

**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, over the ten-year military career, the applicant was always a physically and mentally fit Soldier. The applicant progressed through the ranks rather quickly and showed extreme promise as a future senior leader. Unfortunately, the physical and mental health faded over years. The applicant has been treated for and is continuing to be treated for several medical deficiencies such as PTSD, anxiety disorder, insomnia, adjustment disorder, anger management, depression, suicidal thoughts, and several additional physical ailments which led the department of VA to categorize the applicant as 80 percent disabled. The applicant believes the deteriorating mental health led to two treatments at ASAP and is a clear indication during the time of the applicant's trials and tribulations, the applicant was facing, the applicant was not fit for duty. The applicant also believes the discharge was a ploy by the unit commander, whom the applicant filed numerous IG complaints against, to end the applicant's career. The applicant fought as long as possible while continuing to be seen weekly by mental health and social services. Even though the applicant expressed their intent to continue the career in hopes of getting mentally healthy through counseling and whatever means military provided for the applicant, the applicant was still forced out of the military by the commander. The applicant was made to lose leave days because the commander would not allow the applicant to take leave on the island to be with the family. The applicant had to file an IG complaint on leaders within the chain of command for not providing the applicant with an on time NCOER. The applicant was made to do details around the barracks as a Staff Sergeant such as painting, sweeping, mopping, raking leaves, etcetera along with Soldiers who were placed on extra duty and those Soldiers which were considered the outcast of the unit. Despite it all, the applicant showed up to work, did whatever was tasked of the applicant, and attended their treatment counseling sessions. The applicant would be the first person to admit they their did not want their career to end the way it did and states it is honestly quite tragic. The applicant was made to take a deal to be discharged with a characterization of service of general under honorable conditions because the commander recommended the applicant to be discharged with an other than honorable conditions characterization, completely ignoring the sacrifices the applicant had made to the country.

b. **Board Type and Decision:** In a records review conducted on 2 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:** Misconduct (Serious Offense) /

AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 24 November 2013

**c. Separation Facts:** The applicant's Army Military Human Resource Record (AMHRR) includes partial facts and circumstances concerning the events which led to the discharge from the Army.

**(1) Date of Notification of Intent to Separate:** NIF

**(2) Basis for Separation:** NIF

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

**(4) Legal Consultation Date:** NIF

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

**(6) Separation Decision Date / Characterization:** 6 August 2013 / General (Under Honorable Conditions) / The Separation Authority approved the conditional waiver request, waived further rehabilitation, and directed the applicant's discharge.

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 25 May 2011 / 6 years

**b. Age at Enlistment / Education / GT Score:** 26 / High School Graduate / 111

**c. Highest Grade Achieved / MOS / Total Service:** E-6 / 29E30, Electronic Warfare Specialist / 10 years, 5 months, 12 days

**d. Prior Service / Characterizations:** RA, 13 June 2003 – 25 April 2006 / HD  
RA, 26 April 2006 – 24 January 2010 / HD  
RA, 25 January 2010 – 24 May 2011 / HD

**e. Overseas Service / Combat Service:** Hawaii, Korea, SWA / Afghanistan (1 April 2011 – 2 April 2012)

**f. Awards and Decorations:** ARCOM, AAM-2, AGCM-2, NDSM, ACM-2CS, GWOTSM, KDSM, NCOPDR-2, ASR, OSR-3, NATOMDL, CAB

**g. Performance Ratings:** 2 December 2010 – 1 December 2011 / Fully Capable  
2 December 2011 – 1 December 2012 / Fully Capable

**h. Disciplinary Action(s) / Evidentiary Record:** CG Article 15, 1 March 2010, on or about 20 January 2010 the applicant was disrespectful in language toward SSG C. V. The punishment consisted of forfeiture of \$603 pay per month for one month; extra duty for 7 days; and restriction for 14 days.

Developmental Counseling Form, for insubordinate conduct toward a Warrant Officer, Noncommissioned Officer, or Petty Officer and failure to obey order or regulation.

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

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

**(1) Applicant provided:** VA Rating Decision, 13 March 2014, reflects a diagnosis.

VA Decision letter, 18 March 2014, reflects the applicant was granted a combined service-connected disability rating of 80 percent and includes a diagnosis.

**(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; DD Form 214; VA Decision letter; VA Rating Decision.

**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 3-7a 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 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

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

The applicant's Army Military Human Resources Record (AMHRR) includes partial facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was not authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 14, paragraph 14-12c, by reason of Misconduct (Serious Offense), with a characterization of service of general (under honorable conditions).

