

**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, requesting an upgrade due to the improper manner the applicant was treated prior to being discharged. The applicant cleared everything they needed to clear to be discharged from the Army due to failure to rehabilitate from alcohol. The applicant was later informed by the Sergeant Major the paperwork would not be signed and the applicant would do six months at Fort Lewis Correctional Facility and be given a dishonorable discharge. At the time, the applicant did not believe the military would take care of their spouse and children, so the applicant brought them to Louisiana where the spouse's parents lived. After getting them settled the plan was to turn oneself in, then September 11th happened. When the applicant called to inquire about how to turn oneself in, they were told things had changed since being at war. If the applicant turned their self in, they would be looking at years in prison. The applicant decided to try to earn money for the family believing they would be going away for a long time. While working the applicant was apprehended by the New Orleans Police Department. The applicant was then picked up by Fort Polk MP's and later flown back to Alaska. While in Alaska, the applicant was court-martialed and was given 45 days of hard labor. The applicant was a good Soldier who received several awards and decorations for their accomplishments. The applicant realizes during their career, they did have a drinking problem, which is something the applicant has fought with for years and accepts responsibility in the way their career ended. Since being discharged, the applicant has been actively involved in the community and church. The applicant desires to start a business which they would like the military to be involve in some aspect. The applicant has been clean and sober for three years and happier than they have ever been. The applicant would like a discharge upgrade for the purpose of being able to receive medical care.

b. **Board Type and Decision:** In a records review conducted on 2 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:** Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / Under Other Than Honorable Conditions

b. **Date of Discharge:** 4 October 2002

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 27 September 2002

**(2) Basis for Separation:** The applicant was informed of the following reasons:

Conducted oneself in a drunk and disorderly manner;

Went AWOL;

Made a false official statement;

Missed movement; and,

Failed to return to the appointed place of duty on several occasions.

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

**(4) Legal Consultation Date:** 16 August 2002

**(5) Administrative Separation Board:** On 16 August 2002, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 26 September 2002 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 20 April 2000 / 4 years

**b. Age at Enlistment / Education / GT Score:** 24 / High School Graduate / 110

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92G10, Food Service Specialist / 5 years, 8 months, 19 days

**d. Prior Service / Characterizations:** RA, 16 January 1997 – 19 April 2000 / HD

**e. Overseas Service / Combat Service:** Alaska / None

**f. Awards and Decorations:** AAM, AGCM, NDSM, ASR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Summarized Record of Proceedings Under Article 15, UCMJ, 4 June 2001, on or about 4 May 2001 for being found drunk while on duty. The punishment consisted of extra duty and restriction for 14 days.

CG Article 15, 18 July 2001, on or about 30 May 2001, without authority fail to go at the time prescribed to the appointed place of duty; and on or about 30 May 2001, with intent to deceive make to SGT S. C. A. an official statement, which statement was totally false, and was then known by the applicant to be false. The punishment consisted of a reduction to E-3; forfeiture of \$325 pay; and extra duty for 14 days.

Memorandum for Commander, 23 May 2001, reflects the applicant was seen for an evaluation screening on 9 May 2001, after being command-referred due to recurrently reporting to duty smelling of alcohol and one incident of being found to be drunk on duty. Based on information

provided during the interview, the applicant does meet criteria for a diagnosis and would normally be recommended for treatment services. However, the applicant was previously enrolled in the Level II, Drug and Alcohol Outpatient Treatment program in Fort Hood, which the applicant failed to complete successfully because the applicant just quit attending treatment. Furthermore, by the applicant's self-report, the applicant was also command-referred for this prior treatment following a series of instances of report to duty smelling of alcohol. At the time, prognosis for further rehabilitative treatment is considered extremely poor due to the applicant's present intent and desire to continue the substance abuse. The applicant was considered a drug and alcohol rehabilitative failure as of this date and should be processed for separation.

Memorandum for Commander, 24 July 2001, reflects the applicant was referred to the Fort Wainwright Alcohol Abuse and Drug Control Program (ADAPCP) on 9 May 2001. The applicant was appropriately screened and given a provisional diagnosis. The applicant had previously been enrolled in the ADAPCP program at Fort Hood and did not complete the Track II enrollment. The applicant was very emphatic, during the screening, and did not desire treatment and would continue to consume alcohol. The ADAPCP program is an abstinence-based program and alcohol consumption is unacceptable. Therefore, the applicant was considered a Rehabilitation Failure.

