

**1. Applicant's Name:** [REDACTED]

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 the period under review is honorable. The applicant requests a narrative reason change and a reentry eligibility (RE) code change.

The applicant seeks relief contending, in effect, was not enrolled in and did not fail the Army Substance Abuse Program (ASAP). The applicant contends the chain of command refused them access to legal counsel.

b. **Board Type and Decision:** In a records review conducted on 17 December 2024, and by a 5-0 vote, the Board, based on the applicant's PTSD mitigating the applicant's Alcohol Rehabilitation Failure and DUI basis for separation, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the characterization of service was proper and equitable and voted not to change it. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

*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:** Alcohol Rehabilitation Failure / AR 635-200, Chapter 9 / JPD / RE-4 / Honorable

b. **Date of Discharge:** 8 March 2013

c. **Separation Facts:** The applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file. However, the applicant provided documents which are described below in 3c (1) through (5).

(1) **Date of Notification of Intent to Separate:** 14 February 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant is a Rehabilitation Failure in accordance with AR 600-85.

(3) **Recommended Characterization:** Honorable

(4) **Legal Consultation Date:** 20 February 2013 / The Election of Rights regarding separation, 20 February 2013, reflects the applicant requested legal counseling but the document is not signed by the Trial Defense Services.

**(5) Administrative Separation Board:** On 20 February 2013, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than honorable discharge.

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

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 13 November 2012 / 4 years

**b. Age at Enlistment / Education / GT Score:** 29 / High School Graduate / 103

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 91H20, Track Vehicle Repairer / 9 years, 10 months, 9 days

**d. Prior Service / Characterizations:** RA, 30 April 2003 – 21 March 2007 / HD  
RA, 22 March 2007 – 12 November 2013 / HD

**e. Overseas Service / Combat Service:** SWA / Iraq (10 February 2004 – 6 March 2005; 29 October 2007 – 28 February 2009; 15 December 2009 – 1 December 2010)

**f. Awards and Decorations:** ICM-4CS, ARCOM-3, AAM-2, AGCM-3, NDSM, GWOTSM, NCOPDR, ASR, OSR-3

**g. Performance Ratings:** 1 May 2008 – 30 April 2009 / Fully Capable  
1 May 2009 – 30 April 2010 / Fully Capable  
1 May 2010 – 31 March 2011 / Among the Best  
1 May 2011 – 30 April 2012 / Among the Best

**h. Disciplinary Action(s) / Evidentiary Record:** The applicant provided a Memorandum for the applicant, statement of fact pertaining to the applicant, 12 March 2013, date of referrals per Drug and Alcohol Management Information System Reports (DAMIS). The applicant was enrolled in Army Substance Abuse Program (ASAP), while stationed at Fort Sill from 24 January 2007 to 23 February 2007. DAMIS report indicates the applicant was deemed a rehabilitation success. The applicant was screened at Fort Bliss, ASAP on 14 December 2012 and initially enrolled on 17 December 2012. The applicant requested documentation stating they were not deemed a rehabilitation failure from ASAP. The applicant had their enrollment into ASAP, Fort Bliss modified from enroll to do not enroll. The applicant successfully completed, a two-day educational course on 12 to 13 February 2013.

The applicant provided the United States District Court Eastern District of Virginia, judgment in a criminal case, 29 March 2013, reflects the defendant pleaded guilty to count one, reckless driving a misdemeanor.

The applicant provided a Developmental Counseling Forms, for being arrested on 22 November 2012, for Driving Under the Influence.

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

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

**(1) Applicant provided:** Report of Medical Assessment, 23 January 2013, the examining medical physician noted the in the comments section: Chronic adjustment disorder.

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** Two Certificates of Release or Discharge from Active Duty; Application for the Review of Discharge; sequence of events; Memorandum for the applicant; United States District Court Eastern District of Virginia, judgment in a criminal case; Durable Power of Attorney; Acknowledgement of Notary Public; Special Power of Attorney; Letter of support; Orders 064-0108.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

**a.** Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

**b.** Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), 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 9 outlines the procedures for discharging individuals because of alcohol or other drug abuse. A member who has been referred to the Army Substance Abuse Program (ASAP) for alcohol or drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical.

(4) Paragraph 9-4, stipulates the service of Soldiers discharged under this section will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required. An honorable discharge is mandated in any case in which the Government initially introduces into the final discharge process limited use evidence as defined by AR 600-85.

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 "JPD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, for alcohol rehabilitation failure.

f. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment

per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

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.