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8 (Separation Processing and Documents) governs the 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 a combat tour. The applicant was always a physically and mentally fit Soldier and progressed through the ranks rather quickly. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends being diagnosed with PTSD, Anxiety Disorder, Insomnia, Adjustment Disorder, Anger Management, Depression, Suicidal Thoughts, and several physical ailments by the VA and the discharge should have been for medical reasons. The applicant provided VA Rating Decision, 13 March 2014, reflecting a diagnosis. A VA Decision Letter, 18 March 2014, reflects the applicant was granted a combined service-connected disability rating of 80 percent and included a diagnosis. The AMHRR does not contain a Mental Status Evaluation (MSE). The applicant contends the discharge should have been for medical reasons. Army Regulation 635-200 stipulates commanders will not separate Soldiers for a medical condition solely to spare a Soldier who may have committed serious acts of misconduct.

The applicant contends the discharge was a ploy by the unit commander, whom the applicant filed numerous IG complaints against, to end the applicant's career. The applicant also filed IG complaints against leaders within the chain of command for not providing the applicant with an on time NCOER. The applicant was made to do details around the barracks as a SSG along with Soldiers who were placed on extra duty and Soldiers who were considered an outcast of the unit. The applicant was made to take a deal and be discharged with a general (under honorable conditions); however, the commander recommended the applicant for an under other than honorable conditions. 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.

#### 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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder, Anxiety Disorder NOS, Depression, and PTSD.

(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 an Adjustment Disorder, Anxiety Disorder NOS, and Depression. The applicant is diagnosed and service connected by the VA for PTSD. Service connection establishes that the applicant's PTSD existed during military service.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that given the nexus between PTSD, Depression, and self-medicating with substances, the arrest for drunk and disorderly conduct is mitigated. However, there is no natural sequela between an Adjustment Disorder, Depression, or Anxiety Disorder NOS and perpetrating spousal abuse. Also, there is no indication that the applicant's PTSD contributed to the spousal abuse which involves a specific victim and suggests motivation and rationalization unlike an individual who may be experiencing a trauma re-enactment. Therefore, the incident of spousal physical abuse is not mitigated.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Anxiety Disorder, Depression, and PTSD outweighed the applicant's medically unmitigated spousal abuse offense.

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

(1) The applicant contends being diagnosed with PTSD, Anxiety Disorder, Insomnia, Adjustment Disorder, Anger Management, Depression, Suicidal Thoughts, and several physical ailments by the VA and the discharge should have been for medical reasons. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Anxiety Disorder, Depression, and PTSD outweighed the applicant's medically unmitigated spousal abuse offense. Therefore, a discharge upgrade is not warranted.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention but found that the applicant's Misconduct (Serious Offense) narrative reason for separation is proper and equitable given the applicant's medically unmitigated spousal abuse offense.

(3) The applicant contends good service, including a combat tour. The applicant was always a physically and mentally fit Soldier and progressed through the ranks rather quickly. The Board considered the totality of the applicant's service, including 10 years of service and a combat tour in Afghanistan, but determined that the applicant's record does not outweigh the medically unmitigated offense of spousal abuse.

(4) The applicant contends the discharge was a ploy by the unit commander, whom the applicant filed numerous IG complaints against, to end the applicant's career. The applicant also filed IG complaints against leaders within the chain of command for not providing the applicant with an on time NCOER. The applicant was made to do details around the barracks as a SSG along with Soldiers who were placed on extra duty and the Soldiers considered an outcast of the unit. The applicant was made to take a deal and be discharged with a general (under honorable conditions); however, the commander recommended the applicant for an under other than honorable conditions. The Board considered this contention but determined that the applicant's records show the IG complaint was addressed and unfounded. Therefore, a discharge upgrade is not warranted.

**c.** The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before a 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 Adjustment Disorder, Anxiety Disorder, Depression, and PTSD did not outweigh the medically unmitigated spousal abuse offense. The Board also considered the applicant's contention regarding good service but found that the totality of the applicant's record does not warrant a discharge upgrade. The Board found that the applicant's contention that the discharge was a ploy by the unit commander was not supported by the available evidence. 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 Honorable characterization.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, and 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:**

5/7/2024

**X**

---

Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

**Legend:**

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

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

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

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