Memorandum, Alcohol Rehabilitation Failure, 1 August 2001, the applicant is considered an Alcohol Abuse Rehabilitative Failure. The applicant failed to complete the Level II drug and Alcohol Outpatient Treatment program at the previous duty station, because the applicant just quit attending treatment. The applicant reported in September 2000. Incidents since then led to the applicant being command-referred for treatment evaluation in May 2001, at which time the applicant stated they did not believe they had a drinking problem, and they had no intention of abstaining from alcohol. It was the opinion of the Clinical director of the post ADAPCP, the applicant was not worthy of further rehabilitative efforts. The Commander concurred with this assessment, and recommended the applicant be processed for separation from military service.

Three Personnel Action Forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 3 August 2001;  
From AWOL to Dropped From Rolls (DFR), effective 3 September 2001; and,  
From DFR to PDY, effective 11 June 2002.

Summary Court-Martial, 9 August 2002, for going AWOL on or about 22 October 2001 until the applicant returned on 13 June 2002. The punishment consisted of reduction to E-1 and Hard Labor without Confinement for 45 days.

Two Developmental Counseling Forms, for returning from AWOL to PDA; missing formation and lying to an NCO.

i. **Lost Time / Mode of Return:** AWOL for 10 months, 8 days, 3 August 2001 to 11 June 2002. This period is not annotated on the DD Form 214 block 29.

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

(1) **Applicant provided:** None

(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:** DD Form 293; self-authored statement; DD Form 214; Honorable Discharge Certificate; two Army Achievement Medal Certificates; three Alcohol Rehabilitation Failure Memorandums; Permanent Order 053-345; five Sworn Statements; two Developmental Counseling Forms.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has been actively involved in the community and church and desires to start a business which they would like the military to be involved in some aspect. The applicant has been clean and sober for three years and happier than they have ever been.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge.

In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

**c.** Army Regulation 15-180 (Army Discharge Review Board), sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

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

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

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

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

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

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

**(6)** Paragraph 14-3, 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 14-12b, 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.

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 "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.

f. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes: RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

**8. SUMMARY OF FACT(S):** The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests an upgrade to honorable.

The applicant contends good service and has received several awards and decorations for their accomplishments.

The applicant contends being improperly treated by the chain of command prior to being discharged. The applicant cleared everything needed to clear to be discharged from the Army due to failure to rehabilitate from alcohol. The applicant was later informed by the Sergeant Major the paperwork would not be signed and the applicant would do six months at Fort Lewis Correctional Facility and be given a dishonorable discharge. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

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

The applicant contends an upgrade of the discharge would allow medical benefits. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

Since being discharged, the applicant has been actively involved in the community and church, and desires to start a business which they would like the military to be involved in some aspect.

The applicant has been clean and sober for three years and happier than they have ever been. 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? **No.** The Board's Medical Advisor, a voting member, reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused or mitigated a discharge.

**(2)** Did the condition exist or experience occur during military service? **N/A.**

**(3)** Does the condition or experience actually excuse or mitigate the discharge? **N/A.**

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

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

**(1)** The applicant contends good service and has received several awards and decorations for their accomplishments. The Board considered the applicant's 5 years of service, and the numerous awards received by the applicant but determined that these factors did not outweigh the applicant's drunk and disorderly, AWOL, making a false official statement, missing movement, and Failure to report on multiple occasions (FTR).

**(2)** The applicant contends being improperly treated by the chain of command prior to being discharged. The applicant cleared everything needed to clear to be discharged from the Army due to failure to rehabilitate from alcohol. The applicant was later informed by the Sergeant Major the paperwork would not be signed and the applicant would do six months at Fort Lewis Correctional Facility and be given a dishonorable discharge. The Board considered this contention and determined there is insufficient evidence in the file to support this contention. 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. In light of the current evidence of record, the Board determined the applicant's discharge was appropriate.

**(3)** The applicant contends family issues affected behavior and ultimately caused the discharge. The Board considered this contention and determined that the applicant's family issues does not mitigate the applicant's drunk and disorderly, AWOL, making a false official statement, missing movement, and FTRs as the Army affords many avenues to Soldier's including seeking separation for hardship.

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

(5) 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.

(6) Since being discharged, the applicant has been actively involved in the community and church, and desires to start a business which they would like the military to be involved in some aspect. The applicant has been clean and sober for three years and happier than they have ever been. The Board considered this contention and determined that the applicant's post-service accomplishments do not outweigh the misconduct based on the seriousness of the applicant's offenses of applicant's drunk and disorderly, AWOL, making a false official statement, missing movement, and FTRs.

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:**

(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 did not have an experience or BH condition that would excuse or mitigate the applicant's offenses of applicant's drunk and disorderly, AWOL, making a false official statement, missing movement, and FTRs. The Board also considered the applicant's contention improper treatment by the command and found that the 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 Under Other Than Honorable Conditions discharge was proper and equitable as the applicant's conduct fell below that level of satisfactory service warranting a General discharge or 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.



# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001018

## 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:

11/25/2024

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  
UOTHHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs