

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, completing inpatient treatment for depression, anxiety, and alcohol abuse at the Department of Veterans Affairs (VA) Medical Center in Milwaukee, Wisconsin. The applicant continues to follow-up treatment periodically with outpatient groups. With the knowledge and techniques the applicant obtained, the applicant carries the message to the veteran who suffers and maintains sobriety to the best of their ability. The applicant made many bad decisions while in the service. The applicant cannot forget the past but is able to forgive their impaired judgement to move on and live their life. The applicant is enrolled in school for welding and believes having a general status may jeopardize the applicant's eligibility for employment in their future career. The applicant would be better if the applicant could put the past to rest, which has led to fears and anxiety about the future. The applicant indicated various corrections should be made to the applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty).

b. **Board Type and Decision:** In a records review conducted on 27 August 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 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 / General (Under Honorable Conditions)

b. **Date of Discharge:** 24 January 2008

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 8 January 2008 / The applicant was informed, if the separation authority determined an under other than honorable conditions discharge was warranted, the applicant would be re-notified under the Administrative Board Procedure.

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant failed to complete the Army Substance Abuse Program (ASAP).

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

(4) **Legal Consultation Date:** 8 January 2008

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

(6) **Separation Decision Date / Characterization:** 15 June 2008 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 11 January 2006 / 5 years

b. **Age at Enlistment / Education / GT Score:** 23 / HS Graduate / 112

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 44B1P, Metal Worker / 3 years, 10 months, 29 days

d. **Prior Service / Characterizations:** RA, 26 February 2004 – 10 January 2006 / HD

e. **Overseas Service / Combat Service:** Germany, SWA / Iraq (20 March 2005 – 20 March 2006)

f. **Awards and Decorations:** NDSM, GWOTEM, GWOTSM, ASR, OSR / The applicant's AMHRR reflects award of the ARCOM, however, the award is not reflected on the DD Form 214.

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** Field Grade Article 15, 23 January 2007, for failing to go at the time prescribed to the appointed place of duty (23 November 2006); and willfully disobeying a lawful order from Captain (CPT) K. P., to not consume alcohol (22 December 2006). The punishment consisted of a reduction to E-2 (suspended); forfeiture of \$729 pay per month for two months; and extra duty and restriction for 45 days.

Field Grade Article 15, 3 August 2007, for failing to obey a lawful order from CPT K. P., not to consume alcohol (5 May 2007); willfully disobeying a lawful order from Sergeant (SGT) C, a noncommissioned officer (NCO) to keep the noise down (5 May 2007); and failing to go at the time prescribed to the appointed place of duty (22 April 2007). The punishment consisted of a reduction to E-1; forfeiture of \$325 pay per month for two months (suspended); and extra duty and restriction for 45 days.

Army Substance Abuse Program (ASAP) Rehabilitation Failure (memo), 5 October 2007, reflects the applicant's rehabilitation team met and determined the applicant to be a rehabilitation failure.

Report of Mental Status Evaluation, 18 October 2007, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative and judicial proceedings; could appreciate the difference between right and wrong; and met medical retention requirements.

Ten Developmental Counseling Forms, for reporting late to work with alcohol on the breath; failing to report on time and in civilian clothes, under the influence of alcohol; being drunk and disorderly; and various positive monthly counseling.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Medical Examination, 4 October 2007, reflects the examining medical physician noted in the summary of defects and diagnoses section: Alcohol dependence, depression, and sleep apnea.

Report of Medical History, 19 October 2007, reflects the applicant reported post-traumatic stress disorder (PTSD). The examining medical physician noted in the comments section: Depression, alcohol dependence, and PTSD.

5. APPLICANT-PROVIDED EVIDENCE: Application for Correction of Military Record; Certificate of Release or Discharge from Active Duty (copies 1 and 4); self-authored statement; two Certificates of Training; Certificate of Affiliation; Ordnance Center and Schools Diploma; Fort Bragg Dypлом; and Leave and Earnings Statement.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is attending school for welding.

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 evidence of Army Military Human Resource Record (AMHRR) indicates the unit commander in consultation with the ASAP counseling staff, declared the applicant a rehabilitation failure.

The applicant contends receiving inpatient treatment by the VA for depression, anxiety, and alcohol abuse. The applicant's AMHRR reflects the applicant underwent a medical examination on 4 October 2007, which indicates the applicant was diagnosed with alcohol dependence, depression, and sleep apnea. The applicant underwent a mental status evaluation (MSE) on 18 October 2007, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The Report of Medical History, 19 October 2007, reflects the physician noted in the comments section: Depression, alcohol dependence, and PTSD. The documents in the AMHRR were considered by the separation authority.

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.

The applicant requests corrections to the DD Form 214. The applicant's requested changes to the DD Form 214 do not fall within this board's purview. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

The applicant contends attending school for welding. 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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder with Anxiety and Depressed Mood, Persistent Depressive Disorder, and MDD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant was diagnosed with Adjustment Disorder with Anxiety and Depressed Mood during service.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's behavioral health conditions do not mitigate the misconduct. The misconduct is not mitigated by Adjustment Disorder with Anxiety and Depressed Mood because there is no evidence the condition was of a severity to impact judgement, cognition, or behavior, and did not impair the applicant's ability to differentiate between right and wrong. The applicant's post-service diagnoses of Persistent Depressive Disorder and MDD also do not mitigate the misconduct as the diagnoses were considered not related to service, and instead secondary to interpersonal and psychosocial variables that occurred after service.

(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 with Anxiety and Depressed Mood, Persistent Depressive Disorder, and MDD outweighed the applicant's medically unmitigated Alcohol Rehabilitation Failure.

b. Response to Contention(s):

(1) The applicant contends receiving inpatient treatment by the VA for depression, anxiety, and alcohol abuse. The Board liberally considered this contention, noted the treatment, and determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder with Anxiety and Depressed Mood, Persistent Depressive Disorder, and MDD outweighed the applicant's medically unmitigated Alcohol Rehabilitation Failure.

(2) 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.

(3) The applicant requests that awards be added to the applicant's DD Form 214. The Board determined that the applicant's requested change to the DD Form 214 does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 293 regarding this matter. A DD Form 293 may be

obtained online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf> or from a Veterans' Service Organization.

(4) The applicant contends attending school for welding. The Board considered and positively noted the applicant's post-service educational accomplishment but determined that this achievement did not outweigh the applicant's medically unmitigated Alcohol Rehabilitation Failure.

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 Adjustment Disorder with Anxiety and Depressed Mood, Persistent Depressive Disorder, and MDD did not outweigh the applicant's medically unmitigated Alcohol Rehabilitation Failure. The Board also considered the applicant's post-service accomplishments contention and found that the totality of the record does not warrant a discharge upgrade. 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 pretenses, 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 also 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:

8/29/2024

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