

**1. Applicant's Name:**

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

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

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

The applicant seeks relief contending, in effect, the applicant has a disability and was not given a medical board decision. The applicant was treated poorly during their treatment. The applicant has made mistakes and ran into a few hurdles along the way. The applicant was given a discharge characterization of "pattern of misconduct" although the peers and doctors knew it was the easy way out. The applicant's real problems stemmed from serious mental issues. The applicant deserved a medical board, and the command sadly would not fully acknowledge it. Prior to being discharged, the applicant was seeing mental health doctors for symptoms of stress, anxiety, and PTSD. The applicant was admitted to a psychiatric ward on multiple occasions where the applicant was confined for a week at most. The stressful work environment contributed and created much pressure on the applicant. The applicant was caught in the wrong place at the wrong time. The applicant tried to help a battle buddy by pulling them away from engaging a local national; however, the applicant was maced, hit with a club which broke the applicant's nasal septum and a dog barking over the applicant. The trauma of the event and trying to get the battle buddy out of harm's way, caused the applicant flashbacks and restless nights which affected the job performance. The applicant thought about hurting oneself and attempted to a few times which is what led up to being in a psychiatric ward. The applicant had lost their rank and believed it stripped the applicant of their dignity and pride. The applicant states it was a dark time and had also lost an unborn child and a grandparent in the same year. The commander did not assist the applicant with getting the right medical treatment or be evaluated by a medical board before being discharged. The applicant's accomplishments and duty have been the most rewarding. The applicant has always performed their job with attention to detail, efficiency, and has always placed the mission first. Since being discharged, the applicant has completed one semester at aviation school and has earned a 4.0 GPA. The applicant will not be able to continue with the program due to tuition cost which is why it is a GI Bill veteran targeted program. Despite the applicant's illness which changed their life and mental state, the applicant was still able to prove their dedication and strength as a Soldier. The applicant has grown into a better person today and ask for a fair chance at life and a second and last chance to do what is right for oneself and the American people whose respect the applicant has gained.

b. **Board Type and Decision:** In a records review conducted on 25 April 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

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

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 13 November 2013

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 3 October 2013

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

On or about 26 February 2012, the applicant unlawfully assaulted D. D.;

On or about 7 June 2012 and on or about 5 August 2012, the applicant made multiple false official statements;

On or about 5 August 2012, the applicant unlawfully assaulted S. O. and was disorderly;

On or about 9 July 2013, on or about 25 July 2013, and on or about 19 August 2013, the applicant failed to report to the appointed place of duty;

On or about 9 July 2013, the applicant disrespected a noncommissioned officer;

On or about 27 July 2013, the applicant wrongfully offered money to SPC B. T. to sign the applicant in at the Staff Duty desk; and,

Between on or about 26 July 2013 and on or about 28 July 2013, the applicant failed to obey a lawful order issued by CPT C. O.

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

**(4) Legal Consultation Date:** 21 October 2013

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

**(6) Separation Decision Date / Characterization:** 28 October 2013 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 16 March 2011 / 3 years, 16 weeks

**b. Age at Enlistment / Education / GT Score:** 19 / GED / 95

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 12B10, Combat Engineer / 2 years, 7 months, 28 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** Germany / None

**f. Awards and Decorations:** MUC, NDSM, GWOTSM, ASR OSR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 7 November 2012, on or about 7 June 2012 and on or about 5 August 2012, with intent to deceive, make a false official statement; on or about 26 February 2012; on or about 26 February 2012, unlawfully strike D. D. on the body with the hands and feet; on or about 5 August 2012, unlawfully strike S. O. on the body with the hands and feet; and, on or about 5 August 2012, was disorderly which conduct was of a nature to bring discredit upon the armed forces. The punishment consisted of a reduction to E-1; forfeiture of \$745 pay per month for two months; extra duty and restriction for 45 days; and oral reprimand.

FG Article 15, 21 August 2013, for on or about 9 and 25 July 2013, fail to go at the time prescribed to the appointed place of duty; on or about 9 July 2013, was disrespectful in language toward SGT C. L.; on or about 26 July 2013 and on or about 28 July 2013, failed to obey a lawful order; on or about 26 July 2013, wrongfully offer to SPC B. T. the amount of 100 Euro, with intent to influence the action of SPC B. T. with respect to the Charge of Quarters duties an official matter in which the United States was and is interested, to wit: to sign the applicant in on the scheduled times for the rest of the night. The punishment consisted of a reduction to E-1; forfeiture of \$633 pay, (suspended); extra duty for 30 days; and restriction for 45 days.

Two Developmental Counseling Forms, for failure to be at the appointed place of duty and being processed for separation.

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

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

**(1) Applicant provided:** Memorandum for Commander, 20 November 2012, reflects the applicant had attended 12 hours of Prime for Life Substance Abuse Awareness Training.

US Army Health Clinic, Preliminary Discharge Summary, reflects the applicant was treated as an inpatient from 21 August 2013 until 26 August 2013. The report reflects a diagnosis.

**(2) AMHRR Listed:** Report of Medical History, 28 August 2013, the examining medical physician noted the applicant's medical conditions in the comments section.

