

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** [REDACTED]**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 seeks relief contending, in effect, wanting an upgrade to accurately reflect their entire service and not just an isolated incident. The applicant admits they did in fact willfully use unprescribed medications after they were transferred to Fort Riley. They have and still suffers from, degenerative disk disease in their back which causes them a significant amount of pain on a consistent basis. The medications the applicant tested positive for were the same medication they were taking at their previous duty station for their back. The applicant believes they were not fairly treated medically or professionally due to their permanent profile related to their conditions. The applicant is currently trying to move on with their life as they are now married, and support two young children. The applicant continues to struggle with the conditions of PTSD and degenerative disk disease which they incurred in service. The character of discharge does not accurately reflect their awards and trainings they have successfully obtained during their service in the Army. The characterization has and may continue, to prevent the applicant from receiving VA treatment which would allow them to provide a better life for oneself and their family who depend on the applicant.

**b. Board Type and Decision:** In a records review conducted on 24 October 2024, and by a 3-2 vote, the Board determined that the characterization of service was inequitable based on the applicant's Major Depression, Anxiety Disorder, Post Traumatic Stress Disorder, and Intimate Partner Violence victimization outweighing the applicant's medically mitigated illegal substance abuse. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason and SPD code were proper and equitable and voted not to change them. The reentry eligibility code will change to RE-3.

*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:** Misconduct (Drug Abuse) / AR 635-200, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 9 December 2013**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 28 August 2013

**(2) Basis for Separation:** The applicant was informed of the following reasons:

On 15 July 2013, the applicant tested positive for oxycodone and oxymorphone;

On 25 June 2013, the applicant tested positive for oxycodone and oxymorphone;

On 19 June 2013, the applicant tested positive of oxymorphone;

On 23 May 2013, the applicant tested positive for amphetamines; and,

On 20 March 2013, the applicant tested positive for amphetamines, oxycodone, and oxymorphone.

**(3) Recommended Characterization:** Under Other Than Honorable Conditions

**(4) Legal Consultation Date:** 18 September 2013

**(5) Administrative Separation Board:** On 18 September 2013, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 5 November 2013 / Under Other Than Honorable Conditions

#### **4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 17 February 2009 / 4 years / The enlistment was extended 15 months on 27 June 2011

**b. Age at Enlistment / Education / GT Score:** 22 / High School Graduate / 113

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 12B20, Combat Engineer / 7 years, 2 months, 20 days

**d. Prior Service / Characterizations:** RA, 20 September 2006 – 16 February 2009 / HD

**e. Overseas Service / Combat Service:** Germany, SWA / Iraq (1 April 2008 – 23 May 2009)

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

**g. Performance Ratings:** 1 February 2010 – 17 August 2012 / Fully Capable  
17 August 2012 – 6 May 2013 / Marginal

**h. Disciplinary Action(s) / Evidentiary Record:** Electronic Copy of DD Form 2624, 26 March 2013, reflects the applicant tested positive for DAMP (D-Amphetamine) 878>LOL, OXCOD (oxycodone) 433, and OXMOR (oxymorphone) 322, during an Inspection Random (IR) urinalysis testing, conducted on 20 March 2013.

FG Article 15, 8 May 2013, for wrongfully using oxymorphone (between 16 and 20 March 2013); wrongfully using oxycodone (between 16 and 20 March 2013); and wrongfully use amphetamine

(between 16 and 20 March 2013). The punishment consisted of a reduction to E-4; forfeiture of \$1,201 pay per month for two months; and extra duty and restriction for 45 days.

Developmental Counseling Form, for testing positive on urinalysis.

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

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

**(1) Applicant provided:** Printout of Medication History, 24 September 2013, which reflects the medications the applicant had been prescribed.

**(2) AMHRR Listed:** Report of Medical Examination, 9 July 2013, the examining medical physician noted the applicant's medical conditions in the comments section. The applicant was diagnosed with Adjustment DO, Anxiety and Depression and PTSD.

Report of Medical History, 9 July 2013, the examining medical physician noted in the comment section: engaged in BH.

Report of Mental Status Evaluation (MSE), 28 October 2013, 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: Adjustment Disorder with Anxiety and Depressed Mood per AHLTA.

*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; self-authored statement; medical records; five Recommendation for Awards; Permanent Order# 244-11; Permanent Order 318-07; Command Oriented Army, Ammunition and Explosives (A&E) Security Screening and Evaluation Record; 29 certificates; two Service School Academic Evaluation Reports; ATKO Army Training Online printout; Certificate of Release or Discharge from Active Duty; Oath of Extension of Enlistment.

