

**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 honorable. The applicant is considered for a change to the reentry eligibility code.

The applicant seeks relief contending, in effect, the applicant requests the separation to be null and void due to mitigating factors. The applicant believes they should be reinstated into the active Army. The applicant served honorably their entire 12 years of service and dedicated their life to the Army. Due to the involuntary separation, the applicant's financial stability is severely unstable. The applicant cannot afford medical coverage, and the family is in disarray and it has been a struggle to pay bills and keep the lights on for the family. The applicant would have to get divorced to qualify their child for Medicaid and job opportunities are not readily available due to the applicant's misfortune from a lapse in judgement. The applicant believes there is a place for them in the Army again. The Board members who presided on the separation Board were led by an officer who was the subject of an internal investigation which involved alcohol and obscene acts during a family readiness group meeting. The applicant believes the outcome would have been different if the applicant was able to present their case to the post commander prior to the rapid involuntary separation.

b. **Board Type and Decision:** In a records review conducted on 16 May 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:** Secretarial Authority / AR 635-200, Paragraph 5-3 / JFF / RE-3 / Honorable

b. **Date of Discharge:** 2 August 2014

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 16 December 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant drove a vehicle while drunk.

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

(4) **Legal Consultation Date:** 18 December 2013

**(5) Administrative Separation Board:** On 28 January 2014, the applicant was notified to appear before an administrative separation board and advised of rights.

On 12 February 2014, the administrative separation board convened, and the applicant appeared with counsel. The Board determined the applicant wrongfully drove under the influence of alcohol. The board recommended the applicant's discharge with characterization of service of general (under honorable conditions).

On 20 March 2014, the separation authority approved the findings and recommendations of the administrative separation board.

**(6) Separation Decision Date / Characterization:** 20 March 2014 / General (Under Honorable Conditions)

#### 4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 15 March 2013 / indefinite
- b. **Age at Enlistment / Education / GT Score:** 32 / Associate Degree / 102
- c. **Highest Grade Achieved / MOS / Total Service:** E-7 / 12B4P, Combat Engineer / 12 years, 1 month
- d. **Prior Service / Characterizations:** USAR, 21 May 1999 – 15 July 2002 / NA  
IADT, 2 September 1999 – 7 March 2000 / NIF  
(Concurrent Service)  
RA, 16 July 2002 – 9 November 2005 / HD  
RA, 10 November 2005 – 15 October 2009 / HD  
RA, 16 October 2009 – 14 March 2013 / HD
- e. **Overseas Service / Combat Service:** Alaska, SWA / Afghanistan (12 September 2011 – 29 July 2012); Iraq (23 November 2002 – 20 October 2003; 30 January 2005 – 15 January 2006)
- f. **Awards and Decorations:** ACM-CS, ARCOM-5, AAM-2, USA/USAF PUC, VUA, AGCM-3, NDSM, AFEM, GWOTEM, GWOTSM, ICM-2CS, NCOPDR-3, ASR, OSR-3, CAB
- g. **Performance Ratings:** 21 January 2012 – 19 April 2013 / Among the Best
- h. **Disciplinary Action(s) / Evidentiary Record:** Military Police Report Number 00421-2013-MPC109, 8 October 2013, reflects the applicant was arrested for DUI. The applicant provided a breath sample of .246 percent BRAC and remanded to the Anchorage Jail.

General Officer Memorandum of Reprimand, 8 October 2013, reflects the applicant was reprimanded for driving under the influence of alcohol in Anchorage, Alaska, on 22 September 2013. An anchorage police officer was dispatched to attempt to locate the applicant's vehicle after receiving a call concerning a possible intoxicated driver operating a vehicle matching the applicant's vehicle's description. The officer located the applicant's vehicle and initiated a traffic stop after observing the applicant's vehicle speeding 14 miles per hour over the posted speed limit, weaving in its lane, and crossing the lane divider. Upon contact, the officer detected the strong and distinct odor of alcohol on the applicant's person, noted the applicant had bloodshot, watery eyes, and slurred speech. When questioned the applicant admitted to consuming alcohol prior to operating the vehicle. The applicant failed a series of

standardized field sobriety tests and provided a breath sample resulting in a breath alcohol content of .246 percent.

