

**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, the applicant is requesting an honorable discharge after diagnoses of 50 percent for PTSD by the VA which caused the actions leading to the decision to discharge the applicant. At the time of discharge, the applicant was under extreme stress in their marriage and was having trouble adapting to life after a third tour to Iraq. The applicant has accepted the consequences for their action in November 2013; however, since returning to the home state of Oregon, the applicant has been examined by the Veterans Affairs medical team and was diagnosed with 50 percent for PTSD. The applicant has separated from the spouse and plans to be divorced. With the help of family and new friends, the applicant has turned their life around to become a better person by being sober for two months, working at O'Reilly's Auto Parts since August 2014, and has been attending Rogue Community College since September 2014, which the applicant earned a 3.38 GPA. The applicant is also attending church on a regular basis.

b. **Board Type and Decision:** In a records review conducted on 28 March 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 9f 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:** 25 April 2014

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 27 February 2014

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

Wrongfully choked R. H. T, the spouse on or about 12 October 2013;

Failed to report to the appointed place of duty on or about 13 June 2013;

Misused the Government Travel card; and,

Failed ALC on or about 14 May 2013.

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

**(4) Legal Consultation Date:** On 27 February 2014, the applicant waived legal counsel.

**(5) Administrative Separation Board:** On 27 February 2014, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 8 April 2014 / General (Under Honorable Conditions)

#### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 17 April 2009 / 6 years

**b. Age at Enlistment / Education / GT Score:** 26 / High School Graduate / 95

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 91A20, M1 Abrams Tank System Maintainer / 11 years, 1 month, 20 days

**d. Prior Service / Characterizations:** RA, 6 March 2003 – 10 May 2005 / HD  
RA, 11 May 2005 – 16 April 2009 / HD

**e. Overseas Service / Combat Service:** Germany, SWA / Iraq (6 August 2006 – 8 November 2007; 5 February 2009 – 5 February 2010)

**f. Awards and Decorations:** ARCOM-2, AAM-4, AGCM-3, NDSM, GWOTEM, GWOTSM, ICM-2CS, NCOPDR, ASR, OSR-2

**g. Performance Ratings:** 1 June 2010 – 31 May 2011 / Fully Capable  
1 June 2011 – 31 January 2012 / Among the Best  
1 February 2012 – 15 October 2012 / Fully Capable  
16 October 2012 – 15 October 2013 / Marginal

**h. Disciplinary Action(s) / Evidentiary Record:** Army Substance Abuse Program (ASAP) Enrollment Form, undated, reflects the applicant was referred in the ASAP due to Investigation/Apprehension.

Service School Academic Evaluation Report, 14 May 2013, reflects the applicant failed to achieve a passing score on the B-11 "Troubleshoot Transmission Shift Subsystem and Fuel Supply System" exam with a score of "No-Go" B-J "Troubleshoot Transmission Shift Subsystem and Fuel Supply System" exam retest the applicant received a score of "No-Go". The applicant was released from the course under the provisions of AR 350-1, Para 3-14b(3) (Academic deficiency). The applicant participated in all group work and provided useful insights and real world knowledge.

Military Police Report, 12 October 2013, reflects the applicant was apprehended and charged with: Aggravated Assault (UCMJ 128) (On Post) and Spouse Abuse (UCMJ 134) (On Post).

Several Developmental Counseling Forms, for various acts of misconduct.

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

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

(1) **Applicant provided:** VA Rating Decision letter, 23 December 2014, reflects the applicant was granted a combined rating of 60 percent service-connected disability.

(2) **AMHRR Listed:** Report of Medical History, 26 November 2013, the examining medical physician noted the applicant's medical conditions in the comments section.

Report of Mental Status Evaluation, 5 December 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. These conditions are either not present or, if present, do not meet AR 40-501 criteria for a medical evaluation board. Command was advised to consider the influence of these conditions, if present, when determining final disposition. The diagnosis was deferred. The applicant was cleared for administrative separation chapter 14-12b.

*The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.*

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; self-authored statement; DD Form 214; Orders 107-0013.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has turned their life around to become a better person by being sober for two months, working at O'Reilly's Auto Parts since August 2014, and has been attending Rogue Community College since September 2014, which the applicant received a 3.38 GPA. The applicant is also attending church on a regular basis.

**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 contends good service, including two combat tours. 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 by the VA. The applicant provided VA Rating Decision letter, 23 December 2014, which reflects the applicant was granted a combined rating of 60 percent disability. The AMHRR reflects Report of Medical History, 26 November 2013, the examining medical physician noted the applicant's medical conditions in the comments section. The applicant underwent a mental status evaluation (MSE) on 5 December 2013, which 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. These conditions were either not present or, if present, do not meet AR 40-501 criteria for a medical evaluation board. Command was advised to consider the influence of these conditions, if present, when determining final disposition. The diagnosis was deferred. The applicant was cleared for administrative separation chapter 14-12b. The Report of Medical History and MSE were considered by the separation authority.

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

The applicant has turned their life around to become a better person by being sober for two months, working at O'Reilly's Auto Parts since August 2014, and has been attending Rogue Community College since September 2014, which the applicant received a 3.38 GPA. The applicant is also attending church on a regular basis. 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: Adjustment Disorder 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 and is diagnosed and service connected by the VA for combat-related 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 there is evidence of BH conditions that provide partial mitigation for the basis of separation. The applicant was diagnosed in service with an Adjustment Disorder and is diagnosed and service connected by the VA for combat-related PTSD. Given the nexus between PTSD and avoidance, the FTR is mitigated. There is also a nexus between PTSD and difficulties with attention, memory, and concentration, so failing ALC is mitigated. However, there is no natural sequela between an Adjustment Disorder or PTSD and misuse of a government travel card or choking one's spouse since neither condition interferes with the ability to distinguish between right and wrong and act in accordance with the right.

(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 and PTSD outweighed the misuse of a government travel card and choking the spouse offenses that serves as part of the basis of separation.

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

(1) The applicant contends good service, including two combat tours. The Board considered the applicant's years of service, combat tours, and awards received and determined that these factors did not outweigh the severity all offenses (misuse of a government travel card and choking the spouse).

(2) The applicant contends being diagnosed with PTSD by the VA. The Board considered this contention and determined this contention is valid as the applicant is diagnosed with PTSD by the VA. Ultimately, the Board voted the applicant's discharge is proper and equitable. The applicant's BH conditions do not mitigate, excuse, outweigh, or provide a natural sequela for the totality of the misconduct (misuse of a government travel card and choking the spouse).

(3) The applicant contends family issues affected behavior and ultimately caused the discharge. The applicant was having trouble adapting to life after tours in Iraq. The Board considered this contention and determined that the applicant's family issues and trouble adjusting after a deployment do not mitigate the applicant's misuse of a government travel card and choking the spouse as outlined in 9b(2) above. Additionally, the current evidentiary record does not indicate the applicant sought Army resources designed to assist with redeployment and/or family issues.

(4) The applicant has turned their life around to become a better person by being sober for two months, working at O'Reilly's Auto Parts since August 2014, and has been attending Rogue Community College since September 2014, which the applicant received a 3.38 GPA. The applicant is also attending church on a regular basis. The Board considered this contention, noted the post-service accomplishments, and determined that they do not mitigate the applicant's misuse of a government travel card and choking the spouse offenses as outlined in 9b(2) above.

**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 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 and PTSD did not excuse or mitigate the offenses of misuse of a government travel card and choking the spouse. 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 discharge characterization.

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(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:**

5/20/2024

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