

1. Applicant's Name:

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** Yes

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is honorable. The applicant, through counsel, requests a narrative reason change.

The applicant contends, in effect, coming to the United States as a foreign student in 2002, completing a business degree, becoming a naturalized citizen, and enlisting in the Army in April 2009. After completing initial entry training and the Warrior Leadership Course, the applicant was assigned to Afghanistan, where service included heavy combat. The applicant served honorably and commendably for 44 months. The applicant reenlisted in January 2013 because the applicant was recommended for an assignment to the Criminal Investigation Division (CID). On 2 April 2013, the applicant reported drunk to formation and was referred for a breathalyzer test and then sent for a medical evaluation. The applicant was diagnosed with post-traumatic stress disorder (PTSD) and was immediately enrolled in the Army Substance Abuse Program (ASAP). The applicant continued medical treatment and ASAP from April through June 2013. The applicant was summoned to the battalion commander's office for a meeting, in the presence of the company commander, first sergeant, and platoon sergeant, but with no legal representative. The battalion commander informed the applicant the punishment for being drunk at formation was a reduction in grade; restriction and extra duty for 45 days; and a discharge, or to be court-martialed. The applicant believed the applicant had no choice but to agree. The applicant remained faithful to ASAP throughout this period. Despite the applicant's PTSD diagnosis, successful participation in ASAP, and without the requisite legal process and safeguards, the applicant was demoted and discharged on 25 July 2013, under the false basis of "alcohol rehabilitation failure," which is devastating to the applicant's employment efforts and directly contradicted by the concurrent medical record and recent written confirmation by the ASAP supervisor still serving at Fort Carson. By the time the applicant reviewed the false entry on the DD Form 214, it was too late to do anything about it. There are no records related to any of these actions included in the applicant's service record, nor are there any pertinent records other than medical at Fort Carson, according to the Staff Judge Advocate. The applicant was unable to secure employment, and the applicant's first review by the Army Discharge Review Board was denied. During this time, the applicant obtained a Master's Degree in International Relations and Conflict Resolution and was able to obtain a job at the Veterans Administration, but collapsed and was let go. The applicant completed the rehabilitation program at Perry Point and is continuing to participate in support programs at the Department of Veterans Affairs (VA) Medical Center and the PTSD Support Group. The applicant is rated 100 percent disabled. The applicant lives with their spouse and child and continues to pursue employment to support the family and to use the applicant's abilities positively. There are no police or other public disturbance incidents or issues. Counsel further details the contentions in the Legal Brief submitted with the application.

b. Board Type and Decision: In a records review conducted on 19 September 2024, and by a 5-0 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: Secretarial Authority / AR 635-200, Paragraph 5-3 / JFF / RE-4 / Honorable

b. Date of Discharge: 25 July 2013

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** NIF

(2) **Basis for Separation:** NIF

(3) **Recommended Characterization:** NIF

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

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

(6) **Separation Decision Date / Characterization:** NIF

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 17 January 2013 / 3 years

b. Age at Enlistment / Education / GT Score: 37 / Bachelor's Degree / NIF

c. Highest Grade Achieved / MOS / Total Service: E-4 / 92F10, H7 Petroleum Supply Specialist / 4 years, 2 months, 28 days

d. Prior Service / Characterizations: RA, 28 April 2009 – 16 January 2013 / HD

e. Overseas Service / Combat Service: Germany, SWA / Afghanistan (4 March 2011 – 21 December 2011)

f. Awards and Decorations: ARCOM, AAM, AGCM, NDSM, ACM-2CS, GWOTSM, NCOPDR, ASR, OSR-2, NATOMDL

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: The applicant provided memorandum, 2 April 2013, reflecting the executive officer requested the applicant be given a breathalyzer because the applicant reported to duty smelling of alcohol and being disrespectful to the section sergeant.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000826

Orders 197-0008, 16 July 2013, as amended by Orders 200-0007, 19 July 2013, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 25 July 2013 from the Regular Army.

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant had completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 5-3, with a narrative reason of Secretarial Authority. The DD Form 214 was not authenticated with the applicant's signature. The applicant was discharged in the grade of E-1, effective date of pay grade: 16 May 2013.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Report of Medical History, 29 April 2013, reflecting the examining medical physician noted in the comments section: Headaches began during deployment; recent diagnosis of PTSD, recently started medication for PTSD, anxiety, and depression.

Army Substance Abuse Program psychologist letter, 27 June 2013, reflecting the applicant was referred to the Intensive Outpatient Group (IOT) as part of the applicant's ASAP treatment recommendations. During treatment, the applicant made progress, maintaining sobriety, and gaining insight into their behavior and a better understanding of addiction as a disease.

Three Department of Veterans Affairs letters, 5 March 2015 and 10 March 2015, reflecting the applicant was admitted into a residential treatment facility on 5 March 2015, and admitted in the Psychosocial Residential Recovery Treatment Program for alcohol abuse on 24 November 2015.

Department of Veterans Affairs Medical Center (VAMC) letter, 24 February 2016, reflecting the VA rated the applicant 100 percent service-connected disabled for PTSD; 50 percent for migraine headaches; 10 percent for tinnitus; and 10 percent for lumbosacral or cervical strain.

