

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, being diagnosed with PTSD and Bipolar disorder. The applicant is on the appropriate medication to begin the process of improving oneself. The applicant believes they performed the duties required of them to the best of their abilities without the needed medical attention. The applicant hopes to one day be able to join the Army Reserve to return to their true calling. In the meantime, they would like to receive VA benefits to continue their education.

b. **Board Type and Decision:** In a records review conducted on 3 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 details 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 / General (Under Honorable Conditions)

b. **Date of Discharge:** 9 June 2008

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 12 March 2008

(2) **Basis for Separation:** The applicant was informed of the following reasons: On 12 October 2007, the applicant went AWOL; On 16 October 2007 was AWOL to CCA; and on 13 December 2007 the applicant went AWOL again.

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

(4) **Legal Consultation Date:** On 18 March 2008, the applicant waived legal counsel.

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

(6) **Separation Decision Date / Characterization:** 21 May 2008 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. Date / Period of Enlistment:** 7 February 2006 / 5 years, 16 weeks
- b. Age at Enlistment / Education / GT Score:** 18 / High School Letter / 115
- c. Highest Grade Achieved / MOS / Total Service:** E-3 / 11B10, Infantryman / 2 years, 2 months, 12 days
- d. Prior Service / Characterizations:** None
- e. Overseas Service / Combat Service:** Korea / None
- f. Awards and Decorations:** NDSM, KDSM, ASR, OSR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:** Seven Personnel Action forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 12 October 2007;
 From AWOL to Confined by Civil Authorities (CCA) effective 16 October 2007;
 From CCA to PDY, effective 18 October 2007;
 From PDY to AWOL, effective 5 November 2007;
 From AWOL to PDY, effective 13 November 2007;
 From PDY to AWOL, effective 13 December 2007; and,
 From AWOL to PDY, effective 21 January 2008.

Military Police Report Number 08303-2007-MPC034, 19 October 2007, reflects the applicant was the subject of an investigation for being AWOL (On Post).

Military Police Report Number 09024-2007-MPC034, 9 November 2007, reflects the applicant was the subject of an investigation for being AWOL (On Post).

FG Article 15, 20 May 2008, for without authority, absent oneself from the unit on or about 12 October 2007 and did remain so absent until on or about 16 October 2007; and on or about 5 November 2007, without authority absent oneself from the unit and did remain so absent until on or about 13 November 2007. The punishment consisted of a reduction to E-1; forfeiture of \$673 pay per month for two months, of which, \$673 is (suspended); and extra duty and restriction for 45 days.

Numerous Developmental Counseling Forms, for various acts of misconduct.

- i. Lost Time / Mode of Return:** 49 days:

AWOL, 13 October 2007 – 17 October 2007 / NIF
 AWOL, 5 November 2007 – 12 November 2007 / NIF
 AWOL, 13 December 2007 – 20 January 2007 / Returned to Military Control

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

(1) Applicant provided: None

(2) AMHRR Listed: Report of Mental Status Evaluation (MSE), 5 March 2008, reflects the applicant has the mental capacity to understand and participate in the proceedings; was mentally responsible; meets the retention requirements of chapter 3, AR 40-501. The evaluation revealed no evidence of current suicidal or homicidal intent or plan; altered thought process, or any psychiatric disorder which would explain the behaviors for which this separation is being considered. The MSE does not include a diagnosis.

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: Application for the Review of Discharge and Certificate of Release or Discharge from Active Duty.

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) 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 14-12b 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-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 contends being diagnosed with PTSD and Bipolar Disorder and has received the appropriate medication to begin the process of improving oneself and. The applicant performed the duties required of them to the best of their ability without the needed medical attention. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from any medical condition. The applicant's AMHRR includes no documentation of PTSD diagnosis. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 5 March 2008, which reflects the applicant has the mental capacity to understand and participate in the proceedings; was mentally responsible; met the retention requirements of chapter 3, AR 40-501. The evaluation revealed no evidence of current suicidal or homicidal intent or plan; altered thought process, or any psychiatric disorder which would explain the behaviors for which this separation was being considered. The evaluation does not include a diagnosis. The MSE was considered by the separation authority.

The applicant contends an upgrade would allow educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board.

Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

The applicant desires to rejoin the military service. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes if appropriate.

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: Bipolar Disorder, self-asserted Post Traumatic Stress Disorder.

(2) Did the condition exist, or experience occur during military service? **No.** The applicant does not have an in-service BH condition. Although the applicant is diagnosed with Bipolar Disorder by the VA, there is nothing in the record that associates the condition with military service. Additionally, although the applicant asserts a diagnosis of PTSD, medical records were void of a PTSD diagnosis and the applicant did not provide documentation supporting the assertion.

(3) Does the condition or experience excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD and Bipolar Disorder and has received the appropriate medication to begin the process of improving oneself. The applicant believes they performed the duties required of them to the best of their ability without the needed medical attention. The Board liberally considered this contention but found insufficient evidence to show that the applicant's Bipolar Disorder or self-asserted Post Traumatic Stress Disorder existed during military service. While the applicant's self-asserted Post Traumatic Stress Disorder could potentially mitigate the applicant's AWOL offenses, the Board could not make a determination without evidence of the condition existing during service.

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

(3) The applicant desires to rejoin the military service. The Board considered this contention and voted to maintain the RE-code at RE-3, which is a waivable code. An RE Code

of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate.

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.

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 totality of the record, the applicant's Bipolar Disorder, and the applicant's self-asserted Post Traumatic Stress Disorder did not outweigh the medically unmitigated AWOL separating offenses. The Board also considered the applicant's contention of wishing to return to military service and found this possible with the current RE Code. 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 upgrade to Honorable discharge.

(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.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000557

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