

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

The applicant did not present any issues of propriety or equity for the Board's consideration.

b. Board Type and Decision: In a records review conducted on 5 December 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Anxiety Disorder outweighed the applicant's Alcohol Rehabilitation Failure. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and the reentry code to RE-3. The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them.
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 / General (Under Honorable Conditions)

b. Date of Discharge: 4 January 2013**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 13 September 2012

(2) Basis for Separation: The applicant was informed of the following reasons: On 19 November 2010, the applicant was enrolled in the Army Substance Abuse Program (ASAP) for alcohol abuse. The applicant failed to demonstrate commitment to their treatment for alcohol abuse and have been determined an alcohol rehabilitation failure by the rehabilitative team and their commander. Specifically, the applicant missed their first ASAP appointment after returning from deployment. The applicant was detained while on leave in Anchorage, Alaska, for attempting to enter an establishment that served alcohol with a fake ID.

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

(4) Legal Consultation Date: 17 October 2012

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 3 December 2012 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 6 April 2010 / 4 years, 21 weeks
- b. **Age at Enlistment / Education / GT Score:** 18 / AED / 113
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 13F1P, Fire Support Specialist / 2 years, 8 months, 29 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** Alaska, SWA / Afghanistan (15 April 2011 – 4 April 2012)
- f. **Awards and Decorations:** NDSM, ACM-2CS, GWOTSM, ASR, OSR, NATOMDL
- g. **Performance Ratings:** NA

h. Disciplinary Action(s) / Evidentiary Record: Army Substance Abuse Program (ASAP) Enrollment form, 19 November 2010, reflects the applicant command-referred in the ASAP for underage drinking.

Patient Progress Report (PPR), 27 June 2012, reflects the applicant was released from the ASAP as an alcohol / Drug abuse rehabilitation failure. The counselor assessed the applicant's progress as poor and recommended to terminate treatment and separate. The commander appraised the applicant's performance as unsatisfactory and decided to terminate the applicant and to separate.

The applicant's statement, at the time of the separation proceedings, undated, reflects the reason the applicant was being discharged; their good military service and sacrifices for the country; their goals after being discharged from the Army; and an honorable discharge and the GI Bill would allow the applicant to achieve their goals after the discharge.

The applicant's Enlisted Record Brief (ERB), 4 December 2012, reflects the applicant was flagged for Involuntary Separation or Discharge (Field Initiated) (BA), effective 23 July 2012, and Adverse Action (AA), effective 10 September 2012; and was ineligible for reenlistment because of Pending Separation (9V). The applicant was reduced from E-4 to E-3, effective 10 October 2012.

Six Developmental Counseling Forms, for missing ASAP appointments; failing to return from leave on time; failing to report to formation on time; being detained by police while on leave and failing to notify the chain of command; attempting to enter a nightclub with a fake ID, while underage; being removed from the ASAP program.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Medical Examination, 2 August 2012, the examining medical physician noted in the summary of defects section, sleep disturbance controlled by over the counter sleep aid.

5. APPLICANT-PROVIDED EVIDENCE: Certificate of Release or Discharge from Active Duty; Correction to DD Form 214; and Application for the Review of Discharge.

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 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.

(5) 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-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 evidence of Army Military Human Resource Record (AMHRR) indicates on 27 June 2012, the unit commander in consultation with the Clinical Director/Army Substance Abuse Program (ASAP), declared the applicant a rehabilitation failure. The applicant failed to demonstrate the commitment to their treatment for alcohol abuse.

The applicant did not present any issues of propriety or equity for the Board's consideration.

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: Anxiety Disorder NOS.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that the applicant is service connected by the VA for Anxiety Disorder NOS which establishes that the condition existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between Anxiety and self-medicating with alcohol, the alcohol rehabilitation failure that led to the applicant's separation is mitigated.

(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 Anxiety Disorder outweighed the applicant's Alcohol Rehabilitation Failure.

b. Response to Contention(s): The applicant did not present any issues of propriety or equity for the Board's consideration. The Board considered the totality of the applicant's service record, including the applicant's behavioral health conditions. The Board determined that the applicant's Anxiety Disorder outweighed the applicant's Alcohol Rehabilitation Failure. Therefore, a discharge upgrade is warranted.

c. The Board determined that the characterization of service was inequitable based on the applicant's Anxiety Disorder outweighed the applicant's Alcohol Rehabilitation Failure.

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AR20210000567

Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and the reentry code to RE-3. The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Anxiety Disorder outweighed the applicant's Alcohol Rehabilitation Failure. Thus, the prior characterization is no longer appropriate.

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

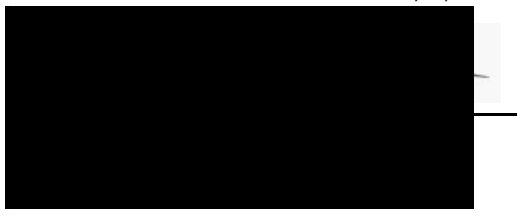
(3) The RE code will change to RE-3.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214:** Yes
- b. Change Characterization to:** Honorable
- c. Change Reason / SPD Code to:** No Change
- d. Change RE Code to:** RE-3
- e. Change Authority to:** No Change

Authenticating Official:

12/30/2024



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