

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 honorable. The applicant requests a narrative reason change.

The applicant seeks relief contending, in effect, suffering from post-traumatic stress disorder (PTSD) and drinking heavily. The applicant claims they were sent to treatment but relapsed and had another alcohol-related event. The applicant claims they requested to be discharged so they could get out of the environment, which was aggravating their PTSD. The applicant claims their unit and battalion commander recommended an honorable discharge, but the brigade commander downgraded it to a general. The applicant believes their characterization of service does not accurately characterize their service, especially given their PTSD symptoms.

b. **Board Type and Decision:** In a records review conducted on 12 September 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

Please see the Board Discussion and Determination portion 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 / Honorable

b. **Date of Discharge:** 8 April 2010

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 17 March 2010

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant was referred to the Bamberg Community Counseling Center for enrollment into the Alcohol and Substance Abuse Program (ASAP) on 28 September 2009. On multiple occasions, the applicant was found incapacitated for the performance of their duties, uncooperative and belligerent due to alcohol. Therefore, as of 19 January 2010, the applicant subsequently deemed an alcohol rehabilitation failure.

(3) **Recommended Characterization:** Honorable

(4) **Legal Consultation Date:** On 17 March 2010, the applicant waived legal counsel.

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

(6) Separation Decision Date / Characterization: 25 March 2010 / General (Under Honorable Conditions) / The applicant's Army Military Human Resource Record (AMHRR), includes two decisions from the separation authority, both dated 25 March 2010. The separation authority directed an honorable discharge in one memorandum and directed a general (under honorable conditions) characterization in the other.

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 5 October 2008 / 6 years
- b. **Age at Enlistment / Education / GT Score:** 22 / GED / 101
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 88N10, Transportation Management Coordinator / 4 year, 6 months, 18 days
- d. **Prior Service / Characterizations:** RA, 21 September 2005 – 4 October 2008 / HD
- e. **Overseas Service / Combat Service:** Germany, SWA / Iraq (24 July 2006 – 10 July 2007); Kuwait (9 August 2008 – 10 August 2009)
- f. **Awards and Decorations:** ARCOM, AGCM, NDSM, GWOTSM, ICM-CS, ASR, OSR-2CS
- g. **Performance Ratings:** None
- h. **Disciplinary Action(s) / Evidentiary Record:** CG Article 15, 6 October 2009, on or about 28 September 2009, were disrespectful in language toward SSG M. B., a noncommissioned officer, then known by the applicant to be a noncommissioned officer, who was then in the execution of their office, by saying, "go to hell" and "go fuck yourself," or words to that effect. The punishment consisted of a reduction to E-3; forfeiture of \$433 (suspended); extra duty and restriction for 14 days and oral reprimand.

Military Police Report, 23 December 2009, reflects the applicant was apprehended for Assault on an NCO in the performance of their duties (on post); Drunk and disorderly; Damage to private property (off post).

Summary of Army Substance Abuse Program Rehabilitation Failure (memo), 22 January 2010, reflects the applicant was command referred to the Bamberg ASAP on 28 September 2009, for being drunk on duty. The applicant was given an initial screening on 30 September 2009, a complete bio-psychosocial assessment on 5 October 2009, and was enrolled on 7 October 2009, for out-patient treatment. The applicant had another alcohol related incident while enrolled in ASAP over the weekend of 26 and 27 of December 2009. A Rehabilitation Team Meeting was convened on 29 December 2009 to discuss further treatment options including the possibility of discharge from ASAP as a rehabilitation failure. Lieutenant L., asked the applicant be reassessed to determine if they met the criteria for Alcohol Dependence and would be a candidate for partial residential care. The applicant was reassessed on 29 December 2009, and did not meet the criteria for Alcohol Dependence, and they also stated at the time they did not desire to make any behavioral changes. Another Rehabilitation Team Meeting was convened on 19 January 2010, for the purpose of discharging the applicant from ASAP as a rehabilitation failure.