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's Army Military Human Resources Record (AMHRR) is void of the specific facts and circumstances concerning the events which led to the discharge from the Army. However, the applicant provided documents which are described above in 3c (1) through (5). The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 9, by reason of Alcohol Rehabilitation Failure, with a characterization of service of honorable.

The applicant contends not enrolling in and did not failing the Army Substance Abuse Program (ASAP). The applicant provided a Memorandum, statement of fact pertaining to the applicant, 12 March 2013, date of referrals per Drug and Alcohol Management Information System Reports (DAMIS). The applicant was enrolled in Army Substance Abuse Program (ASAP), while stationed at Fort Sill from 24 January to 23 February 2007. The DAMIS report indicates the applicant was deemed a rehabilitation success. The applicant was screened at Fort Bliss, ASAP on 14 December 2012 and initially enrolled on 17 December 2012. The applicant requested documentation stating they were not deemed a rehabilitation failure from ASAP. The applicant had their enrollment into ASAP, modified from enroll to do not enroll. The applicant successfully completed, a two-day educational course on 12 to 13 February 2013.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 9, AR 635-200 with an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "alcohol rehabilitation failure," and the separation code is "JPD." Army Regulation 635-8 (Separation Processing and Documents), governs 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 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends the SPD code should be changed. The SPD codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 (Separation Program Designator (SPD) Codes) to track types of separations. The SPD code specified by Army Regulations for a discharge under Chapter 9, is "JPD."

The applicant contends the chain of command refused them access to legal counsel. The applicant provided the Election of Rights regarding separation, 20 February 2013, reflecting the applicant requested legal counseling but the document is not signed by the lawyer. However, in the sequence of events, the applicant stated their first visit with legal was not until they were out processing. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

#### **9. BOARD DISCUSSION AND DETERMINATION:**

**a.** As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

**(1)** Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: PTSD and Anxiety Disorder NOS.

**(2)** Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 30 percent service connected (SC) for PTSD.

**(3)** Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that a review of the available information reflects the applicant has a BH condition that mitigates the alcohol rehabilitation failure and DUI basis for separation. The applicant is 30 percent SC for PTSD and given the nexus between PTSD and the use of substances to self-medicate, the applicant misconduct characterized by DUI leading to treatment failure is mitigated by the applicant's PTSD.

**(4)** Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's PTSD outweighed the alcohol rehabilitation failure and DUI basis for separation.

**b.** Response to Contention(s):

**(1)** The applicant contends not enrolling in and not failing the Army Substance Abuse Program (ASAP). The Board considered this contention and determined the applicant was command referred to ASAP and initially was enrolled into ASAP outpatient treatment 17 December 2012. On 3 January 2013 it was determined the applicant's diagnosis was amended to reflect Alcohol Disorders and was not enrolled into ASAP. The applicant was referred to a two-day ASAP educational course which the applicant successfully completed.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention and determined a change to the applicant's narrative reason for separation is warranted. The Board voted to change the narrative reason for separation to Misconduct (Minor Infractions) with a corresponding SPD code of JKN.

(3) The applicant contends the SPD code should be changed. The Board considered this contention and determined a change to the applicant's narrative reason for separation is warranted. The Board voted to change the narrative reason for separation to Misconduct (Minor Infractions) with a corresponding SPD code of JKN.

(4) The applicant contends the chain of command refused them access to legal counsel. The Board considered this contention and determined there is insufficient evidence to support the chain of command refused the applicant access to legal counsel. Ultimately, the Board voted to change the narrative reason for separation to Misconduct (Minor Infractions) with a corresponding SPD code of JKN.

c. The Board determined, based on the applicant's PTSD mitigating the applicant's Alcohol Rehabilitation Failure and DUI basis for separation, the narrative reason for the applicant's separation is now inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the characterization of service was proper and equitable and voted not to change it. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service. However, the applicant may request a personal appearance hearing to address further 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 determined the discharge is proper and equitable as the applicant has a Characterization of Honorable; therefore, no further relief is available.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

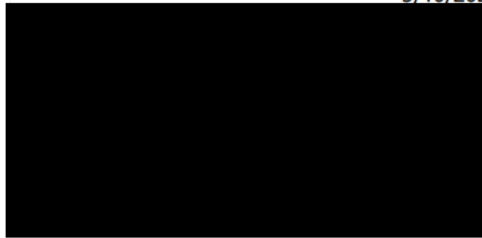
(3) The RE code will not change due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214: Yes
- b. Change Characterization to: No Change
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions), JKN
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

**Authenticating Official:**

3/10/2025



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