**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 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) Paragraph 14-12c(2) terms abuse of illegal drugs as serious misconduct. It continues; however, by recognizing relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under paragraph 14-12a or 14-12b as appropriate.

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 "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (drug abuse).

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 applicant contends good service, including a combat tour and receiving numerous awards.

The applicant contends the character of service does not accurately reflect their entire service and reflects an isolated incident. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant contends they willfully used unprescribed medication after being transferred to Fort Riley. They were suffering from degenerative disk disease in their back which caused significant pain. The medications which they tested positive for were the same medications the applicant was taking at the previous duty station. The applicant continues to struggle with the conditions of PTSD and degenerative disk disease which they incurred in service. The applicant provided a printout of Medication History, 24 September 2013, which reflects the medications the applicant had been prescribed. The applicant's AMHRR includes a Report of Medical Examination, 9 July 2013, wherein the examining medical physician noted the applicant's medical conditions in the comments section. The applicant was diagnosed with Adjustment DO, Anxiety and Depression and PTSD. A Report of Medical History, 9 July 2013, reflects the examining medical physician noted in the comment section: engaged in BH. A Report of Mental Status Evaluation (MSE), 28 October 2013, 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: Adjustment Disorder with Anxiety and Depressed Mood per AHLTA. All the medical documents included in the AMHRR were considered by the separation authority.

The applicant believes they were not fairly treated medically or professionally due to their permanent profile related to their conditions. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits 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.

## **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 determined that, based on the Board Medical Advisor opine the applicant has the following potentially-mitigating diagnoses/experiences: Adjustment Disorder, Major Depression, Anxiety Disorder NOS, PTSD, IPV.

**(2)** Did the condition exist or experience occur during military service? **Yes.** The Board determined that, based on the Board Medical Advisor opine, found that the applicant was diagnosed in service with an Adjustment Disorder, Major Depression, Anxiety Disorder NOS, and PTSD and there is evidence that the applicant was the victim of IPV during military service.

The VA has service connected the applicant for the PTSD and Major Depression.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined that, based on the Board Medical Advisor opine, the applicant's behavioral health conditions and experiences mitigate the applicant's illegal substance abuse given the nexus between Major Depression, Anxiety Disorder NOS, PTSD, IPV, and self-medicating with substances.

(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 Major Depression, Anxiety Disorder, Post Traumatic Stress Disorder, and Intimate Partner Violence victimization outweighed the applicant's medically mitigated illegal substance abuse.

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

(1) The applicant contends the applicant willfully used unprescribed medication after being transferred to Fort Riley. They were suffering from degenerative disk disease in the back which caused significant pain. The medications which they tested positive for were the same medications the applicant was taking at the previous duty station. The applicant continues to struggle with the conditions of PTSD and degenerative disk disease which they incurred in service. The Board liberally considered this contention and determined that the applicant's Major Depression, Anxiety Disorder, Post Traumatic Stress Disorder, and Intimate Partner Violence victimization outweighed the applicant's medically mitigated illegal substance abuse offenses.

(2) The applicant contends good service, including a combat tour and receiving numerous awards. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Major Depression, Anxiety Disorder, Post Traumatic Stress Disorder, and Intimate Partner Violence victimization outweighing the applicant's medically mitigated illegal substance abuse offenses.

(3) The applicant contends the character of service does not accurately reflect their entire service and reflects an isolated incident. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Major Depression, Anxiety Disorder, Post Traumatic Stress Disorder, and Intimate Partner Violence victimization outweighing the applicant's medically mitigated illegal substance abuse offenses.

(4) The applicant believes they were not fairly treated medically or professionally due to their permanent profile related to their conditions. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Major Depression, Anxiety Disorder, Post Traumatic Stress Disorder, and Intimate Partner Violence victimization outweighing the applicant's medically mitigated illegal substance abuse offenses.

(5) The applicant contends an upgrade of the discharge would allow veterans benefits. 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.

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c. The Board determined that the characterization of service was inequitable based on the applicant's Major Depression, Anxiety Disorder, Post Traumatic Stress Disorder, and Intimate Partner Violence victimization outweighing the applicant's medically mitigated illegal substance abuse. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason and SPD code were proper and equitable and voted not to change them. The reentry eligibility code will change to RE-3.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Major Depression, Anxiety Disorder, Post Traumatic Stress Disorder, and Intimate Partner Violence victimization outweighing the applicant's medically mitigated illegal substance abuse. 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:**

1/30/2025

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  
UOTHHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs