## 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 the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, not being perfect, but the applicant's service warrants an honorable discharge. Particularly, the applicant's deployment in Afghanistan on a forward surgical team where the applicant treated hundreds of life, limb, or eye sight patients. The applicant received several awards and praise for their work and good conduct. The applicant struggled several months after returning from deployment, and things for the applicant were shaky in a very short period. Consistently giving everything the applicant had and witnessing friends and innocent people lose their lives took a toll on the applicant. The applicant tried to talk to people about it, but it was very tough for the applicant to swallow pride and speak to people who may not have understood the applicant's situation. The applicant completely selfdestructed and had a complete meltdown. The applicant continued to perform the tasks to a higher standard. The applicant states people would look to find something wrong and torment a person, once the person is on the radar. The applicant sought help to cope with their feelings, and was brushed aside. The applicant had a good service record for three years and six months, but the applicant could not handle it and had a mental breakdown. It took the applicant almost a year after the discharge to find clarity. The applicant wants to remember the unique and amazing times and not blemish the applicant's record. The applicant wants to be able to tell the applicant's future children and grandchildren about the amazing people who served with the applicant.

The applicant had no idea the applicant had post-traumatic stress disorder (PTSD) until the applicant opened up to the healthcare provider. The applicant is enrolled in college using FAFSA, which will leave the applicant in debt. Still, education is the key to having better opportunities for the applicant and the applicant's family. The applicant serves as the Student Veteran President. After seeking treatment for PTSD, the applicant has made many positive strides. Despite a very dark chapter in both lives, the applicant and spouse are still together. It was difficult to cope with everything the applicant and spouse had seen in a brief period, as they were both medics with a combined deployment time of about 32 months. There were three deployments, two for the applicant's spouse in Iraq and Afghanistan and one for the applicant in Afghanistan. The applicant's spouse was also diagnosed with PTSD. The applicant described the experiences in Iraq affecting their behavior. The applicant did not realize the severity of living with PTSD until last year. The applicant has been out of the military since 2013. The applicant believes the applicant earned an honorable discharge because the applicant was a good Soldier until the four-month period when the applicant self-destructed. The applicant received awards, was the unit S-1 Armorer and Advanced Trauma Life Support (ATLS) Medic, and had great working relationships with senior noncommissioned officers (NCOs) and field grade officers. The applicant wishes the applicant had known then what the applicant knows now. If the applicant was treated for PTSD at the time, the applicant would not have suffered as much as the applicant had to endure. The applicant further details the contentions in a selfauthored statement submitted with the application.

**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-4 / General (Under Honorable Conditions)

**b.** Date of Discharge: 28 August 2013

- c. Separation Facts:
  - (1) Date of Notification of Intent to Separate: 24 July 2013

(2) Basis for Separation: The applicant's AMHRR reflects the commander listed the following documents to inform the applicant of the basis for separation. The information in the parenthesis was added to provide further details of documents, which are contained in the separation file:

Violation of Article 128, 28 June 2013 (The applicant received a Field Grade Article 15 for aggravated assault committed on 6 June 2013);

Memorandum for Record of the Army Substance Abuse Program (ASAP) Failure, 14 June 2013 (The rehabilitation team declared the applicant an ASAP failure);

Military Police Report, 7 June 2013 (The applicant was investigated for aggravated domestic assault against R. G., committed on 6 June 2014);

Military Protection Order, 7 June 2013 (The commander issued the order through a Developmental Counseling Form);

DA Form 268 (Report to Suspend Favorable Personnel Actions (FLAG)), APFT Failure, 1 May 2013;

DA Form 268, Army Weight Control Program (AWCP), 1 May 2013;

Violation of Article 112, 15 April 2013 (The applicant received a Company Grade Article 15 for being drunk on duty on 12 February 2013);

DUI on or about 16 January 2013;

DA Form 268, 6 January 2012 (A Flag was initiated for APFT failure);

DA Form 4856 (Developmental Counseling Form), 27 March 2013 (The applicant was counseled for a diagnostic APFT failure and Weight Control failure); and

DA Form 4856, dated 12 December 2012 (The applicant was counseled for indebtedness).

