

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 and a change in narrative reason.

The applicant seeks relief contending, in effect, that he developed and was diagnosed with PTSD during time in service. Applicant did not receive proper treatment, and subsequently turned to alcohol. According to the list of achievements, the applicant's life has changed and no longer abuses alcohol and is an active church member. The applicant states the only thing keeping them from obtaining employment with the government is their DD Form 214. The applicant states they are on the verge of becoming homeless and is now employed with USPS. The applicant contends being a phenomenal Soldier and receiving several coins from different officers and a certificate of appreciation from their first sergeant. The applicant states after their discharge, South Korea's curfew had been lifted to help prevent the incredible number of Soldiers being chaptered out of the Army.

b. **Board Type and Decision:** In a records review conducted on 21 August 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 detail regarding the Board's decision.

(Board member names available upon request)

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 20 November 2008

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 5 September 2008

(2) **Basis for Separation:** The applicant was informed of the following reasons: Repeated disciplinary infractions, including disobeying numerous orders given by their leaders, repeated alcohol related incidents, and breaking restrictions imposed upon them under Article 15 UCMJ.

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

(4) **Legal Consultation Date:** 30 September 2008

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

(6) Separation Decision Date / Characterization: 4 November 2008 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 16 November 2006 / 4 years

b. Age at Enlistment / Education / GT Score: 26 / High School Graduate / 97

c. Highest Grade Achieved / MOS / Total Service: E-3 / 68J10, Medical Logistics Specialist / 2 years, 5 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea / None

f. Awards and Decorations: NDSM, GWOTSM, KDSM, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: FG Article 15, 20 December 2007, for on or about 3 November 2007, fail to obey a lawful general order by wrongfully being off the installation during the hours of curfew. The punishment consisted of extra duty and restriction for 30 days.

FG Article 15, 27 March 2008, for on or about 16 February 2008, was found drunk on duty. The punishment consisted of a reduction to E-1; forfeiture of \$300 (suspended); and extra duty and restriction for 45 days.

FG Article 15, 22 July 2008, for on or about 17 May 2008, fail to obey a lawful order by being off the installation during the hours of curfew. The punishment consisted of forfeiture of \$670 pay per month for two months; and extra duty and restriction for 45 days.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs Decision letter, 1 October 2018, reflects an evaluation of 70 percent and a medical diagnosis.

A letter from M.S., VA Medical Center for medical and mental health, 2 March 2023, reflects a medical diagnosis.

(2) AMHRR Listed: Mental Status Evaluation, 21 February 2008, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The evaluation included a medical diagnosis.

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Certificate of Release or Discharge from Active Duty; two Applications for Correction of Military Record, self-authored letter; Bachelor of Science Diploma; 14 letters of support; Certificate of Marriage Registration; Certificate in English Language Teaching; Degree of Associate of Arts; Empire State College Academic Summary; Military curfew in South Korea ending letter.

6. POST SERVICE ACCOMPLISHMENTS: The applicant sought treatment from the VA for their mental health, completed a Bachelor of Science degree, and employment with USPS

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 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3, prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

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 "JKA" as

the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

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

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

The applicant contends not abusing alcohol anymore. The applicant provided a Department of Veterans Affairs Decision letter, 1 October 2018, reflecting an evaluation of 70 percent and a medical diagnosis. A letter from M.S., VA Medical Center for medical and mental health, 2 March 2023, reflects a medical diagnosis. The AMHRR includes a Mental Status Evaluation, 21 February 2008, reflecting the applicant was cleared for any administrative actions deemed appropriate by the command. The evaluation included a medical diagnosis. The separation authority considered the mental status evaluation.

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 contends current homelessness and the need for help. Eligibility for housing support program benefits for Veterans does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance. Moreover, all veterans at risk for homelessness or attempting to exit homelessness can request immediate assistance by calling the National Call Center for Homeless Veterans hotline at 1-877-424-3838 for free and confidential assistance.

The applicant contends good service. The third-party statements provided with the application reflect the applicant's hard work and dedication and the desire to go the extra mile for others. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends seeking treatment from the VA for their mental health and completing a Bachelor of Science degree. 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, Major Depressive Disorder.

(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 and Major Depressive Disorder, and the VA has service connected the Major Depressive Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was diagnosed in service with an Adjustment Disorder and Major Depressive Disorder, and the VA has service connected the Major Depressive Disorder. Given the nexus between Major Depressive Disorder and self-medicating with substances, the alcohol-related incidents are mitigated. However, there is no indication that the applicant's Adjustment Disorder or Major Depressive Disorder contributed to disobeying orders or breaking restrictions since these conditions do not interfere with the ability to distinguish between right and wrong and act in accordance with the right. It is noted that the applicant was diagnosed post service with PTSD by the VA, but there is no evidence that the PTSD existed during military service. Furthermore, PTSD does not interfere with the ability to distinguish between right and wrong and would provide no additional mitigation for the basis of separation even if there was evidence that the condition existed during military service.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder and Major Depressive Disorder outweighed the basis for applicant's separation – disobeying orders and breaking restriction.

b. Response to Contention(s):

(1) The applicant contends an upgrade of the discharge and change to narrative reason will allow the applicant to achieve inner peace. The Board considered this contention and determined the narrative reason is appropriate. The applicant's conditions do not outweigh the discharge and the applicant has no experiences that could outweigh the separation, thus the discharge is proper and equitable.

(2) The applicant contends current homelessness and the need for help. The Board considered this contention and determined eligibility for housing support program benefits for Veterans does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(3) The applicant contends good service. The Board considered the applicant's 2 years of service and the numerous awards received by the applicant but determined that these factors did not outweigh the disobeying orders and breaking restriction.

(4) The applicant contends seeking treatment from the VA for their mental health, completing a Bachelor of Science degree, employment with USPS, not abusing alcohol anymore, and devotion to church. The Board considered this contention and determined that the applicant's completion of a Bachelor of Science degree, employment with USPS, not abusing alcohol anymore, devotion to church and seeking treatment for mental health do not outweigh the misconduct based on the seriousness of the applicant's offense of disobeying orders and breaking restriction.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. The applicant has exhausted their 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 of all the evidence before the Board, the applicant's Adjustment Disorder, Major Depressive Disorder did not excuse or mitigate the offenses of disobeying orders and breaking restriction. 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 upgrade to Honorable discharge.

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

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000894

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:

10/28/2024

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