

**1. Applicant's Name:** [REDACTED]

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

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

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is General (under Honorable conditions). The applicant requests an upgrade to Honorable.

The applicant seeks relief contending, in effect, being separated from the military service for alcohol rehabilitation failure. The applicant believes the main reason for the circumstances were forced upon the applicant because of neglect of counseling for a divorce, which took place during deployment from January 2011 to 2012. The divorce led to the applicant misusing alcohol, which affected the applicant's work performance. The applicant successfully completed the inpatient program sponsored by the military and continued a path of better life-cycle choices. The applicant completed 12 college credits and holds a 4.0 grade point average (GPA) in school. The applicant volunteers on the weekends, supporting local Veterans. It has been seven months since the applicant quit smoking for better health. The applicant would agree to an evaluation upon request. The applicant further contends the reentry code of "RE-4" is a nonwaivable disqualification. The applicant's flag codes and bar to reenlistment were invalid upon separation because they were not removed after the applicant's Article 15. The failure to remove the codes resulted in the applicant receiving the reentry code "RE-4."

b. **Board Type and Decision:** In a records review conducted on 28 May 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's chronic adjustment disorder mitigated the applicant's DUI, intoxicated while on duty, multiple ASAP enrollments and failures basis for separation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, changed to the separation authority to AR 635-200, paragraph 14-12a. Accordingly, the narrative reason for separation was changed to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

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

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Alcohol Rehabilitation Failure / AR 635-200, Chapter 9 / JPD / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 19 April 2014

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 25 March 2014

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant was driving while intoxicated, intoxicated while on duty, and had multiple enrollments into the Army Substance Abuse Program and subsequent failure.

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

(4) **Legal Consultation Date:** 25 March 2014

(5) **Administrative Separation Board:** NA

(6) **Separation Decision Date / Characterization:** Undated / General (Under Honorable Conditions)

#### 4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 11 July 2012 / 3 years / The applicant extended the most recent enlistment by a period of 10 months on 8 February 2013, giving the applicant a new ETS of: 11 May 2016.

b. **Age at Enlistment / Education / GT Score:** 24 / GED / 113

c. **Highest Grade Achieved / MOS / Total Service:** E-5 / 14H20 Y7, Air Defense Enhanced Early Warning System Operator / 5 years, 9 months, 3 days

d. **Prior Service / Characterizations:** RA, 17 August 2008 – 10 July 2012 / HD

e. **Overseas Service / Combat Service:** Germany, SWA / Qatar (8 January 2011 – 9 January 2012)

f. **Awards and Decorations:** ARCOM, AAM-2, MUC, AGCM, NDSM, GWOTEM, GWOTSM, NCOPDR, ASR, OSR

g. **Performance Ratings:** 1 October 2012 – 1 February 2013 / Fully Capable

h. **Disciplinary Action(s) / Evidentiary Record:** Alcohol Incident Report, 2 March 2013, reflects the applicant approached Peterson Air Force Base gate where the police officer observed the applicant was possibly intoxicated. The applicant was administered a blood alcohol content (BAC) test, which resulted in .115 BAC level.

Army Substance Abuse Program (ASAP) Enrollment form, 13 May 2013, reflects the applicant was command-referred in the ASAP because the applicant missed formation and smelled of alcohol.

Memorandum for Record, subject: No Drinking Order, 13 May 2013, reflects the applicant was given a no drinking order because on 13 May 2013, the applicant failed to report to duty because the applicant was intoxicated.

Field Grade Article 15, 19 August 2013, for physically controlling a vehicle, a passenger car, while the alcohol concentration of the blood as shown by chemical analysis, was equal to or exceeded .10 grams of more, per 210 liter of breath (2 March 2013) and because of wrongful previous overindulgence in intoxicating liquor or drugs, incapacitated for the proper performance of duties (13 May 2013). The punishment consisted of a reduction to E-4; forfeiture of \$1,265 pay (suspended); and extra duty and restriction for 45 days.

Receipt for Pre-Trial/Post-Trial Prisoner or Detained Person, 1 December 2013, reflects the applicant was detained for assault consummated by battery.

Memorandum for Record, subject: No Drinking Order, 1 December 2013, reflects the applicant was given a no drinking order because on 1 December 2013, the applicant was arrested by the Military Police for possible physical assault. The applicant was administered a breathalyzer, which resulted in a blood alcohol level of 0.187.

Memorandum, subject: Statement of Rehabilitation Failure, 2 December 2013, reflects the applicant's rehabilitation team determined despite approximately six months of outpatient treatment at the ASAP, it was evident the applicant relapsed and consumed alcohol while in active treatment. The ongoing rehabilitation efforts at this level were not successful.

Developmental Counseling Form, 4 December 2013, for pending separation.

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Memorandum, subject: Synopsis of Treatment, 15 October 2013, reflects on 23 May 2013, the applicant was command referred and enrolled into the Army Substance Abuse Program for treatment of alcohol dependence.

Report of Medical History, 4 November 2013, reflects the applicant reported anxiety and being in an addiction treatment facility. The examining medical physician noted in the comments section: Been seen, evaluated, and treated.

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 214; DD Form 149; DD Form 293; Enlisted Record Brief; and AR 600-8-2 excerpt.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant successfully completed 12 college credits while maintaining a 4.0 GPA, and volunteers on the weekends, supporting local 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 9 outlines the procedures for discharging individuals because of alcohol or other drug abuse. A member who has been referred to the Army Substance Abuse Program (ASAP) for alcohol or drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical.

(5) Paragraph 9-4, stipulates the service of Soldiers discharged under this section will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required. An honorable discharge is mandated in any case in which the Government initially introduces into the final discharge process limited use evidence as defined by AR 600-85.

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 "JPD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, for alcohol rehabilitation failure.