Memorandum, subject: Rehabilitation Summary for [Applicant], 16 November 2016, reflecting the ASAP Clinical Supervisor indicated the applicant was a command referral after an incident on 3 April 2013, involving alcohol. On 8 April 2013, the applicant was enrolled with alcohol abuse, later upgraded to alcohol dependence. The applicant had another ASAP command-referral because of being drunk on duty. The applicant was evaluated, but not enrolled at Baumholder, Germany in May 2010. The applicant was enrolled in treatment from 8 April 2013 through 22 July 2013. The applicant admitted to relapsing on alcohol on 22 April 2013, after less than two weeks of treatment. The applicant's progress in treatment was determined to be good, despite one relapse while enrolled in the program.

(2) AMHRR Listed: None

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 (Service-2 and Member-4 copies); two Applications for the Review of Discharge, with all listed exhibits A through K; Legal Brief; Disabled American Veterans letter; ASAP letters from counseling psychologists; amendment to separation orders; self-authored letter to the Office of Personnel Management letter; self-authored letter to the Department of Homeland Security

letter; two Immigration and Customs Enforcement letters; multiple electronic mail messages; military training record; Honorable Discharge certificate; Oath of Reenlistment; Criminal Investigation Division letter, regarding correction to CID files; Wounded Warrior Project Combat Stress Recovery Program document; and Chronology.

6. POST SERVICE ACCOMPLISHMENTS: The applicant obtained a master's degree, obtained a job at the VA, completed a rehabilitation program, and had no police or other public disturbance incidents or issues.

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 5 provides for the basic separation of enlisted personnel for the convenience of the government.

(4) Paragraph 5-1, states that a Soldier being separated under this paragraph will be awarded a characterization of service of honorable, general (under honorable conditions), or an uncharacterized description of service if in entry-level status.

(5) Chapter 5-3 (Chapter 15 current regulation) 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 memorandums. Secretarial separation authority is normally exercised on a case-by-case basis.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), in effect at the time, provided 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 identified the SPD code of "JFF" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5, paragraph 5-3, Secretarial Authority.

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 a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's Army Military Human Resources Record (AMHRR) is void of the specific facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was not authenticated by the applicant's signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 5, paragraph 5-3, by reason of Secretarial Authority, with a characterization of service of honorable.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 5-3, AR 635-200, with an honorable discharge. The narrative reason specified by Army Regulations, at the time, for a discharge under this paragraph is "Secretarial Authority," and the separation code is "JFF." 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 the VA rated the applicant 100 percent disabled for PTSD, and the condition affected behavior while in military service. The applicant provided a Report of Medical History, reflecting the examining medical physician noted headaches, PTSD, anxiety, and depression. The applicant provided a letter from the VA, indicating the VA rated the applicant 100 percent service-connected disabled for PTSD; 50 percent for migraine headaches; 10 percent for tinnitus; and 10 percent for lumbosacral or cervical strain.

The applicant contends the event which led to the discharge from the Army was an isolated incident, completing the ASAP, and being discharged unjustly. The applicant provided a letter from the ASAP Clinical Supervisor at Fort Carson reflecting the applicant was enrolled in treatment from 8 April 2013 through 22 July 2013. The applicant admitted to relapsing on alcohol, but the applicant's progress in treatment was determined to be good, despite one relapse while enrolled in the program.

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 contends obtaining a master's degree, obtaining a job at the VA, completing a rehabilitation program, and having no police or other public disturbance incidents or issues. 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.

The third-party statements provided with the application speak highly of the applicant. They all recognize the applicant's good conduct after leaving the Army.

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? **No.** The Board found that, based on the Board's Medical Advisor's opine, a review of 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, PTSD, Anxiety Disorder NOS, Major Depressive Disorder. A previous board determined that the applicant's BH conditions contributed to the original basis of separation which was Alcohol Rehabilitation Failure and upgraded the applicant to an Honorable discharge with Secretarial Authority. Given the previous upgrade, there is no further misconduct to potentially excuse or mitigate.

(2) Did the condition exist, or experience occur during military service? **N/A**

(3) Does the condition or experience excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s):

(1) The applicant contends the VA rated the applicant 100 percent disabled for PTSD, and the condition affected behavior while in military service. The Board liberally considered this contention but found that the appropriate medical mitigation has already been applied. The Board found that the applicant's reentry eligibility code should remain at RE-4 given the applicant's behavioral health conditions.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board found that the applicant already holds the maximum available relief. Therefore, further action is not necessary.

(3) The applicant contends the event which led to the discharge from the Army was an isolated incident, completing the ASAP, and being discharged unjustly. The Board considered this contention and found that the applicant was already granted the appropriate relief with an honorable characterization of service and a Secretarial Authority narrative reason for separation.

(4) The applicant contends good service, including a combat tour. The Board considered the totality of the applicant's service record and found that the applicant was already granted the appropriate relief with an honorable characterization of service and a Secretarial Authority narrative reason for separation.

(5) The applicant contends obtaining a master's degree, obtaining a job at the VA, completing a rehabilitation program, and having no police or other public disturbance incidents or issues. The Board considered this contention and found that the applicant was already granted the appropriate relief with an honorable characterization of service and a Secretarial Authority narrative reason for separation.

c. The Board denied the request upon finding the separation was both proper and equitable. The applicant or applicant's representative may still apply to the Army Board for Correction of Military Records for other matters relating to the applicant's service.

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 of service.

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

(3) The RE code will not change based on the BH 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:

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