

1. Applicant's Name:

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant's Requests and Issues:** The current characterization of service for period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and a change to the narrative reason for separation.

The applicant seeks relief contending, in effect, the actions, which led to the discharge were caused by undiagnosed post-traumatic stress disorder (PTSD) because the condition was pushed aside. The applicant should have been evaluated by a psychiatrist, instead the applicant was rushed out of the Army without considering the applicant's 11 years of honorable and outstanding service. The applicant had family issues with their spouse because the spouse did not understand the applicant's mental state and did not want to understand, and had the applicant thrown in jail because of outbursts. Post-traumatic stress disorder just took over the applicant's mental being. The applicant still cannot cope with what the applicant experienced in Iraq and is seeking treatment at the Department of Veterans Affairs (VA). The applicant served in Kosovo, Iraq, and Afghanistan, and served the country honorably. The applicant received numerous awards, including Army Good Conduct Medals and the Outstanding Volunteer Award. While serving in Kuwait / Iraq, the applicant slept in a school and came into contact with some kind of orange agent, was attacked by rocket-propelled grenades (RPGs) and witnessed numerous explosions. The applicant lost several friends during the wars and questioned why it was them and not the applicant. The sound of the explosions affected the applicant's hearing. On one occasion, while in Afghanistan, the applicant was the lead gunner and missed one of the improvised explosive devices (IEDs). The IED hit one of the vehicles, but no one was hurt, which affected the applicant psychologically. During the war, the applicant's commander and several friends died. The applicant believed the applicant was at fault because the applicant was not there to support them.

It was when the applicant returned from deployment, the applicant began to destroy their career. The applicant began to become angry with their spouse easily and was waking up in the middle of the night because of nightmares. The applicant was good at hiding it from their spouse until the applicant began drinking more and more. The applicant never received any help because of the belief it would show weakness. The applicant and the their ex-spouse began to fight and argue more and it always led to the applicant's arrest. Any little thing would make the applicant angry, but the applicant had never been like this before. Eventually, the actions led to the applicant's discharge for a pattern of misconduct. Only one of the three officers in the chain of command recommended an honorable discharge. Not one of the officers considered the applicant's good service. The applicant requests the upgrade to receive treatment from the VA for the numerous problems the applicant suffers from daily. The war and injuries received while serving, left the applicant with depression. The applicant served the country with pride and honor, except for the last few months, and it is not right to the applicant or any other veteran to suffer the rest of their lives because of it. The applicant acknowledges the applicant was wrong and the applicant needs help. The applicant makes the request to receive the help the applicant deserves.

b. Board Type and Decision: In a records review conducted on 23 July 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

Please see Section 9 of this document for more detail regarding the Board's decision.

(Board member names available upon request)

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 17 August 2011

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 13 July 2011

(2) Basis for Separation: Under the provisions of AR 635-200, Chapter 14, paragraph 12b, Pattern of Misconduct, the applicant was informed of the following reasons: On divers occasions, the applicant was involved in domestic disturbances; the applicant received a Company Grade Article 15 for wrongful previous overindulgence of liquor or drugs; and the applicant received two Field Grade Article 15s for AWOL.

(3) Recommended Characterization: Under Other Than Honorable Conditions / The battalion commander recommended general (under honorable conditions).

(4) Legal Consultation Date: 14 July 2011

(5) Administrative Separation Board: On 14 July 2011, the applicant unconditionally waived consideration of the case before an administrative separation board.

