unmitigated offenses of negligent discharge, engaging in a fight while carrying a loaded weapon (conduct likely to cause death/harm), and violating a military protective order.

b. Response to Contention(s):

(1) The applicant contends turning to alcohol as a coping mechanism to handle their stress; and being diagnosed with PTSD by the VA. The Board liberally considered this contention and determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder outweighed the severity of the medically unmitigated offenses of negligent discharge, engaging in a fight while carrying a loaded weapon (conduct likely to cause death/harm), and violating a military protective order.

(2) The applicant contends enrolling in a treatment center in July 2012 and completed the program in February 2013. The applicant also started working as a forklift driver at a distribution center from July 2012 to June 2013, and enrolled in college to pursue a degree in criminal justice. The Board considered the applicant's post-service accomplishments and determined that they do not outweigh the severity of the medically unmitigated offenses.

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before a 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, despite applying liberal consideration to all evidence before the Board, the applicant's Post Traumatic Stress Disorder did not outweigh the medically unmitigated offenses of negligent discharge, engaging in a fight while carrying a loaded weapon (conduct likely to cause

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death/harm), and violating a military protective order. The Board also considered the applicant's post-service accomplishments and found these actions coupled with the totality of the record do not warrant a discharge upgrade. The applicant did not present any issues of impropriety for the Board's consideration. 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. Therefore, the applicant's General discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an Honorable characterization.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts. The reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change due to the BH diagnosis with service connection. 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:

12/26/2024

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
UOTH – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs