

**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 under other than honorable conditions. The applicant, through counsel, requests an upgrade to honorable and a change to the narrative reason for separation.

The applicant seeks relief contending, in effect, upon returning from deployment, the applicant did not realize the impact the deployments had them. There was little information given to help Soldiers see the signs of PTSD. There was also a stigma for seeking help, as it was perceived as a weakness. The applicant began drinking to self-medicate; however, was unaware of why they were drinking so much. The applicant had two Driving Under the Influence (DUI) charges after returning from the deployments. The applicant spent time in treatment centers and was hospitalized for alcohol use. Just months after returning from the second deployment, the applicant had a domestic incident with their spouse, where the applicant became so angry, they physically harmed their spouse. This incident sparked the initiation of separation proceedings. Unfortunately, the command either did not see or ignored the warning signs of PTSD and alcohol abuse to get the applicant help. The applicant was first treated for alcohol use in May 2014, when they were seen at the VA and hospitalized for alcohol use. In June 2014, the applicant entered a substance use rehabilitation inpatient program at the VA and was discharged in October 2014. While an inpatient, the applicant was diagnosed and started receiving treatment for PTSD. Since starting medication, the symptoms have improved; however, the applicant continues to struggle with PTSD symptoms.

**b. Board Type and Decision:** In a records review conducted on 8 October 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:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / Under Other Than Honorable Conditions

**b. Date of Discharge:** 6 February 2013

**c. Separation Facts:**

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

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

**(3) Recommended Characterization:** Under Other Than Honorable Conditions

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

**(5) Administrative Separation Board:** On 4 December 2012, the administrative separation board convened. The Board determined the allegations of on or about 8 December 2011, the applicant unlawfully struck J. J. with the fist on the face, chest, and stomach; and on or about 8 December 2011, the applicant committed an assault upon J. J. by smothering J. J. with a means likely to produce death of grievous bodily harm, to wit: pressing a blanket and pillow on J. J.'s face, warranted separation with respect to the applicant. The board recommended the applicant's discharge with characterization of service of under other than honorable conditions.

On 10 January 2013, the separation authority approved the findings and recommendations of the administrative separation board.

**(6) Separation Decision Date / Characterization:** 10 January 2013 / Under Other Than Honorable Condition

#### **4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 17 April 2008 / NIF / The applicant's DD Form 4 is not included in the AMHRR, and the information was derived from the applicant's DD Form 214.

**b. Age at Enlistment / Education / GT Score:** 18 / High School Letter / 96

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 91B10, Wheeled Vehicle Mechanic / 6 years, 5 months, 29 days

**d. Prior Service / Characterizations:** RA, 8 August 2006 – 16 April 2008 / HD

**e. Overseas Service / Combat Service:** Hawaii, SWA / Iraq (9 August 2007 – 30 August 2008; 3 July 2010 – 3 July 2011)

**f. Awards and Decorations:** ARCOM-3, AGCM, NDSM, GWOTSM, ICM-2CS, ASR, OSR-2

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Report of Proceedings by Investigating Officer/Board of Officers, 4 December 2012, reflects the board found: The allegation of on or about 8 December 2011, the applicant unlawfully struck J. J. with the fist on the face, chest and stomach; and on or about 8 December 2011, the applicant committed an assault upon J. J. by smothering J. J. with a means likely to produce death of grievous bodily harm, to wit: pressing a blanket and pillow on J. J.'s face. The findings did warrant separation with respect to the applicant. The board recommended the applicant's discharge with characterization of service of under other than honorable conditions.

General Officer Memorandum of Reprimand, 6 December 2012, reflects the applicant was reprimanded for operating a motor vehicle on 5 November 2012, in Pearl City, Hawaii while under the influence of alcohol. According to the arrest report the applicant was stopped for driving at an excessive speed of 97 mph, driving erratically by cutting across lanes and driving on the shoulder of the road. The applicant was administered a standardized field sobriety test,

which they failed. A subsequent breathalyzer test revealed a BAC of .170 percent, thus exceeding the legal limit.

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

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

(1) **Applicant provided:** 436 pages of VA Medical Records, the records reflect a diagnosis.

(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:** Two Applications for the Review of Discharge; Certificate of Release or Discharge from Active Duty; attorney brief; ARBA letter; VA medical records.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has completed a substance use rehabilitation in patient program at the VA. The applicant has worked steadily and has sought help through the VA.

