

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.

The applicant seeks relief contending, in effect, suffering from post-traumatic stress disorder (PTSD), which was not diagnosed after the deployment to Haiti or any time before the discharge from the Army. A private professional mental health care provider determined the PTSD was service-connected, and the applicant's self-medicating through substance abuse was a result of misdiagnosed PTSD, a common symptom of PTSD. The Army mandated substance abuse counseling but did not find the experiences in Haiti caused the PTSD. A review of the applicant's medical records indicates the applicant's actions and dates were in direct correlation with the applicant's return from the deployment. The diagnosis of PTSD was missed by Army medical personnel. The symptoms continued to worsen as attempts to self-medicate escalated. Before enlisting in the military, the applicant did not use any alcohol or drugs. The applicant's behavior before the deployment to Haiti was exemplary, including being considered for early promotion to E-4 in 18 months of service, the earliest period possible. The applicant was an upstanding citizen and Soldier before Haiti and returned with waking nightmares which would not end. Without proper treatment, the applicant had to find something to lessen the terrors. The applicant's moral integrity was never compromised while the applicant was seeking an escape from the torment because no one else was harmed by their actions. Since leaving the Army, and with continued support and professional psychological guidance, the applicant is steadily employed, married, has purchased a car and a house, and has rescued two kittens. The applicant passed two employment drug tests without issue, and the Army full physical recently revealed no alcohol or drugs in the applicant's system. The applicant is slowly returning to the person they were prior to the military. The applicant is in private counseling to continue to manage the PTSD. The Army is inflicting unjust punishment through the social stigma and condemnation of others by not upgrading the discharge to honorable, not to mention limited prospects in the workforce. The facts are the experiences in Haiti caused the PTSD; the Army compounded the illness by missing the diagnosis; and denying an honorable discharge makes this a lifetime without the full benefits the applicant rightfully earned. The applicant requests things be set right. The applicant would like to be the person they were when they signed up for the Army. The applicant served the country for over four years and now requests to be served. An upgrade would reinstate the applicant's GI Bill. The applicant's goal is to return to college to finish the degree and become an even more productive member of their family and of society. The GI Bill was one of the many compelling reasons for joining the military. The applicant believes the case should be considered comprehensively.

b. Board Type and Decision: In a records review conducted on 30 July 2024, and by a 3-2 vote, the Board determined the discharge is inequitable based on the applicant's Other Specified Trauma and Stress Related Disorder outweighing the applicant's illegal substance abuse. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200,

paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

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 (Drug Abuse) / AR 635-200, Paragraph 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 20 May 2013

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 30 April 2013

(2) Basis for Separation: The applicant was informed of the following reasons: On or about 19 February 2013, the applicant wrongfully used spice.

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

(4) Legal Consultation Date: NIF / The applicant's AMHRR is void of the second page of the Election of Rights, 30 April 2013.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 2 May 2013 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 20 March 2009 / 6 years

b. Age at Enlistment / Education / GT Score: 22 / 1 Year College / 129

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B1P, Infantryman / 4 years, 2 months, 1 day

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (22 May 2011 – 21 November 2011)

f. Awards and Decorations: AGCM, NDSM, GWOTSM, HSM, ICM-CS, ASR / The applicant's AMHRR reflects award of the AAM, however, the award is not reflected on the DD Form 214.

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 14-

12c (2), with a narrative reason of Misconduct (Drug Abuse). The DD Form 214 was not authenticated with the applicant's signature.

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

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

(1) Applicant provided: Womack Army Medical Center (WAMC) Emergency Department Nursing Record, 22 December 2011, reflecting the applicant was admitted based on the complaint the applicant believed there were spiders crawling on their skin. The applicant received differential diagnoses: Alcohol abuse; substance abuse; anxiety; personality disorder; and conversion disorder. The AHLTA indicated Spice use one year ago. The applicant requested help from Behavioral Health and was offered Army Substance Abuse Program. The form is illegible, in parts.

Chronological Record of Medical Care, 29 August 2012 and Adult Preventive and Chronic Care Flowsheet lists chronic illnesses / problems from 10 January 2011 to 19 February 2013: adjustment disorder with disturbance of emotions and conduct; alcohol abuse; mental status change; condition work-related; and unspecified psychoactive substance.

Fish Family & Associates letter, undated, reflecting the applicant has been a client since 3 October 2013. A licensed clinical social worker (LCSW) diagnosed the applicant with PTSD. The LCSW indicated the traumas experienced by the applicant during the client's time in the military, may have resulted in the client's attempt to self-medicate.

(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; Application for the Review of Discharge; self-authored statement; Fish Family & Associates; WAMC Emergency Department Nursing Record; Adult Preventive and Chronic Care Flowsheet; Chronological Record of Medical Care; PennyMac Monthly Mortgage Statement; Defense Finance and Accounting Services Account Statement; State of Florida Marriage Record; Pre-marital Preparation Course; and Grow Financial Federal Credit Union Statement.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is steadily employed, married, has purchased a car and a house, rescued two kittens, and passed two employment drug tests without issue.

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 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(3) 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.

(4) 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.

(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 14-3 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.

(7) Paragraph 14-12c(2) terms abuse of illegal drugs as serious misconduct. It continues; however, by recognizing relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under paragraph 14-12a or 14-12b as appropriate.

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 "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (drug abuse).

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 contends PTSD, caused by experiences in Haiti, affected behavior, which led to the discharge. The applicant provided medical documents reflecting the applicant was diagnosed with PTSD, alcohol abuse; substance abuse; anxiety; personality disorder; conversion disorder; and adjustment disorder with disturbance of emotions and conduct. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends the medical personnel failed to diagnose the applicant with PTSD. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service.

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 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 being steadily employed, married, purchasing a car and a house, rescuing two kittens, and passing two employment drug tests without issue. 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: Other Specified Trauma and Stress Related Disorder, PTSD, Adjustment Disorder with Disturbances of Emotion and Conduct.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 10 SC for Other Specified Trauma and Stress Related Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined the applicant's behavioral health condition mitigates the discharge. Given the nexus between Other Specified Trauma and

Stress Related Disorder and self-medicating with substances, the applicant's misconduct is mitigated.

(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 Other Specified Trauma and Stress Related Disorder outweighed the applicant's illegal substance abuse.

b. Response to Contention(s):

(1) The applicant contends PTSD, caused by experiences in Haiti, affected behavior, which led to the discharge. The Board liberally considered this contention and determined that the applicant's Other Specified Trauma and Stress Related Disorder outweighed the applicant's illegal substance abuse.

(2) The applicant contends good service. The Board considered the totality of the applicant's service record but ultimately did not address this contention after determining that an upgrade was warranted based on medical mitigation.

(3) The applicant contends an upgrade would allow educational benefits through the GI Bill. 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 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.

(4) The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

(5) The applicant contends being steadily employed, married, purchasing a car and a house, rescuing two kittens, and passing two employment drug tests without issue. The Board considered the applicant's post-service accomplishments 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 Other Specified Trauma and Stress Related Disorder outweighing the applicant's illegal substance abuse. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Other Specified Trauma and Stress Related Disorder outweighed the applicant's illegal substance abuse. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

(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: Misconduct (Minor Infractions)/JKN
- d. Change RE Code to: RE-3
- e. Change Authority to: AR 635-200

Authenticating Official:

8/12/2024



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