(6) Separation Decision Date / Characterization: NIF

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 7 November 2008 / 6 years

b. Age at Enlistment / Education / GT Score: 28 / HS Graduate / 90

c. Highest Grade Achieved / MOS / Total Service: E-5 / 11B2P, Infantryman / 11 years, 3 months, 13 days

d. Prior Service / Characterizations: RA, 2 May 2000 – 3 September 2003 / HD
RA, 4 September 2003 – 5 September 2005 / HD
RA, 6 September 2005 – 6 November 2008 / HD

e. Overseas Service / Combat Service: Bosnia, SWA / Afghanistan (29 August 2009 – 26 August 2010); Iraq (8 March 2003 – 15 November 2003, 1 October 2005 – 1 October 2006)

f. Awards and Decorations: ARCOM-5, AAM-3, AGCM-3, NDSM, AFCEM-2CS, GWOTEM, GWOTSM, ICM-CS, ASR, OSR-2, MOVSM, KCM-BSS, NATOMDL, EIB

g. Performance Ratings: NIF

h. Disciplinary Action(s) / Evidentiary Record: Company Grade Article 15, 7 April 2011, for as a result of wrongful previous overindulgence in intoxicating liquor or drugs, incapacitated for the proper performance of the duties (18 March 2011). The punishment consisted of a forfeiture of \$678 pay (suspended); extra duty and restriction for 14 days; and an oral reprimand.

Military Police Report, 11 May 2011, reflects the applicant was investigated for: domestic verbal (on post). The investigation revealed the applicant and J. R. were involved in a verbal altercation. The applicant and J. R. were transported to the Provost Marshal Office where the applicant rendered a statement admitting to the offense. J. R. declined to render a statement.

No Contact Order, 11 May 2011, reflects the applicant's commander issued a no contact order to the applicant with J. R. because the applicant was apprehended for or suspected of domestic violence.

Field Grade Article 15, 26 May 2011, for being absent without leave (between 14 April and 5 May 2011). The punishment consisted of a reduction to E-4; forfeiture of \$1,162 pay per month for two months; and extra duty and restriction for 45 days.

Record Of Supplementary Action Under Article 15, UCMJ, 4 June 2011, reflects the suspended portion of the punishment imposed on 7 April 2011, was vacated for: Article 86, without authority, being absent from 14 April to 5 May 2011.

Two Personnel Action forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 3 June 2011; and From AWOL to PDY, effective 6 June 2011.

Memorandum, subject: Record of Military Occupational Specialty / Medical Retention Board (MMRB) Proceedings on [Applicant], 14 June 2011, reflects the MMRB determined the limitations imposed by the applicant's permanent profile were so prohibitive they precluded retraining and reclassification into any MOS in which the Army had a requirement and directed the applicant to be scheduled for a medical evaluation board (MEB). The memorandum is void of the medical condition.

Field Grade Article 15, 15 June 2011, for being absent without leave (between 3 and 6 June 2011). The DA Form 2627 (Record of Proceedings Under Article 15, UCMJ) is void of the punishment. The Article 15 Punishment Worksheet reflects the punishment consisted of a reduction to E-1; forfeiture of \$733 pay per month for two months; and extra duty and restriction for 45 days.

Eight Developmental Counseling Forms, for failing to report to duty; lying to a senior; noncommissioned officer (NCO); being informed of reporting to extra duty and pass and leave privileges being revoked; being AWOL; failing to be at appointed place of duty; indebtedness; failing to meet standard for physical training; being informed of the requirement for reporting to the lab; and having multiple verbal and physical altercations with spouse.

i. Lost Time / Mode of Return: 3 days:

AWOL, 3 June 2011 – 5 June 2011 / Returned to Unit / between 14 April and 5 May 2011

AWOL for 22 days, 14 April 2011 to 5 May 2011. This period is not annotated on the DD Form 214 block 29.

j. Behavioral Health Condition(s):

(1) Applicant provided: Central California Health Care System Progress Notes, 30 June 2015, reflecting the applicant's diagnoses: PTSD, chronic; depressive disorder, not otherwise specified (NOS); chronic back pain; and knee joint pain.

(2) AMHRR Listed: Report of Mental Status Evaluation, 13 June 2011, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mild traumatic brain injury (mTBI). The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions. The applicant was diagnosed with alcohol abuse.

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: DD Form 149; DD Form 214; DD Form 293; self-authored statement; Chronological Record of Medical Care; Progress Notes; and Memorandum for Record, regarding chemical agents.

