

**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 requests a narrative reason change.

The applicant seeks relief contending, in effect, serving the first three-year contract without flaw through the invasion of Iraq with the 101st Airborne, where the applicant received a Purple Heart. The applicant had a short break in service before reenlisting in the Reserve and going on active duty again. Once the applicant was back in, they started having PTSD issues. The unit tried to get the applicant help; however, they did not see the full extent of the problems. Over time, the applicant's "Soldier mentality" broke down and they realized they were no longer fit to perform. The applicant asked the chain of command for an early discharge which was granted but not under full honorable conditions because of the applicant not finishing the five-year commitment. The applicant has had plenty of help from the VA and other sources and is more comfortable with their self and surroundings. The applicant is in school full time to pursue a career in Oceanography/Marine studies.

b. **Board Type and Decision:** In a records review conducted on 26 November 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:** Secretarial Authority / AR 635-200, Paragraph 5-3 / JFF / RE-3 / Honorable

b. **Date of Discharge:** 25 August 2011

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 19 August 2011

(2) **Basis for Separation:** The applicant was informed of the following reasons: On or about 12 June 2011, the applicant was accused of kicking and pinching a uniform police officer and on or about 13 July 2011 the applicant's probation was revoked by Eastern District North Carolina Court and sentenced for a period of 120 days.

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

(4) **Legal Consultation Date:** On 19 August 2011, the applicant waived legal counsel.

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

**(6) Separation Decision Date / Characterization:** 19 August 2011 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

- a. Date / Period of Enlistment:** 24 January 2008 / 5 years
- b. Age at Enlistment / Education / GT Score:** 24 / some college / 116
- c. Highest Grade Achieved / MOS / Total Service:** E-4 / 11B1P, Infantryman / 9 years, 7 months, 10 days
- d. Prior Service / Characterizations:** RA, 16 January 2002 – 15 January 2005 / HD  
USAR, 16 January 2005 – 23 January 2008 / NIF
- e. Overseas Service / Combat Service:** SWA / Iraq (9 March 2003 – 16 November 2003;  
20 August 2009 – 26 July 2010)
- f. Awards and Decorations:** ARCOM, PH, AAM, MUC, GWOTSM, ASR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:** United States District Court Eastern District of North Carolina Judgment, 13 July 2011, reflects on 5 October 2010, the applicant appeared in the Eastern District of North Carolina and pursuant to an earlier plea of guilty to 18 U.S.C. 13, assimilating NCGS 20-138.1, Driving While Impaired - Level 4, was sentenced to a 12 month term of probation.  
  
U.S. Department of Justice, United States Marshals Service letter, 26 July 2011, reflects the applicant was notified of the facility to serve their sentence. The applicant was instructed to surrender to the institution on 26 August 2011. From the evidence presented at a hearing on 13 July 2011, the court found as a fact the applicant, who was appearing with counsel, had violated the terms and conditions of the probation judgment as follows: Criminal conduct. It was ordered and adjudged the probation sentence be revoked, and the applicant was ordered committed to the custody of the Bureau of Prisons for imprisonment for a period of 120 days. It was further ordered the balance of the financial imposition originally imposed be due in full immediately; the applicant be allowed to voluntarily report to the designated institution upon notification of the U.S. Marshal; and the Clerk provide the U.S. Marshal a copy of the Judgment and the same shall serve as the commitment therein.  
  
CG Article 15, 21 July 2011, on or about 27 April 2011, was disrespectful in language toward SGT A., a noncommissioned officer. The punishment consisted of forfeiture of \$542 pay (suspended); extra duty for 14 days (suspended); and restriction for 14 days.
- i. Lost Time / Mode of Return:** None
- j. Behavioral Health Condition(s):**

**(1) Applicant provided:** VA Rating Decision letter, 2 July 2014, reflects the applicant was granted 50 percent disability for PTSD with alcohol use disorder.

**(2) AMHRR Listed:** Report of Mental Status Evaluation (MSE), 19 August 2011, 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 applicant had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The applicant was diagnosed with: Axis I: Anxiety Disorder NOS.

