

**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 seeks relief contending, in effect, it has been seven years since the discharge. The applicant would like to further their education and career and not be inhibited by their past mistakes.

b. **Board Type and Decision:** In a records review conducted on 17 September 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse and FTR offenses. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable and changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority with a corresponding separation code to JFF. The Board determined the reentry code is proper and equitable and voted not to change it.

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

b. **Date of Discharge:** 9 November 2007

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 16 July 2007

(2) **Basis for Separation:** Under Army Regulation 635-200, Chapter 14, Paragraph 14-12c, Commission of a Serious Offense, the applicant was informed of the following reasons: On or between 24 December 2006 and 4 January 2007, the applicant submitted a urine sample that tested positive for methamphetamine. In addition, the commander considered the following incidents of misconduct to apply to the applicant's potential characterization of service: 15 March 2007, 29 March 2007, 1 May 2007, and 26 June 2007, violation of Article 86, failed to report to their appointed place of duty.

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

(4) **Legal Consultation Date:** 19 July 2007

**(5) Administrative Separation Board:** On 19 July 2007, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 14 September 2007 / Under Other Than Honorable Conditions / The separation authority approved the applicant's separation under the provisions of AR 635-200, Chapter 14-12c, Commission of a Serious Offense. The separation authority indicated pursuant to Army Regulation 635-40, Paragraph 4-3a, the applicant would not continue physical disability processing.

#### 4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 27 January 2005 / 3 years, 24 weeks
- b. **Age at Enlistment / Education / GT Score:** 19 / HS Graduate / 114
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 14J10, Air Defense C4I Tactical Operations Center Enhanced Operator-Maintainer / 2 years, 9 months, 13 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Iraq (23 April 2006 – 11 November 2006)
- f. **Awards and Decorations:** AAM, NDSM, GWOTEM, GWOTSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Electronic Copy of DD Form 2624, 26 January 2007, reflects the applicant tested positive for DAMP 1077 (D-amphetamine), and DMETH 2851 (D-methamphetamine), during an Inspection Random (IR) urinalysis testing, conducted on 4 January 2007.

Field Grade Article 15, 26 February 2007, for wrongfully using methamphetamine (between 24 December 2006 and 4 January 2007). The punishment consisted of a reduction to E-2; forfeiture of \$729 pay per month for two months (suspended); extra duty and restriction for 45 days; and a written reprimand.

Memorandum, 15 May 2007, reflects the detachment commander provided a performance statement regarding the applicant, indicating the applicant had been a substandard performer. The commander further described the applicant's history in the organization, including testing positive on a urinalysis; being on profile; and missing Army Substance Abuse Program (ASAP) appointments. Before the chapter, the applicant was mentally evaluated and the mental health provider determined the applicant had a "clean bill of health." The commander indicated, to the commander's knowledge, the applicant had never had an incident occur which could possibly contribute to PTSD. The applicant only exhibited problems following announcement of the impending chapter from the service.

Memorandum, 1 June 2007, reflects the detachment first sergeant (1SG) provided a performance statement regarding the applicant. The 1SG described the applicant personal history before entering the service. The 1SG further explained, despite the previous issues, the applicant was able to "Soldier up," and was one of the best Soldiers within the unit. The applicant continued to perform to the maximum of their potential until the applicant tested positive on a urinalysis. The 1SG did not believe the applicant had PTSD brought about by a deployment nor their military service.

Memorandum, 13 September 2007, reflects the Staff Judge Advocate recommended the applicant be administratively separated because the case did not warrant disability processing. There was no evidence the applicant's medical conditions, including their post-traumatic stress disorder, were a direct or substantial contributing cause of their decision to illegally use methamphetamines as the MEB found the applicant had a history of methamphetamine and alcohol dependence, both in remission. The applicant's PTSD stemmed from instances of childhood abuse and not related to combat stressors or military service.

Memorandum, 15 October 2007, reflects the separation authority directed the applicant be reduced to E-1 as a result of the applicant's approved discharge under other than honorable conditions.

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant's grade was restored to E-2 on 15 July 2015.