Two Developmental Counseling Forms, for Article 134; 91 and chapter 9.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Medical Examination and History, 25 January 2010, the examining medical physician noted the applicant's medical conditions in the comments section. The evaluations included a diagnosis.

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) 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.

(4) 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 waivable and nonwaivable separations. Table 3-1 defines reentry eligibility (RE) codes: RE-4 Applies to: Person separated from last period of service with a nonwaivable 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 evidence of Army Military Human Resource Record (AMHRR) on 22 January 2010, reflects the applicant was command referred to the Bamberg ASAP on 28 September 2009, for being drunk on duty. The applicant was given an initial screening on 30 September 2009, a complete bio-psychosocial assessment on 5 October 2009, and was enrolled on 7 October 2009 for out-patient treatment. The applicant had another alcohol related incident while enrolled in ASAP over the weekend of 26 and 27 of December 2009. A Rehabilitation Team Meeting was convened on 29 December 2009 to discuss further treatment options including the possibility of discharge from ASAP as a rehabilitation failure. Lieutenant L., asked the applicant be reassessed to determine if they met the criteria for Alcohol Dependence and would be a candidate for partial residential care. The applicant was reassessed on 29 December 2009, and did not meet the criteria for Alcohol Dependence, and they also stated at that time they did not desire to make any behavioral changes. Another Rehabilitation Team Meeting was convened on 19 January 2010, for the purpose of discharging the applicant from ASAP as a rehabilitation failure.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 9, AR 635-200 with an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "alcohol rehabilitation failure," and the separation code is "JPD." Army Regulation 635-8 (Separation Processing and Documents) governs preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends suffering from PTSD. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR includes a Report of Medical Examination and History, 25 January 2010, reflecting the examining medical physician noted the applicant's medical conditions in the comments section. All the medical documents in the AMHRR were considered by the Separation Authority.

The applicant claims their unit and battalion commander recommended an honorable discharge, but the brigade commander downgraded it to a general. The separation authority is not bound by the recommendations of the initiating or intermediate commander and has complete

discretion to direct any discharge and characterization of service authorized by the applicable provisions of the regulation as stated in Army Regulation 635-200, chapter 2-2c. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including a two combat tours. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

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/experiences: Adjustment Disorder, Anxiety Disorder NOS, PTSD, and Major Depression.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder, Anxiety Disorder NOS, PTSD, and Major Depression, and the VA has service connected the PTSD.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions do not mitigate the discharge. Given the nexus between Anxiety Disorder NOS, PTSD, Major Depression, and self-medicating with substances, the applicant's BH conditions more likely than not contributed to and therefore mitigate the alcohol rehabilitation failure that led to the separation. However, the applicant has an HD which indicates that the proper mitigation has already been applied.

(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 applicant's Adjustment Disorder, Anxiety Disorder NOS, Post Traumatic Stress Disorder, and Major Depression conditions outweighed the applicant's discharge (Honorable characterization, with an Alcohol Narrative Reason for separation).

b. Response to Contention(s):

(1) The applicant contends suffering from PTSD. The Board liberally considered this contention and determined that the applicant already received appropriate mitigation and further upgrade is not warranted.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined that the applicant's Alcohol Rehabilitation Failure narrative reason for separation is proper and equitable given that a failure did in fact happen per the current evidentiary record.

(3) The applicant claims the unit and battalion commander recommended an honorable discharge, but the brigade commander downgraded it to a general. The Board considered this

contention and found that the applicant has already been upgraded to an honorable characterization of service.

(4) The applicant contends good service, including a two combat tours. The Board considered the totality of the applicant's service record but found that further upgrade to the applicant's discharge is not warranted as proper mitigation has already been applied.

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before a Board. 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 the applicant already holds an honorable characterization and further relief is not available.

(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 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 / 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:

9/13/2024

X

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
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