Report of Mental Status Evaluation, 16 September 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 form reflects 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:** DD Form 293; self-authored statement; DD Form 214;12 certificates; DA Form 5790-R; Operator Permit; DA Form 348-1; ADAPT Memorandum; DA Form 7098; DA Form 7096; LSU Health Baton Rouge Discharge Instructions; US Army Health Clinic Letter; Discharge Report; Preliminary Report; DA Form 3349.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has completed one semester at aviation school and has earned a 4.0 GPA. The applicant has grown into a better person and requests a fair chance at life and a second and last chance to do what is right for oneself and the American people whose respect the applicant has gained.

**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 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

**e.** Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

**f.** Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into

the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes: RE-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 the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12b, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Pattern of Misconduct," and the separation code is "JKA." Army Regulation 635-8 (Separation Processing and Documents), governs preparation of the DD Form 214, and dictates entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be exactly 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 and always performed their job with attention to detail, efficiency, and always placed the mission first. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends the discharge should have been for medical reasons. The applicant was being treated by mental health doctors for symptoms of stress, anxiety and PTSD while on active duty. The applicant deserved a medical board, and the command sadly would not fully acknowledge it. The applicant provided Memorandum, 20 November 2012, which reflects the applicant had attended 12 hours of Prime for Life Substance Abuse Awareness Training. A U.S. Army Health Clinic, Preliminary Discharge Summary, reflects the applicant was treated as an inpatient from 21 to 26 August 2013. The report reflects a diagnosis. The AMHRR contains Report of Medical History, 28 August 2013, the examining medical physician noted the applicant's medical conditions in the comments section. A Report of Mental Status Evaluation (MSE), 16 September 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 form reflects a diagnosis. The Medical History and MSE were considered by the separation authority. 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's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends an upgrade would allow educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board.

Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

Since being discharged, the applicant has completed one semester at aviation school and has earned a 4.0 GPA. The applicant has grown into a better person today and requests a fair chance at life and a second and last chance to do what is right for oneself and the American people whose respect the applicant has gained. 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, Generalized Anxiety Disorder. Additionally, the applicant asserts PTSD and TBI, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(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 Generalized Anxiety Disorder. The applicant self-asserts having PTSD and a TBI during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there is no natural sequela between an Adjustment Disorder or Generalized Anxiety Disorder and any of the misconduct listed in the basis of separation. Physical assault is not characteristic of either condition, neither condition interferes with the ability to distinguish between right and wrong and act in accordance with the right, and neither condition has a nexus with difficulty with authority or avoidance. So, none of the applicant's misconduct is mitigated by the Adjustment Disorder or Generalized Anxiety Disorder. The applicant self-asserts having PTSD and a TBI during military service. However, the in service medical record repeatedly documents that the applicant did not have PTSD despite his assertion of the condition. Regarding the applicant's asserted TBI, there is no medical evidence to substantiate that the applicant's self-report of a TBI. The applicant was not diagnosed with a TBI and did not receive any treatment for a TBI. Finally, the VA has not service connected any BH conditions. Due to the lack of medical evidence of a TBI and evidence that clearly refutes the applicant's asserted PTSD, neither of these asserted conditions provide any mitigation for the basis of 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 Adjustment Disorder, Generalized Anxiety Disorder, and self-asserted Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's medically unmitigated assault, disrespect

toward an NCO, failure to obey a lawful order, false official statements, and failure to report offenses.

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

(1) The applicant contends the discharge should have been for medical reasons. The applicant was being treated by mental health doctors for symptoms of stress, anxiety and PTSD while on active duty. The applicant deserved a medical board, and the command sadly would not fully acknowledge it. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Generalized Anxiety Disorder, and self-asserted Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's medically unmitigated assault, disrespect toward an NCO, failure to obey a lawful order, false official statements, and failure to report offenses.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention but determined that the applicant's Pattern of Misconduct narrative reason for separation is proper and equitable given the applicant's medically unmitigated offenses of assault, disrespect toward an NCO, failure to obey a lawful order, false official statements, and failure to report.

(3) The applicant contends good service. The applicant has always performed their job with attention to detail, efficiency, and has always placed the mission first. The Board considered the applicant's three years of service but determined that the applicant's record does not outweigh the applicant's medically unmitigated offenses of assault, disrespect toward an NCO, failure to obey a lawful order, false official statements, and failure to report.

(4) The applicant contends an upgrade would allow educational benefits through the GI Bill. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(5) Since being discharged, the applicant has completed one semester at aviation school and has earned a 4.0 GPA, and has grown into a better person today. The Board considered the applicant's post-service accomplishments but determined that they do not outweigh the applicant's misconduct.

**c.** The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d. Rationale for Decision:**

(1) The Board voted not to change the applicant's characterization of service because, despite applying liberal consideration of all the evidence before the Board, the applicant's Adjustment Disorder, Generalized Anxiety Disorder, and self-asserted Post Traumatic Stress Disorder and Traumatic Brain Injury did not outweigh the medically unmitigated offenses of assault, disrespect toward an NCO, failure to obey a lawful order, false official statements, and failure to report. The Board also considered the applicant's contentions regarding good service and post-service accomplishments and found that the totality of the applicant's record does not



warrant a discharge upgrade. The applicant did not present any issues of impropriety for the Board's consideration. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process. Therefore, the applicant's General discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

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