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

(4) Legal Consultation Date: 29 July 2013

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 1 July 2013 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 25 February 2009 / 6 years

b. Age at Enlistment / Education / GT Score: 20 / HS Graduate / 114

c. Highest Grade Achieved / MOS / Total Service: E-4 / 68W10, Health Care Specialist / 4 years, 6 months, 4 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (19 January 2011 – 25 January 2012)

f. Awards and Decorations: ARCOM, AAM, AGCM, NDSM, ACM-2CS, GWOTSM, ASR, OSR, NATOMDL, CAB

g. Performance Ratings: NA

**h.** Disciplinary Action(s) / Evidentiary Record: Report of Mental Status Evaluation, 19 September 2012, reflects the applicant was referred for evaluation from the Emergency Room because the applicant had thoughts of self-harm with an ambivalent attempt to cut wrist with razor and kitchen knife, creating superficial cuts.

Military Police Report (Blotter), 16 January 2013, reflects the applicant was apprehended for: driving under the influence of alcohol, speeding 48 miles per hour (mph) in a 35 mph zone; and improper left turn (on post). Investigation reveals after being stopped for reckless driving. The applicant refused to submit to a portable breath test and was transported to the Provost Marshal Office. The applicant submitted to a blood alcohol content test, with results of .159 / .154).

Army Substance Abuse Program (ASAP) Enrollment form, 17 January 2013, reflects the applicant was command referred in the ASAP because of DUI.

Memorandum, subject: Request Alcohol Breath Analysis Test Based on Probable Cause, 12 February 2012, reflects the applicant was tested using a breathalyzer, ALCO-Sensor III, and tested .037.

Company Grade Article 15, 15 April 2013, being drunk while on duty (12 February 2013). The punishment consisted of a forfeiture of \$537 pay (suspended), and extra duty and restriction for 14 days.

Two Report to Suspend Favorable Personnel Actions (FLAG) forms, reflect the applicant was flagged for Army Physical Fitness Test Failure (JA), effective 29 April 2013, and Weight Control Program (KA), effective 29 April 2013.

Military Police Summary of Investigative Activity, 7 June 2013, reflects the applicant was the subject of an investigation of domestic assault. On 5 June 2013, a detective was called to the Madigan Army Medical Center (MAMC), regarding a domestic assault case resulting in physical injuries sustained from a metal broom handle. The victim was transported to MAMC for injuries to the face, neck, arm, lower back, and side. The applicant was found on the roof at the residence, with an intravenous (IV) needle attempting self-harm. It was unclear if the applicant intended to commit suicide. The applicant stated the applicant was practicing with an IV because the applicant was a medic. The applicant and spouse had a history of domestic violence. The applicant's initial blood alcohol content was 2 percent, subsequently testing .65 percent.

Report of Mental Status Evaluation, 7 June 2013, reflects the applicant was self-referred for evaluation. The evaluation did not indicate a diagnosis, but the provider, among other recommendations, recommended the applicant be command referred to ASAP and abstain from alcohol.

Memorandum, subject: Summary of Army Abuse Program (ASAP) Rehabilitation Failure [Applicant], 14 June 2013, reflects on 24 January 2013, the applicant was command referred to ASAP for evaluation and enrolled in treatment for a substance disorder, the primary substance, alcohol. On 7 June 2013, the rehabilitation team met and determined the applicant did not make satisfactory progress toward achieving the criteria for successful rehabilitation as outlined in Army Regulation 600-85, paragraph 3-2 and 3-3. The applicant met the criteria for alcohol dependance and cannabis dependence.

Military Protective Order, 27 June 2013, reflects the applicant's commander issued the applicant a military protective order, prohibiting contact or communication with R. G. because of aggravated domestic assault.

Field Grade Article 15, 28 June 2013, for shoving and striking Specialist (SPC) R. G. on the face and back with the fists and a metal broom stick (6 June 2013). The punishment consisted of a reduction to E-1 and extra duty for 45 days. The applicant's signature and date are illegible.

Numerous Developmental Counseling Forms, for failing to meet ASAP standards; aggravated domestic assault and attempting to commit self-harm; being recommended for Article 15 for aggravated domestic assault; pending military protective order; failing weight control standards; failing the APFT; being drunk on duty; driving under the influence; and indebtedness.

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

## j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs (VA) letter, 13 January 2017, reflects the applicant had been treated for PTSD since February 2016. The applicant was diagnosed with PTSD because of the applicant's service in Afghanistan. The applicant was also diagnosed with alcohol use disorder, in remission.

(2) AMHRR Listed: Report of Medical History, 2 July 2013, the examining medical physician noted in the comments section: Anxiety, panic attacks; depression; alcohol dependence; and continue follow-up with Behavioral Health.

Report of Mental Status Evaluation, 7 July 2013, 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 post-traumatic stress disorder (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 dependence.

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 214; two DD Forms 293; self-authored statement; VA letter; and third party character reference.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant is enrolled in college, serving as the Student Veteran President.

### 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 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 14-12b, 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-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 being diagnosed with PTSD and alcohol use disorder by the VA, and the conditions affected behavior, which led to the discharge. The applicant provided a medical document from the VA, indicating diagnoses PTSD and alcohol use disorder. The AMHRR shows the applicant underwent three mental status evaluations (MSEs) on 19 September 2012, 7 June 2012, and 7 July 2013. The evaluation conducted on 7 July 2013, reflects a diagnosis of alcohol dependence. The MSEs were considered by the separation authority.

The applicant contends not receiving any help with the medical issues. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends harassment by members of the chain of command. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment.

The applicant contends good service, including a combat tour.

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 enrolled in college, serving as the Student Veteran President. 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 speaks highly of the applicant. It recognizes the applicant good conduct after leaving the Army.

### 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, Adjustment Disorder with Anxiety and Depressed Mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant 50 percent SC for PTSD

(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 misconduct. The applicant's Adjustment Disorder with Anxiety and Depressed Mood is subsumed by PTSD. Given the nexus between PTSD and the use of substances to self-medicate, and PTSD and decreased motivation (alteration in mood), the applicant's misconduct of DUI, being drunk on duty, and failures of ASAP, APFT, and Weight Control, are mitigated. However, the misconduct of domestic assault is not mitigated as the behavior is not natural sequela of PTSD and the applicant did not have a condition that rendered the applicant unable to differentiate between right and wrong and adhere to the right.

(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 and Adjustment Disorder with Anxiety and Depressed Mood outweighed the applicant's medically unmitigated offense of domestic assault.

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

(1) The applicant contends being diagnosed with PTSD and alcohol use disorder by the VA, and the conditions affected behavior, which led to the discharge. 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 and Adjustment Disorder with Anxiety and Depressed Mood outweighed the applicant's medically unmitigated offense of domestic assault.

(2) The applicant contends not receiving support when seeking behavioral health treatment. The Board considered this contention but determined that there is insufficient evidence in the applicant's AMHRR or applicant-provided evidence to show that the applicant was not provided with adequate medical and behavioral health resources.

(3) The applicant contends being tormented by members of the chain of command. The Board considered this contention but found insufficient evidence in the applicant's AMHRR or applicant-provided evidence to support the assertion that the applicant was treated unfairly by the applicant's chain of command.

(4) The applicant contends good service, including a combat tour. The Board considered the applicant's four years of service, including a combat tour in Afghanistan, but determined that the applicant's record does not outweigh the applicant's medically unmitigated offense of domestic assault.

(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) The applicant contends being enrolled in college, serving as the Student Veteran President. The Board considered the applicant's post-service accomplishments but determined that the applicant's college enrollment and serving as the Student Veteran President do not outweigh the applicant's medically unmitigated offense of domestic assault.

**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 and Adjustment Disorder with Anxiety and Depressed Mood did not outweigh the medically unmitigated offense of domestic assault. The Board also considered the applicant's contentions regarding good service and mistreatment by the unit 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



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