

**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.

The applicant seeks relief contending, in effect, fighting for the country for 3 years and 11 months, with a tour overseas. The applicant was awarded the Army Commendation Medal, Combat Action Badge, and other medals for outstanding service. The applicant provided a letter from their former first sergeant. When overseas, the applicant always performed the duties to the best of their abilities and held high standards of conduct. Because of the stress of the special job the applicant had while deployed, the applicant did not return in the same manner and had been fighting the effects for a very long time. The applicant lived six or seven months underground as part of a group of people directly responsible for the wellbeing of a person of great importance until the person's death, who cannot be named because of security reasons. When the applicant returned, they began writing bad checks to support their drinking. The applicant has been clean and sober for over three years and is working towards a job in social work to help other veterans who return in the same manner. The applicant returned from the war in pain, both mentally and physically. The applicant did not receive any treatment and began drinking to cope with the pain. The applicant paid for it, and their military service does not reflect the applicant's actions in any way, shape, or form. If the discharge is not changed, the applicant will continue to help veterans in the future because the war is not over for everyone, no matter how far they run.

b. **Board Type and Decision:** In a records review conducted on 1 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:** Misconduct (Serious Offense) / AR 635-200, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 31 October 2008

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 14 October 2008 / The applicant was notified under the Notification Procedure; however, the applicant was notified of the possibility of receiving an under other than honorable conditions discharge.

**(2) Basis for Separation:** The applicant was informed of the following reasons: On diverse occasions, the applicant uttered worthless checks, by dishonorably failing to maintain sufficient funds. The amount of the worthless checks was estimated to be over \$19,000.

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

**(4) Legal Consultation Date:** On 16 October 2008, the applicant waived legal counsel.

**(5) Administrative Separation Board:** On 16 October 2008, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 22 October 2008 / General (Under Honorable Conditions)

#### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 10 August 2004 / 5 years

**b. Age at Enlistment / Education / GT Score:** 19 / HS Graduate / 102

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 31B10, Military Police / 4 years, 2 months, 21 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** SWA / Iraq (24 August 2006 – 1 August 2007) / The applicant's DD Form 214 reflects the combat service end date as "2009"; however, the applicant's Enlisted Record Brief reflects "2007."

**f. Awards and Decorations:** ARCOM, AGCM, NDSM, GWOTSM, ICM-CS, ASR, OSR / The applicant provided orders reflecting the applicant was awarded the CAB; however, the award is not reflected on the DD Form 214.

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Certificate of Training, 10 May 2006, reflects the applicant completed the Money Management Course with the Financial Readiness Program, Fort Campbell.

Commonwealth of Kentucky Christian County Court documents reflect on 28 March 2008 the Fort Campbell Federal Credit Union made a complaint against the applicant for a debt of \$1034.73. On 20 April 2008, the applicant was charged with criminal possession forged instrument-2nd degree and theft by deception, including cold checks over \$300 (Felony), with a bond of \$10,000.

Military Police Report, 26 April 2008, reflects the applicant was apprehended for: theft by deception (on post). Investigation revealed that the applicant wrote a total of 15 checks with insufficient funds totaling \$19,643.05. The applicant returned seven items which reduced the total to \$13,053. The applicant was apprehended and transported to the police station, read their rights, and invoked their rights.

Commonwealth of Kentucky IYIBRS Report, 14 May 2008, reflects R. reported to the police department, the applicant, R.'s former roommate, took checks from the room on Fort Campbell.

The applicant attempted to use the checks in the amount of \$337, but the checks were rejected because of insufficient funds. R. stated the applicant admitted to taking the checks and attempting to use them. Bank fees were accumulated in the amount of \$220 and the bank will not reimburse R. Investigation revealed on 20 April 2008, the applicant stole R.'s checks, forged R.'s name, and used the checks at Walmart to purchase a laptop computer.

Military Police Report, 28 May 2008, reflects the applicant was apprehended by civil authorities for: criminal possession forged instrument; theft by deception (off post). Investigation revealed the applicant was transported to the Christian County Jail and issued a court date of 28 May 2008. Investigation continued by civilian liaison.

Commonwealth of Kentucky Christian County Court documents reflect on 8 August 2008, it was agreed, ordered, and adjudged the Fort Campbell Federal Credit Union would recover from the applicant, the court costs, and the sum of \$1034.93, plus \$350 attorney fees, plus interest until paid. On 13 August 2008, the applicant was conditionally released from pretrial confinement on own recognizance until violation of order or dismissal, conviction, or acquittal of the criminal case against the applicant for criminal possession of forged instrument and theft by deception of over \$300.