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-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

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.

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's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The evidence of Army Military Human Resource Record (AMHRR) indicates on 2 December 2013, the unit commander in consultation with the Clinical Program Manager, declared the applicant a rehabilitation failure. The applicant did not have the potential for continued military service because the ongoing rehabilitation efforts were not successful.

The applicant contends a divorce and lack of counseling affected behavior, which led to the discharge. The applicant's AMHRR is void of a mental status evaluation. The record contains documentation reflecting the applicant was enrolled in ASAP and treated for alcohol dependence. The Report of Medical History, 4 November 2013, reflects the applicant reported anxiety and being in an addiction treatment facility. The examining medical physician noted in the comments section: Been seen, evaluated, and treated. The documents were considered by the separation authority.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 9, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "alcohol rehabilitation failure," and the separation code is "JPD." Army Regulation 635-8 (Separation Processing and Documents), governs preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be 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 requests a reentry eligibility (RE) code change. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "4." The applicant was discharged under the provisions of Army Regulation 635-200, Chapter 9, with narrative reason for separation "Alcohol Rehabilitation Failure." Army Regulation 601-210, chapter 4, stipulates a person discharged for drug or alcohol abuse, or as rehabilitation failure constitutes a non-waivable disqualification; thus, the applicant is no longer eligible for reenlistment. There is no basis upon which to grant a change to the reason or the RE code.

The applicant contends the applicant's flag and bar to reenlistment were not removed after an Article 15. The applicant's request does not fall within this board's purview. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

The applicant contends completing 12 college credits while maintaining a 4.0 GPA and volunteering on the weekends, supporting local 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.

#### **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: Chronic Adjustment Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 100 percent service connected (SC) for Chronic Adjustment Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that a review of the records shows the applicant is 100 percent SC for Chronic Adjustment Disorder. The precipitating event for the Adjustment Disorder appears the applicant's divorce and added stressors of deployment, which resulted in daily alcohol consumption upon redeployment that developed into Alcohol Dependence and subsequently separation due to treatment failure. In-service psychological testing also suggested the applicant possibly met criteria for PTSD, Dysthymic Disorder, and that he was dealing with issues of anxiety and guilt. While the full BH picture is not clear, in apply liberal consideration, there is reasonable evidence that the applicant's alcohol abuse and later dependence was either secondary to or exacerbated by BH-related stressor now reflected as Chronic Adjustment Disorder. As such, given the association between Chronic Adjustment Disorder and comorbid substance abuse, there is a nexus between the applicant misconduct characterized by DUI and being Drunk on Duty such that the misconduct is mitigated by the SC diagnosis. Given the lack of additional information regarding the possible assault charge the advisor could not render an informed opinion in absence of additional information.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's chronic adjustment disorder outweighed the DUI, intoxicated while on duty, multiple ASAP enrollments and failures basis for separation.

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

(1) The applicant contends a divorce and lack of counseling affected behavior, which led to the discharge. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Chronic Adjustment Disorder fully outweighing the applicant's DUI, intoxicated while on duty, multiple ASAP enrollments and failures basis for separation.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Chronic Adjustment Disorder fully outweighing the applicant's DUI, intoxicated while on duty, multiple ASAP enrollments and failures basis for separation.

(3) The applicant requests a reentry eligibility (RE) code change. The Board considered this contention and voted to change the RE-code to a RE-3, which is a waivable code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate

(4) The applicant contends the applicant's flag and bar to reenlistment were not removed after an Article 15. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Chronic Adjustment Disorder fully outweighing the applicant's DUI, intoxicated while on duty, multiple ASAP enrollments and failures basis for separation.

(5) The applicant contends completing 12 college credits while maintaining a 4.0 GPA and volunteering on the weekends, supporting local veterans. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Chronic Adjustment Disorder fully outweighing the applicant's DUI, intoxicated while on duty, multiple ASAP enrollments and failures basis for separation.

c. The Board determined the discharge is inequitable based on the applicant's Chronic Adjustment Disorder mitigated the applicant's DUI, intoxicated while on duty, multiple ASAP enrollments and failures basis for separation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, changed to the separation authority to AR 635-200, paragraph 14-12a. Accordingly, the narrative reason for separation was changed to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3. However, the applicant may request a personal appearance hearing to address further 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 to change the applicant's characterization of service to Honorable because the applicant's Chronic Adjustment Disorder mitigated the applicant's misconduct of applicant's DUI, intoxicated while on duty, multiple ASAP enrollments and failures. Thus, the prior characterization is no longer appropriate.

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

(3) The Board voted to change the RE code to RE-3.

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD Code to:** Misconduct (Minor Infractions)/JKN
- d. **Change RE Code to:** RE-3
- e. **Change Authority to:** AR 635-200, paragraph 14-12a

**Authenticating Official:**



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

**AR20210001127**

8/31/2024



**Legend:**

AWOL – Absent Without Leave  
AMHRR – Army Military Human  
Resource Record  
BCD – Bad Conduct Discharge  
BH – Behavioral Health  
CG – Company Grade Article 15  
CID – Criminal Investigation  
Division  
ELS – Entry Level Status  
FG – Field Grade Article 15

GD – General Discharge  
HS – High School  
HD – Honorable Discharge  
IADT – Initial Active Duty Training  
MP – Military Police  
MST – Military Sexual Trauma  
N/A – Not applicable  
NCO – Noncommissioned Officer  
NIF – Not in File  
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty  
OBH (I) – Other Behavioral  
Health (Issues)  
OMPF – Official Military  
Personnel File  
PTSD – Post-Traumatic Stress  
Disorder  
RE – Re-entry  
SCM – Summary Court Martial  
SPCM – Special Court Martial

SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury  
UNC – Uncharacterized  
Discharge  
UOTHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs