

**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 applicant is considered for a change to the narrative reason for separation.

The applicant seeks relief contending, in effect, deserving an upgrade of their discharge because they did not receive the proper treatment for their post-traumatic stress disorder (PTSD) or schizophrenia when they returned from Iraq. The applicant was an Infantryman and deployed for 14 months and realized after returning to Fort Drum in November of 2008, they were exhibiting signs of PTSD and early signs of schizophrenia. The applicant was discharged seven months later and was not diagnosed with PTSD for several months after going to the VA. The applicant was having difficulty adjusting to civilian life and it was not until several years later in 2012, they were diagnosed with and started receiving treatment for schizophrenia.

b. **Board Type and Decision:** In a records review conducted on 5 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 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:** Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / Honorable

b. **Date of Discharge:** 26 June 2009

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 10 June 2009

(2) **Basis for Separation:** The applicant was informed of the following reasons: On or about 1 May 2009, the applicant assaulted PFC M. W., by jabbing them in the chest with their fingers, slapping PFC M. W., on the face, and punching them in the arm.

On or about 1 May 2009, the applicant assaulted PFC B. W., by kicking, pushing, and poking them.

On or about 3 May 2009, the applicant assaulted PFC W., by pushing them into their locker and poking them in the chest, the applicant assaulted PFC C. F., by kicking them; and the applicant assaulted SPC M. K., by striking them on their face.

On or about 4 May 2009, because of wrongful previous overindulgence in intoxicating liquor or drugs, the applicant was incapacitated for the proper performance of their duties and the

applicant attempted to assault SSG E. R., with their Kevlar. This type of behavior would not be accepted in the unit or the United States Military.

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

**(4) Legal Consultation Date:** 11 June 2009

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

**(6) Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 8 November 2007 / 5 years

**b. Age at Enlistment / Education / GT Score:** 20 / High School Graduate / 110

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 11C10, Indirect Fire Infantry / 3 years, 3 months, 9 days

**d. Prior Service / Characterizations:** RA, 18 April 2006 – 7 November 2007 / HD

**e. Overseas Service / Combat Service:** SWA / Iraq (6 September 2007 – 30 October 2008)

**f. Awards and Decorations:** NDSM, ASR, CIB

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** The applicant's Enlisted Record Brief (ERB), 5 May 2009, reflects the applicant was flagged for Involuntary Separation or Discharge (Field Initiated) (BA) and Adverse Action (AA).

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 14-B, with a narrative reason of Pattern of Misconduct. The DD Form 214 was not authenticated with the applicant's electronic signature.

Three Developmental Counseling Forms, for assault, disorderly conduct, and failure to report.

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

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

**(1) Applicant provided:** Letter from S. Z., MD, 23 January 2013, reflects the applicant was diagnosed with PTSD and rated at 100 percent service-connected disability.

**(2) AMHRR Listed:** Report of Medical History, 6 May 2009, the examining medical physician noted in the comments section: Followed by behavioral health.

Report of Medical Examination, 7 May 2009, the examining medical physician noted in the comments section: Behavioral health issues.

Report of Mental Status Evaluation, 21 May 2007, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The evaluation included a diagnosis: Adjustment disorder with depressed mood. There is no evidence of a cognitive disorder or severe mental disease or defect. From a psychiatric perspective, the applicant met retention requirements, was fit for duty and commands full capacity. Consider Chapter 5-17 for 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; Franklin County Probate Court change of name; self-authored letter; three letters of support; medical progress notes.

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

**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 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted

standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

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 contends deserving an upgrade of their discharge because they did not receive the proper treatment for their post-traumatic stress disorder (PTSD) or schizophrenia when they returned from Iraq. The applicant provided a letter from S. Z., MD, 23 January 2013, reflecting the applicant was diagnosed with PTSD and rated at 100 percent service-connected disability. The third-party statements provided with the application reflect Doctor S. Z., provided psychiatric services to the applicant. The applicant is being treated for PTSD and Schizoaffective disorder. The applicant is currently stable but requires psychiatric and case management services. The applicant's parent stated they noticed immediately the behavior of the applicant, had changed dramatically since their tour of duty in Iraq. It was like living with a stranger. The applicant's AMHRR includes a Report of Medical History and Examination, 6 May and 7 May 2009, the examining medical physician noted in the comments section: Behavioral health issues. Also, a Report of Mental Status Evaluation, 21 May 2007, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The evaluation included a diagnosis: Adjustment disorder with depressed mood. There is no evidence of a cognitive disorder or severe mental disease or defect. From a psychiatric perspective, the applicant met retention requirements, was fit for duty and commands full capacity. Consider Chapter 5-17 for Adjustment Disorder. All medical documents were considered by the separation authority.

The applicant contends seeking treatment 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, Depression, Mood Disorder NOS, PTSD, Schizoaffective Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that the applicant was diagnosed in service with an Adjustment Disorder, Depression, Mood Disorder NOS and is service connected by the VA for PTSD and Schizoaffective Disorder. Service connection establishes that the PTSD and Schizoaffective Disorder also existed during military service.

(3) Does the condition or experience actually 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. The applicant was diagnosed in service with an Adjustment Disorder, Depression, Mood Disorder NOS and is service connected by the VA for PTSD and Schizoaffective Disorder. Given the nexus between Depression, Mood Disorder NOS, PTSD, Schizoaffective Disorder and self-medicating with substances, overindulgence in substances leading to the incapacitation for the proper performance of duties is mitigated. The applicant's assault and attempted assault are not mitigated by the applicant's BH conditions, as none of the conditions have a natural sequela with assault.

(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, Depression, Mood Disorder, Post Traumatic Stress Disorder, and Schizoaffective Disorder outweighed the applicant's medically unmitigated offenses of assault and attempted assault.

b. Response to Contention(s):

(1) The applicant contends deserving an upgrade of their discharge because they did not receive the proper treatment for their PTSD or schizophrenia when they returned from Iraq. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Depression, Mood Disorder NOS, Post Traumatic Stress Disorder, and Schizoaffective Disorder outweighed the applicant's medically unmitigated offenses of assault and attempted assault.

(2) The applicant contends seeking treatment from the VA, for their mental health. The Board considered this contention but did not find that it warranted a change to the applicant's narrative reason for separation.

c. 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.

# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000532

## 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 because the applicant's Adjustment Disorder, Depression, Mood Disorder, Post Traumatic Stress Disorder, and Schizoaffective Disorder did not outweigh the applicant's medically unmitigated offenses of assault and attempted assault. 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:

12/30/2024

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