Report of Mental Status Evaluation, 27 August 2008, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; was mentally responsible; and met medical retention requirements.

Commonwealth of Kentucky Christian County Circuit Court Commonwealth's Plea Offer, reflects on 3 September 2008, the applicant offered to plead guilty to criminal possession of forged instrument, 2nd degree, and theft by deception of over \$300, with a recommended sentence of two years; to forfeit all items seized; to pay restitution to Walmart; and not to return to Walmart.

Four Developmental Counseling Forms, for being informed of responsibilities after being released from jail; being summoned by Christian County court for failure to pay debt to the credit union; writing bad checks; failing to be at appointed place of duty; failing to follow instructions; and having an outstanding debt at the post exchange.

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Chronological Record of Medical Care, 26 August 2008, reflects the applicant's problems were listed as adjustment disorder and dysthymic disorder (depressive neurosis).

*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; Combat Action Badge orders; and third party character reference.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has been clean and sober for over three years and working towards a job in social work to help other veterans.

**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 14-12c 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 waivable. 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 mental health issues affected behavior which led to the discharge. The applicant's AMHRR contains documentation which supports an in-service diagnosis of adjustment disorder and dysthymic disorder (depressive neurosis). The record shows the applicant underwent a mental status evaluation (MSE) on 27 August 2008, which indicates the applicant was mentally responsible. The documents in the applicant's AMHRR were considered by the separation authority.

The applicant contends not receiving any help with medical conditions. The applicant's AMHRR reflects the applicant was treated by medical personnel for various medical conditions. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends being clean and sober for over three years and working towards a job in social work to help other veterans. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

The third party statement provided with the application speak highly of the applicant. It recognizes the applicant's good military service.

#### **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, Dysthymic Disorder, Post Traumatic Stress Disorder (PTSD).

(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 Dysthymic Disorder and is service connected by the VA for PTSD. Service connection establishes that the applicant's PTSD also existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was diagnosed in service with an Adjustment Disorder and Dysthymic Disorder and is service connected by the VA for PTSD. However, there is no natural sequela between an Adjustment Disorder, Dysthymic Disorder, or PTSD and writing worthless checks since none of these conditions impact one's ability to manage money or interfere with the ability to distinguish between right and wrong and act in accordance with the right. The applicant's Behavioral Health conditions provide no mitigation for the basis of separation.

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

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

(1) The applicant contends mental health issues affected behavior which led to the discharge. The Board liberally considered this contention and the applicant's Adjustment Disorder, Dysthymic Disorder, and Post Traumatic Stress Disorder (PTSD), however there is no natural sequela between an Adjustment Disorder, Dysthymic Disorder, or PTSD and writing worthless checks since none of these conditions impact one's ability to manage money or interfere with the ability to distinguish between right and wrong and act in accordance with the right. The applicant's Behavioral Health conditions provide no mitigation for the basis of separation. Therefore, no change is warranted.

(2) The applicant contends not receiving any help with medical conditions. The Board liberally considered this contention but found insufficient evidence in the applicant's AMHRR or applicant-provided evidence to show that the command acted in an arbitrary or capricious manner other than the applicant's contention. Therefore, a discharge upgrade is not warranted.

(3) The applicant contends good service, including a combat tour. The Board liberally considered this contention and the applicant's five years of service, including a combat tour in Iraq and the numerous awards received by the applicant but determined that these factors did not outweigh the applicant's misconduct of writing worthless checks.

(4) The applicant contends being clean and sober for over three years and working towards a job in social work to help other veterans. The Board liberally considered this contention and the applicant being clean and sober for over three years and working towards a job in social work to help other veterans but determined that these factors did not outweigh the applicant's misconduct of writing worthless checks.

(5) The third party statement provided with the application speak highly of the applicant. The Board liberally considered this contention and the applicant's third party statements that speak highly of the applicant but determined that these factors did not outweigh the applicant's misconduct of writing worthless checks.

**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:**

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20210000996**

(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, Dysthymic Disorder, and Post Traumatic Stress Disorder did not excuse or mitigate the offenses of writing worthless checks. The Board also considered the applicant's contention regarding mental health issues affected behavior which led to the discharge and found that totality of the applicant's record does not warrant a discharge upgrade. 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, as 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.

**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:**

8/14/2024

**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