Report of Medical History, 19 August 2011, the examining medical physician noted the applicant had difficulty sleeping, nightmares. Was referred to mental Health, was prescribed Minipress, Prozac, and ambien. The applicant self-discontinued the Prozac due to feeling jittery. Reports they have not followed up with mental health in the comments section:

*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:** Online application; DD Form 293; VA Rating Decision letter; three Certificates of Release or Discharge from Active Duty.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has had plenty of help from the VA and other sources and is more comfortable with their self and surroundings. The applicant is in school full time to pursue a career in Oceanography/Marine studies.

**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 5, provides for the basic separation of enlisted personnel for the convenience of the government.

(4) Paragraph 5-1, states that a Soldier being separated under this paragraph will be awarded a characterization of service of honorable, general (under honorable conditions), or an uncharacterized description of service if in entry-level status.

(5) Chapter 5-3 (Chapter 15 current regulation) 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 memorandums. Secretarial separation authority is normally exercised on a case-by-case basis.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), in effect at the time, provided 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 identified the SPD code of "JFF" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5, paragraph 5-3, Secretarial Authority.

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 a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 5-3, AR 635-200, with an honorable discharge. The narrative reason specified by Army Regulations, at the time, for a discharge under this paragraph is "Secretarial Authority," and the separation code is "JFF." 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 good service, including two combat tours and receiving the Purple Heart.

The applicant contends after coming back on active duty their PTSD became worse. The unit tried to get the applicant help; however, they did not see the full extent of the problems. Over time, the applicant's "Soldier mentality" broke down and they realized they were no longer fit to perform. The applicant asked the chain of command for an early discharge which was granted. The applicant provided VA Rating Decision letter, 2 July 2014, which reflects the applicant was granted 50 percent disability for PTSD with alcohol use disorder. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 19 August 2011, which 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 applicant had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The applicant was diagnosed with: Axis I: Anxiety Disorder NOS. Report of Medical History, 19 August 2011, the examining medical physician

noted the applicant had difficulty sleeping, nightmares. Was referred to mental Health, was prescribed Minipress, Prozac, and Ambien. The applicant self-discontinued the Prozac due to feeling jittery. Reports they have not followed up with mental health in the comments section. The MSE and Report of Medical History were considered by the separation authority.

The applicant has had plenty of help from the VA and other sources and is more comfortable with their self and surroundings. The applicant is in school full time to pursue a career in Oceanography/Marine studies. 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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: PTSD, Anxiety Disorder NOS, Adjustment Disorder w/Anxiety.

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

(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's offense of assault of a police officer, resulting in civil conviction, is not mitigated by any of the diagnosed BH conditions as the misconduct is not natural sequela to any of the conditions, and none rendered the applicant unable to differentiate between right and wrong and adhere to the right.

(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 conditions outweighed the applicant's medically unmitigated assault of a police officer.

b. Response to Contention(s):

(1) The applicant contends after coming back on active duty their PTSD became worse. The unit tried to get the applicant help; however, they did not see the full extent of the problems. Over time, the applicant's "Soldier mentality" broke down and they realized they were no longer fit to perform. The applicant asked the chain of command for an early discharge which was granted. The Board liberally considered this contention but found that the applicant already holds the maximum relief available with respect to the characterization of service and narrative reason for separation. The Board found that the applicant's reentry eligibility code of RE-3 is proper and equitable given the applicant's behavioral health conditions.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention but determined that further upgrade from Secretarial Authority is not within the ADRB's purview.

(3) The applicant contends good service, including two combat tours and receiving the Purple Heart. The Board considered this contention but found that the applicant already holds the maximum relief available with respect to the characterization of service and narrative reason for separation. The Board found that the applicant's reentry eligibility code of RE-3 is proper and equitable given the applicant's behavioral health conditions.

(4) The applicant has had plenty of help from the VA and other sources and is more comfortable with their self and surroundings. The applicant is in school full time to pursue a career in Oceanography/Marine studies. The Board considered the applicant's post-service accomplishments but found that the applicant already has the maximum available relief.

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, and 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

AR20210000541

## 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:

12/10/2024

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