Numerous Developmental Counseling Forms, for reception and integration; monthly performance; unsatisfactory monthly performance; insubordinate conduct towards a noncommissioned officer; failing to obey an order or regulation; failing to report to appointed place of duty on multiple occasions; failing to be at mandatory appointments; for being overweight; failing to be at assigned duties; failing to secure the guidon as the guidon bearer; and testing positive for an illegal substance on a urinalysis.

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Report of Mental Status Evaluation, 3 May 2007, reflects the applicant could understand and participate in administrative proceedings and was mentally responsible. The applicant was not psychologically fit for military duty and a medical evaluation board (MEB) would begin.

Physical Profile (permanent), 29 May 2007, reflects the applicant had delayed PTSD and chronic bilateral hip pain, which limited their duties, and an MEB was pending.

Medical Evaluation Board Narrative Summary, 29 May 2007, reflects the applicant reported a history of physical and sexual abuse during their childhood, in addition to other difficult psychosocial circumstances. During the deployment from April to November 2006, the applicant became increasingly angry and depressed about their past emotional stressors. The applicant denied any direct combat exposures but reported increasing problems with the chain of command. The applicant was diagnosed with various physical and mental health conditions.

Medical Evaluation Board Proceedings, 31 May 2007, reflects the applicant was found medically unfit for delayed onset post-traumatic stress disorder, with an approximate date of origin of 2006; incurred while entitled to base pay; did not exist prior to service; and was permanently aggravated by service. The medical conditions the MEB found met medical retention standards were major depressive disorder, associated with PTSD; history of alcohol dependence, in remission; history of methamphetamine dependence, in remission; chronic insomnia, likely related to PTSD; chronic bilateral hip pain; history of bilateral knee pain; and history of intermittent low back pain. The applicant was referred to a physical evaluation board (PEB). The

applicant indicated they did not desire to continue on active duty under AR 635-40 and concurred with the board's findings and recommendation.

*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:** Certificate of Release or Discharge from Active Duty; 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 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 14-12c(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.

**(7)** Chapter 15 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 memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

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's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends it has been seven years since their discharge. The applicant's issue about an upgrade based on the passage of time was carefully considered. The U.S. Army does not have, nor has it ever had, a policy to automatically upgrade discharges. Each case is decided on its own merits when an applicant submits a DD Form 293 requesting a change in discharge. Changes may be warranted if the Board determines the characterization of service or the reasons for discharge, or both were improper or inequitable.

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 contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

**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: PTSD with secondary MDD, Alcohol Dependence, and Meth Dependence.

(2) Did the condition exist, or experience occur during military service? **Yes.** PTSD with secondary MDD, Alcohol Dependence, and Meth Dependence were diagnosed in service.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the in-service diagnosis of PTSD starting in 2005, the MEB trauma symptoms escalating in 2006, and nexus the between trauma, substance use, and avoidance, the positive UA and FTRs are mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse and FTR offenses.

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

(1) The applicant contends it has been seven years since the discharge. The Board considered this contention during proceedings but ultimately did not address it in detail after determining that the applicant's Post Traumatic Stress Disorder outweighed the illegal substance abuse and FTR offenses.

(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 contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

**c.** The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse and FTR offenses. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable, changed the separation authority to AR 635-200 Chapter 15, and the narrative reason for separation to Secretarial Authority with a corresponding separation code to JFF. The Board determined the reentry code is proper and equitable due to the diagnosed behavioral health conditions.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder outweighed the illegal substance abuse and FTR offenses. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Secretarial Authority under the same pretexts, and because board members found unproductive leadership on the part of

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the chain of command directed toward the applicant. Thus, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JFF.

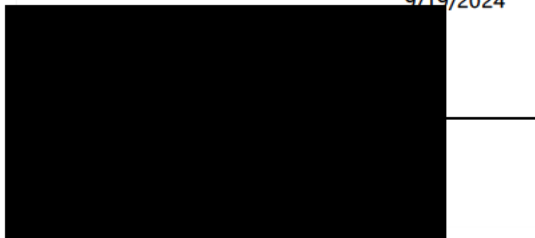
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: Secretarial Authority / JFF
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200

**Authenticating Official:**

9/19/2024



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