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 600-85 (The Army Substance Abuse Program), paragraph 7-3, entitled voluntary (self) identification and referral, states voluntary (self) ID is the most desirable method of discovering alcohol or other drug abuse. The individual whose performance, social conduct, interpersonal relations, or health becomes impaired because of the abuse of alcohol or other drugs has the personal obligation to seek rehabilitation. The Soldier's unit commander must become involved in the evaluation process. Command policies will encourage Soldiers and civilian corps members to volunteer for assistance and will avoid actions that would discourage these individuals from seeking help. Normally Soldiers with an alcohol or other drug problem should seek help from their unit commander; however, they may initially request help from their installation ASAP, a military treatment facility, a chaplain, or any officer or noncommissioned officer in their chain of command.

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

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

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

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

f. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

g. 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 contends the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12b, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Pattern of Misconduct," and the separation code is "JKA." Army Regulation 635-8 (Separation Processing and Documents), governs preparation of the DD Form 214, and dictates entry of the narrative reason for separation,

entered in block 28 and separation code, entered in block 26 of the form, will be exactly 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 undiagnosed PTSD affected behavior which led to the discharge. The applicant provided medical documents reflecting the applicant was diagnosed with chronic PTSD and depressive disorder, NOS. The applicant's AMHRR reflects the applicant underwent a mental status evaluation (MSE) on 13 June 2011, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The applicant was diagnosed with alcohol dependence. The MSE was considered by the separation authority.

The applicant contends the applicant did not receive any help with PTSD from the command, which caused the applicant to self-medicate with alcohol and family issues. The applicant's AMHRR reflects the applicant and spouse had a history of domestic disturbances. Army Regulation 600-85, paragraph 7-3 entitled voluntary (self) identification and referral, states voluntary (self) ID is the most desirable method of identifying substance use disorder. The individual whose performance, social conduct, interpersonal relations, or health becomes impaired because of these problems has the personal obligation to seek help. Soldiers seeking self-referral for problematic substance use may access services through BH services for a SUD evaluation. The Limited Use Policy exists to encourage Soldiers to proactively seek help. 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 three combat tours.

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.

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: PTSD, Depressive Disorder NOS, Adjustment Disorder with Depressed Mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant's conditions were found to exist during service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's BH conditions partially mitigate the discharge. Given the nexus between PTSD and the use of substances to self-medicate, and PTSD and avoidance, the applicant's overindulgence of liquor or drugs and AWOL are mitigated. Regarding the domestic disturbance, records show two of the three instances were verbal altercation engaged in by both parties. Given the nexus between PTSD and anger and irritability, the misconduct in those instances is mitigated by PTSD. However, the third instance of the applicant dragging the

applicant's spouse through the house with a power cable is not mitigated as the misconduct is not natural sequela of PTSD, Depressive Disorder NOS, or Adjustment Disorder with Depressed Mood.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Depressive Disorder, or Adjustment Disorder with Depressed Mood outweighed the applicant's medically unmitigated domestic violence offense.

b. Response to Contention(s):

(1) The applicant contends the applicant did not receive any help with PTSD from the command, which caused the applicant to self-medicate with alcohol. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Depressive Disorder, or Adjustment Disorder with Depressed Mood outweighed the applicant's medically unmitigated domestic violence offense.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention but determined that the narrative reason for separation is proper and equitable given the applicant's multiple domestic disturbances.

(3) The applicant contends good service, including three combat tours. The Board considered the applicant's 11 years of service, including two tours in Iraq and one in Afghanistan, but determined that the applicant's record does not outweigh the applicant's medically unmitigated domestic violence offense.

(4) The applicant contends an upgrade of the discharge would allow veterans 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 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.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before the 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 of all the evidence before the Board, the applicant's Post Traumatic Stress Disorder, Depressive Disorder, or Adjustment Disorder with Depressed Mood did not outweigh the medically unmitigated domestic violence offense. The Board also considered the applicant's good service contention but found that the totality of the applicant's record does not 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 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:

8/12/2024

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