

**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, instead of scrutiny, they would like to receive honor for their time in the Army. The applicant realizes the mistake they made ten years ago and but does not want to live under the shadow of this and being deemed a "bad apple" before being given a chance when trying to obtain a new job. The applicant was enrolled in the Army Substance Abuse Program (ASAP) due to showing up to formation under the influence of alcohol. While in ASAP, the applicant was seen by a CID agent at a bar drinking with friends but not causing trouble or being belligerent, just having a drink with friends. The applicant was reduced in rank and the company commander offered a discharge and the applicant accepted.

b. **Board Type and Decision:** In a records review conducted on 12 September 2024, and by a 3-2 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:** Alcohol Rehabilitation Failure / AR 635-200, Chapter 9 / JPD / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 8 December 2004

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 17 November 2004

(2) **Basis for Separation:** The applicant was informed of the following reasons: After evaluation by the Fort Rucker Army Substance Abuse Program, it was recommended the applicant be classified as a rehabilitation failure and discharged from the Army IAW AR 635-200, Chapter 9.

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

(4) **Legal Consultation Date:** undated

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

(6) **Separation Decision Date / Characterization:** 2 December 2004 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 13 May 2003 / 5 years
- b. **Age at Enlistment / Education / GT Score:** 20 / High School Letter / 99
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 21M10, Firefighter / 1 year, 6 months, 26 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** NDSM, GWOTSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** CG Article 15, 13 September 2004, for without authority, fail to go at the time prescribed to the appointed place of duty on or about 16 July 2004 and on or about 16 July 2004, as a result of wrongful previous overindulgence in intoxicating liquor incapacitated for the proper performance of their duties. The punishment consisted of a reduction to E-2 (suspended); forfeiture of seven days' pay (\$328) for one month; extra duty and restriction for 14 days; oral reprimand; and, presentation on effects of intoxication on duty.

MPR# 00611-2004-MPC083, 6 October 2004, an investigation revealed R. was dispatched to a location in reference to an individual with a handgun. R. made contact with the applicant who stated they only had brass knuckles and a "slap jack". Further investigation revealed the applicant was being loud and was intoxicated in public. The applicant was arrested by R. and transported to the Dothan City jail for further processing and released to the unit on an \$800 bond.

Record Of Supplementary Action Under Article 15, UCMJ, 7 October 2004, reflects the suspended portion of the punishment imposed on 13 September 2004, was vacated for being arrested for Public Intoxication (AL CODE 13A-1-10) and concealed weapons caring brass knuckles or slingshot (AL CODE 13A-11-53) on or about 6 October 2004.

Memorandum for Commander, 12 October 2004, reflects the applicant was command referred to Army Substance Abuse Program (ASAP), Fort Rucker on 16 July 2004 for being drunk on duty. The applicant was evaluated by a Licensed Professional Counselor (LPC) with an Addictions Certification and found not to meet DSM-IV criteria for a diagnosis of Alcohol Abuse/Dependence. Based on the evaluation the applicant was enrolled in the outpatient treatment program at the Fort Rucker ASAP. As part of the program, the applicant was to remain abstinent from alcohol and other drugs unless prescribed by a physician. The applicant was making fair progress until being arrested for Public Intoxication on 4 October 2004. The applicant was either unwilling or unable to rehabilitate oneself in a reasonable time period. It was recommended the applicant be classified as a rehabilitation failure and discharged from the Army under Chapter 9.

FG Article 15, 3 November 2004, on or about 6 October 2004, unlawfully carry on or about their person a concealed weapon, to wit: brass knuckles and "slap jack"; and on or about

6 October 2004, the applicant was drunk, and disorderly, which conduct was of a nature to bring discredit upon the armed forces of the United States. The DA Form 2627 was included in the AMHRR; however, it appears no punishment was imposed.

Three Developmental Counseling Forms, for failure to be at appointed place of duty; drunk on duty; failure to be rehabilitated; and summary of chapter recommendation IAW AR 635-200, Chapter 9.