**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) Paragraph 3-7c states Under Other Than Honorable Conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(5) 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.

(6) Paragraph 14-2c, prescribes Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties that may be imposed under the UCMJ.

(7) 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.

(8) Paragraph 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

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

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with a under other than honorable conditions discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8 (Separation Processing and Documents) governs the 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 two combat tours. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends upon returning from deployment, the applicant did not realize the impact the deployments had on them. There was little information given to help Soldiers see the signs of PTSD. There was also a stigma for seeking help, as it was perceived as a weakness. The applicant began drinking to self-medicate; however, was unaware of why they were drinking so much. The applicant had two DUIs after returning from the deployments. The command either did not see or ignored the warning signs of PTSD and alcohol abuse to get the applicant help. The applicant spent time in treatment centers and was hospitalized for alcohol use. While an inpatient, the applicant was diagnosed and started receiving treatment for PTSD. Since starting medication, the symptoms have improved; however, the applicant continues to struggle with PTSD symptoms. The applicant provided VA medical records reflecting a diagnosis. The AMHRR does not include a Mental Status Evaluation (MSE). The applicant's AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends family issues affected behavior and ultimately caused the discharge. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits 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.

The applicant contends an upgrade would allow educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill 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.

The applicant has completed a substance use rehabilitation in patient program at the VA. The applicant has worked steadily since being discharged, and has sought help through the VA. 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 found that, based on the Board Medical Advisor's (BMA) opine, a review of 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/experiences: PTSD, Anxiety Disorder NOS, and Depressive Disorder NOS.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found that, based on the BMA's opine, the applicant was diagnosed with PTSD by a VA provider.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions do not mitigate the misconduct. The applicant's assaults of the applicant's spouse are not mitigated as the misconduct is not natural sequela of any diagnosed behavioral health condition. The applicant did not have a condition that rendered the applicant unable to differentiate between right and wrong and adhere to the right.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the BMA's opine, the Board determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Anxiety Disorder, and/or Depressive Disorder outweighed the medically unmitigated offenses of assault against the applicant's spouse.

**b. Response to Contention(s):**

(1) The applicant contends upon returning from deployment, the applicant was suffering from PTSD and began to drinking to self-medicate; however, the applicant was unaware of why they were drinking so much. The applicant had two DUIs after returning from the deployments and the command either did not see or ignored the warning signs of PTSD and alcohol abuse. The Board liberally considered this contention and determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Anxiety Disorder, and Depressive Disorder outweighed the medically unmitigated offenses of assault against the applicant's spouse. The evidentiary record did not indicate negligence or capricious acts/intent by the command.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined that the applicant's Misconduct (Serious Offense) narrative reason for separation is proper and equitable given the medically unmitigated offenses of assault against the applicant's spouse.

(3) The applicant contends good service, including two combat tours. The Board considered the applicant's years of service, including combat tours in Iraq, and determined that the applicant's service record does not outweigh the severity of the misconduct.

(4) The applicant contends family issues affected behavior and ultimately caused the discharge. The Board considered the applicant's marital difficulties at the time of the misconduct and determined that this issue does not mitigate the offenses of assault toward the applicant's spouse.

(5) The applicant contends an upgrade to the discharge would facilitate veteran benefits. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare and/or VA loans, do 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.

(6) The applicant contends completing a substance use rehabilitation inpatient program at the VA. The applicant has worked steadily since being discharged, and has sought help

through the VA. The Board considered this contention, commended the accomplishments, but concluded that the post-service treatment actions do not outweigh the applicant's misconduct.

c. The Board determined that the discharge is, at this time, proper and equitable considering the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before a Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service because, despite applying liberal consideration to all the evidence before the Board, the applicant's Post Traumatic Stress Disorder, Anxiety Disorder, and/or Depressive Disorder did not outweigh the medically unmitigated offenses of assault against the applicant's spouse. The Board considered the applicant's contentions regarding good service and seeking treatment since serving and found that the totality of the evidentiary record does not outweigh the severity of the misconduct or 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 Under Other Than Honorable Conditions discharge was proper and equitable as the applicant's conduct fell below that level of satisfactory or meritorious service warranting a General or Honorable discharge characterization.

(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.

(3) The RE code will not change given the diagnosed 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:**

1/6/2025

X

Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000921

**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