

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 and a reentry eligibility (RE) code change.

The applicant seeks relief contending, in effect, serving over eight years of honorable service and would like to reenlist in the Army. The Applicant contends since their discharge, they have dedicated themselves to recovery and a healthy lifestyle.

b. **Board Type and Decision:** In a records review conducted on 17 September 2024, and by a 4-1 vote, the Board denied the request upon finding the separation was both proper and equitable.

Please see the Board Discussion and Determination section 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:** 24 January 2014

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 13 November 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: On 29 July 2013, the applicant was released from the Addiction Treatment Facility (ATF) for their inability to follow instructions laid out by the program. This was not the applicant's first time being in an Army rehabilitation program. Based on their past enrollments and inability to follow the guidelines of the rehabilitation program, the applicant was not recommended for further rehabilitative efforts. Additionally, as it pertains to their characterization or service, the applicant was involved in a physical domestic assault with their spouse.

(3) **Recommended Characterization:** General (Under Honorable Conditions) / The intermediate commander recommend an honorable discharge.

(4) **Legal Consultation Date:** 19 November 2013

(5) **Administrative Separation Board:** On 19 November 2013, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than honorable.

In an undated memorandum, the applicant's conditional waiver was approved.

(6) Separation Decision Date / Characterization: undated / Honorable

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 14 August 2007 / 6 years

b. Age at Enlistment / Education / GT Score: 23 / High School Graduate / 105

c. Highest Grade Achieved / MOS / Total Service: E-6 / 14H30, Air Defense Enhanced Early Warning System Operator / 8 years, 3 months, 19 days

d. Prior Service / Characterizations: RA, 6 October 2005 – 13 August 2007 / HD

e. Overseas Service / Combat Service: Germany, Korea, SWA / UAE (15 July 2009 – 15 July 2010)

f. Awards and Decorations: ARCOM, AAM, AGCM, NDSM, GWOTEM, GWOTSM, KDSM, NCOPDR-2, ASR, OSR-2

g. Performance Ratings: 1 April 2011 – 31 March 2012 / Fully Capable
31 March 2012 – 30 March 2013 / Among The Best
31 March 2013 – 22 January 2014 / Marginal

h. Disciplinary Action(s) / Evidentiary Record: Military Police Report, 27 May 2013, reflects the applicant was apprehended for assault consummated by a battery (on post).

Army Substance Abuse Program (ASAP) Memorandum, 1 August 2013, the applicant was command referred for evaluation and immediately enrolled into the Army Substance Abuse Program on 3 June 2013, for treatment of alcohol dependence. The applicant remained in active ASAP treatment. The applicant was previously enrolled in ASAP for treatment of alcohol dependence at the Fort Bliss clinic from 18 September 2006, through 5 April 2007. The applicant was again enrolled at the Fort Bragg ASAP clinic for alcohol dependence from 3 August 2012, through 28 February 2011 [sic].

Two Developmental Counseling Forms, for failure to complete the Addictive Treatment Facilities rehabilitation program and separation proceeding.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Medical Assessment, 13 August 2005, the examining medical physician noted the applicant's medical conditions in the comments section and noted enrolled into addiction treatment facility.

5. APPLICANT-PROVIDED EVIDENCE: Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge; The applicants mid-career level supervisory experience; Warrior Leaders Course Diploma; Service School Academic Evaluation Report;

Advance leader Course Diploma; Order 236-007; Certificate Of Promotion to Staff Sergeant; Three NCOERs.

6. POST SERVICE ACCOMPLISHMENTS: The contents dedicating themselves to recovery and a healthy lifestyle.

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 waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

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) indicates on 1 August 2013, the applicant was command referred for evaluation and immediately enrolled into the Army Substance Abuse Program on 3 June 2013, for treatment of alcohol dependence. The applicant remained in active ASAP treatment. The applicant was previously enrolled in ASAP for treatment of alcohol dependence at the Fort Bliss clinic from 18 September 2006 through 5 April 2007. The applicant was again enrolled at the Fort Bragg ASAP clinic for alcohol dependence from 3 August 2012 through 28 February 2011 [sic].

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

The applicant desires to rejoin the military service. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "4." An RE code of "4" cannot be waived, and the applicant is no longer eligible for reenlistment matter.

The applicant contends dedicating themselves to recovery and a healthy lifestyle, since the discharge. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses: in-service Alcohol Dependence and IPV (perpetrator), and post-service-connected PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant was diagnosed in-service with Alcohol Dependence and IPV (perpetrator). The applicant is post-service-connected for PTSD that occurred in-service.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that given the VA service connected for PTSD, the trauma occurring before ATF failure, and the nexus between trauma and substance abuse, the ASAP failure is mitigated. However, IPV is not mitigated as there is no documentation to support a trauma symptom influenced the IPV.

(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 Post Traumatic Stress Disorder outweighed the medically unmitigated Intimate Partner Violence (IPV) offense.

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and found insufficient mitigating factors to warrant a change to the applicant's Alcohol Rehabilitation Failure narrative reason for separation.

(2) The applicant contends good service, including a combat tour. The Board considered the applicant's length of service, including overseas tours and combat service, but found that the applicant's record does not merit further upgrade as the applicant already holds an honorable characterization of service.

(3) The applicant desires to rejoin the military service. The Board considered this contention and determined that the applicant's reentry eligibility code of RE-4 is proper given the applicant's diagnosed behavioral health conditions.

(4) The applicant contends dedicating themselves to recovery and a healthy lifestyle since the discharge. The Board positively noted the applicant's healthy lifestyle but did not find this compelling enough to warrant further upgrade to the discharge.

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:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000801

(1) The Board voted not to change the applicant's characterization of service as the applicant already holds an honorable characterization and further upgrade is not available.

(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 as a rehabilitation failure did in fact happen.

(3) The RE code will not change due to the diagnosed and service-connected 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:

9/20/2024

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