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Report of Mental Status Evaluation (MSE), 21 October 2004, 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 MSE does not contain 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 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 applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant would like to receive honor for their time in the Army instead of scrutiny. The applicant realizes the mistake made ten years ago and does not want to live under the shadow of this and being deemed a "Bad Apple" before given the chance when trying to obtain a new job. The Board does not grant relief to gain employment or enhance employment opportunities.

The applicant contends being enrolled in ASAP due to showing up to formation under the influence of alcohol. While in ASAP, the applicant was seen by CID agent at a bar drinking with friends, but was not causing trouble or being belligerent, just having a drink with friends. The applicant was reduced in rank and the company commander offered a discharge and the applicant accepted. The evidence of Army Military Human Resource Record (AMHRR) indicates on 16 July 2004, the applicant was command referred to the Army Substance Abuse Program (ASAP), Fort Rucker for being drunk on duty. The applicant was evaluated by a Licensed Professional Counselor (LPC) with an Addictions Certification and found not to meet DSM-IV criteria for a diagnosis of Alcohol Abuse/Dependence. Based on the evaluation the applicant was enrolled in the outpatient treatment program at the Fort Rucker ASAP. As part of the program, the applicant was to remain abstinent from alcohol and other drugs unless prescribed

by a physician. The applicant was making fair progress until being arrested for Public Intoxication on 4 October 2004. The applicant was either unwilling or unable to rehabilitate oneself in a reasonable time period. It was recommended the applicant be classified as a rehabilitation failure and discharged from the Army under Chapter 9. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

#### **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 found that, based on the Board's Medical Advisor's opine, a review of the applicant's DOD and VA health records, the applicant's statement, and/or civilian provider documentation, the applicant has the following potentially mitigating diagnoses/experiences: PTSD.

**(2)** Did the condition exist, or experience occur during military service? **Yes.** The Board found that, based off the Board Medical Advisor's opine, the applicant was diagnosed and service connected by the VA for PTSD. Service connection establishes that the PTSD existed during military service.

**(3)** Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board applied liberal consideration, including considering the Board Medical Advisor's opine, and determined that the applicant is diagnosed and service connected by the VA for PTSD. Given the nexus between PTSD and self-medicating with substances, the applicant's PTSD mitigates the alcohol rehabilitation failure that led to the separation.

**(4)** Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the available evidence did not support a conclusion that the PTSD outweighed the applicant's characterization based on additional misconduct in the evidentiary record.

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

**(1)** The applicant contends being enrolled in ASAP due to showing up to formation under the influence of alcohol. While in ASAP, the applicant was seen by CID agent at a bar drinking with friends but was not causing trouble or being belligerent, just having a drink with friends. The applicant was reduced in rank and the company commander offered a discharge and the applicant accepted. The Board considered this contention and found that the applicant was arrested at the deemed location for being loud and intoxicated while carrying concealed weapons. Therefore, a discharge upgrade is not warranted.

**(2)** The applicant would like to receive honor for their time in the Army instead of scrutiny. The applicant realizes the mistake made ten years ago and does not want to live under the shadow of this and being deemed a "bad apple" before given a chance when trying to obtain a new job. The Board considered the totality of the applicant's record, including one and a half years of service, and determined that the applicant's record does not outweigh the discharge. The Board also determined the evidentiary record did not reflect evidence of the applicant being deemed a "bad apple" by any entity.

c. The Board determined that the discharge is, at this time, proper and equitable, considering 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 applicant's PTSD did not outweigh the other misconduct in the evidentiary record (belligerence, using/possessing assault weapons (brass knuckles/flapjacks) while intoxicated, and being untruthful in their self-authored statement). Additionally, the applicant lacked substantial additional mitigating factors (quality, combat, length of service). Specifically, the applicant did not meet even half of the enlistment contract, lacked awards for quality service, and lacked combat and overseas service. 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 Honorable characterization.

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

(3) The RE code will not change given the behavioral health conditions. The current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214:** 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:**

12/26/2024

**X**

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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

## ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

**AR20210000779**

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