Report of Proceeding by Investigating Officer/Board of Officers, 12 February 2014, reflects The Board determined the applicant wrongfully drove under the influence of alcohol. The Board recommended the applicant's discharge with characterization of service of general (under honorable conditions).

i. **Lost Time / Mode of Return:** 2 days (NIF, 22 September 2013 – 24 September 2013) / NIF

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Medical History, undated, the applicant noted the medical conditions in the comments section.

Report of Mental Status Evaluation, 14 November 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 PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The report does not contain a diagnosis.

*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:** Online application; self-authored statement; Biography; four third-party letters; Enlisted Record Brief; DA Form 638; two certificates; DD Form 214.

**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 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 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(3) 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.

(4) Chapter 5, provides for the basic separation of enlisted personnel for the convenience of the government.

(5) Paragraph 5-1, states that a Soldier being separated under this paragraph will be awarded a characterization of service of honorable, general (under honorable conditions), or an uncharacterized description of service if in entry-level status.

(6) Chapter 5-3 (Chapter 15 current regulation) provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memorandums. Secretarial separation authority is normally exercised on a case-by-case basis.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), in effect at the time, provided 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 identified the SPD code of "JFF" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5, paragraph 5-3, Secretarial Authority.

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 applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 5-3, AR 635-200, with an honorable discharge. The narrative reason specified by Army Regulations, at the time, for a discharge under this paragraph is "Secretarial Authority," and the separation code is "JFF." 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 contends good service, including three combat tours. The applicant served honorably for 12 years and dedicated their entire life to the Army. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant desires to rejoin the Military Service. 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 "3." There is no basis upon which to grant a change to the reason or the RE 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.

The applicant contends the event which led to the discharge from the Army was an isolated incident. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant contends the Board members who presided on the separation Board were led by an officer who was the subject of an internal investigation which involved alcohol and obscene acts during a family readiness group meeting. The applicant believes the outcome would have been different if the applicant was able to present their case to the post commander prior to the rapid involuntary separation. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

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 third-party statements provided with the application reflect the applicant's exceptional character, leadership abilities and speaks of the applicant being selected above the peers in the secondary zone for promotion to Sergeant First Class.

## **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, TBI.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with PTSD and TBI, and the VA has service connected the PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's behavioral health conditions do not mitigate or excuse the discharge. Given the nexus between PTSD, TBI, and self-medicating with substances, the DUI that led to the applicant's separation is mitigated. However, the applicant already has an honorable characterization of service and a Secretarial Authority narrative reason for separation.

(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 Traumatic Brain Injury outweighed the applicant's the discharge as the applicant holds an honorable characterization and Secretarial Authority narrative reason for separation. The Board did not find that the applicant's behavioral health conditions outweighed the reentry eligibility code of RE-3.

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

(1) The applicant contends good service, including three combat tours. The applicant served honorably for 12 years and dedicated their entire life to the Army. The Board considered the totality of the applicant's service record but determined that a change to the applicant's reentry eligibility code is not warranted give the applicant's behavioral health conditions. Applicant already holds the maximum available relief with respect to characterization of service and narrative reason for separation.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board found that a prior ADRB upgrade the applicant's narrative reason for separation to Secretarial Authority. No further relief is available.

(3) The applicant desires to rejoin the Military Service. The Board considered this contention and, due to the applicant's behavioral health conditions, voted to maintain the RE-code at RE-3. 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 event which led to the discharge from the Army was an isolated incident. The Board considered this contention during proceedings but ultimately did not address it due to the applicant already holding the maximum available relief.

(5) The applicant contends the Board members who presided on the separation Board were led by an officer who was the subject of an internal investigation which involved alcohol and obscene acts during a family readiness group meeting. The applicant believes the outcome would have been different if the applicant was able to present their case to the post commander prior to the rapid involuntary separation. The Board considered this contention during proceedings but ultimately did not address it due to the applicant already holding the maximum available relief.

(6) 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.

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

**AR20210001152**

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 determined the discharge is proper and equitable as a prior ADRB has upgraded the discharge with a Character of Honorable and a narrative reason of Secretarial Authority; therefore, no further relief is available.

(2) The RE code will not change, given the applicant's behavioral health conditions. 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:**

6/11/2024

X

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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