

**1. Applicant's Name:** [REDACTED]

- 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 the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and a change to the narrative reason for separation.

The applicant seeks relief contending, in effect, being iatrogenically addicted to medications provided in the Wounded Warrior Program because of their injuries in Iraq, including a right shoulder injury. The applicant had no problems or dings in their military record until the applicant sustained injuries in combat and subsequent treatment. After surgery, the doctor prescribed the applicant painkillers, which contributed to their addiction. The medication was prescribed even while the applicant was in the Army Career and Alumni Program (ACAP), and failing out of the Army Substance Abuse Program (ASAP) because of positive drug tests as a result of using the medication prescribed.

b. **Board Type and Decision:** In a records review conducted on 8 August 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Traumatic Brain Injury, Anxiety, and Depression outweighing the applicant's drug rehabilitation failure. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and the reenry code to RE-3. The Board determined the narrative reason for separation is proper and equitable and voted not to change it.

*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:** Drug Rehabilitation Failure / AR 635-200, Chapter 9 / JPC / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 19 August 2011

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 11 July 2011

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant tested positive for tetrahydrocannabinol (THC) on 28 April 2011, while enrolled in ASAP, and declared a rehabilitation failure on 18 May 2011.

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

(4) **Legal Consultation Date:** 13 July 2011

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

**(6) Separation Decision Date / Characterization:** 20 July 2011 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 23 April 2008 / 5 years

**b. Age at Enlistment / Education / GT Score:** 24 / GED / 115

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 91B10, Wheeled Vehicle Mechanic / 4 years, 9 months

**d. Prior Service / Characterizations:** RA, 20 November 2006 – 22 April 2008 / HD

**e. Overseas Service / Combat Service:** Germany, SWA / Iraq and Kuwait (17 July 2007 – 27 September 2008)

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

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Memorandum, subject: Letter of Support for [Applicant], 1 December 2010, reflecting the applicant was using medications which had the propensity to cause morning sedation.

Company Grade Article 15, 10 May 2011, for on four occasions, failing to go at the time prescribed to the appointed place of duty (10 December 2010, 12 and 27 January 2011, and 21 April 2011). The punishment consisted of a reduction to E-3; forfeiture of \$455 pay; and extra duty for 14 days.

Report of Medical History, 24 June 2011, the applicant reported several injuries or illnesses, including a shoulder injury and surgery; constant back pain; traumatic brain injury; and mild post-traumatic stress disorder (PTSD). The examining medical physician noted the comments section: Relates history of head trauma, fractured skull, two TBIs because of IED blasts; relates history of chronic midback pain, right shoulder pain, recurrent knee pain, and other injuries. The form is partly illegible.

Numerous Developmental Counseling Forms, for failing to report to formations and medical appointments; testing positive for THC; wrongfully possessing a controlled substance, medication; having a domestic dispute; failing to perform an essential task to standard; pending a bar to reenlistment; pending separation under AR 635-200, Chapter 9.

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Summary of Army Substance Abuse Program Rehabilitation Failure (memo), 18 May 2011, reflects the applicant was command referred on 24 March 2011. The rehabilitation team met and determined the applicant's problems were significant enough to require outpatient treatment for a substance use disorder. The applicant tested positive for THC

on 28 April 2011, while enrolled in ASAP. The applicant's rehabilitation team met on 18 May 2011, and determined the applicant had not made satisfactory progress toward achieving the criteria for successful rehabilitation as outlined in AR 600-85, paragraph 3-2 and 3-3. Further rehabilitation efforts in a military environment were not justified considering the applicant's lack of progress. Discharge from military service should be effected.

**5. APPLICANT-PROVIDED EVIDENCE:** Application for Correction of Military Record; Certificate of Release or Discharge from Active Duty; and Application for the Review of Discharge.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**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 "JPC" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, for drug 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 on 18 May 2011, the unit commander in consultation with the Clinical Director/Army Substance Abuse Program (ASAP), declared the applicant a rehabilitation failure. The applicant did not have the potential for continued military service because the level of need for medication management and length of treatment exceeded what was available in the Active Duty Army.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 9, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "drug rehabilitation failure," and the separation code is "JPC." 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 SPD code should be changed. The SPD codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 (Separation Program Designator (SPD) Codes) to track types of separations. The SPD code specified by Army Regulations for a discharge under Chapter 9, is "JPC."

The applicant contends an addiction caused by medication prescribed for injuries related to a combat tour, affected behavior, which led to the discharge. The applicant's AMHRR reflects the applicant suffered from multiple injuries and was prescribed medication, and the applicant was counseled for abusing the prescribed medication. The record shows the rehabilitation team determined the applicant problems were significant enough to require treatment for a substance use disorder. The documents contained in the applicant's AMHRR were considered by the separation authority.

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.

#### 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, Depression, Anxiety, TBI.

(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, Depression, Anxiety, and TBI. The VA has also service connected the TBI.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's BH conditions provide mitigation for the basis of separation.. Given the nexus between Depression, Anxiety, TBI and self-medicating with substances, the applicant's BH conditions more likely than not contributed to the drug rehabilitation failure that led to the separation. The medical record reveals that chronic pain from injuries sustained in combat also contributed to the drug rehabilitation failure due to the nexus between chronic pain and self-medication.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's Traumatic Brain Injury, Anxiety, and Depression outweighed the applicant's drug rehabilitation failure.

b. Response to Contention(s):

(1) The applicant contends an addiction caused by medication prescribed for injuries related to a combat tour, affected behavior, which led to the discharge. The Board liberally considered this contention and determined that the applicant's Traumatic Brain Injury, Anxiety, and Depression outweighed the applicant's drug rehabilitation failure. Therefore, a discharge upgrade is warranted.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention but determined that the applicant's narrative reason for separation of Drug Rehabilitation Failure is proper and equitable as the applicant was involuntarily separated for rehabilitation failure, and the behavioral health condition does not fully excuse the applicant's responsibility for the that conduct.

(3) The applicant contends good service, including a combat tour. The Board considered the applicant's four years of service, including a combat deployment in Iraq but ultimately did not address this contention after determining that an upgrade was warranted based on medical mitigation.

c. the Board determined the discharge is inequitable based on the applicant's Traumatic Brain Injury, Anxiety, and Depression outweighing the applicant's drug rehabilitation failure. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of

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**AR20210000935**

service to Honorable and the reentry code to RE-3. The Board determined the narrative reason for separation is proper and equitable and voted not to change it.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Traumatic Brain Injury, Anxiety, and Depression outweighed the applicant's Drug Rehabilitation Failure. Thus, the prior characterization is no longer appropriate.

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

(3) The RE code will change to RE-3.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214: Yes**
- b. Change Characterization to: Honorable**
- c. Change Reason / SPD Code to: No Change**
- d. Change RE Code to: RE-3**
- e. Change Authority to: No Change.**

**Authenticating Official:**

8/13/2024



**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