

1. Applicant's Name: [REDACTED]

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

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

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

The applicant seeks relief contending, in effect, joining the Army on 20 August 2008. The applicant was in service for five years and was what some people called an outstanding Soldier. The applicant was an E-4, ready for the board to become a noncommissioned officer (NCO), but things started to change after the applicant deployed to Afghanistan. When the applicant returned from Afghanistan, the applicant's spouse came to pick the applicant up from the welcome home ceremony in another person's vehicle. The applicant's spouse was leaving the applicant, and upon entering the apartment, the applicant realized the spouse had moved out and had taken everything. Shortly thereafter, the applicant's parent, who helped the applicant become a better person died. The applicant had no one to depend on for guidance and began to spiral out of control and become mentally ill. The applicant sought help, but no one helped. The applicant had anxiety and depression and it did not take long for the applicant to begin drinking.

The applicant was enrolled in the Army Substance Abuse Program (ASAP) and desperately wanted to leave these events behind. The applicant was pending an Article 15 for dereliction of duty and a Chapter 9 chapter for ASAP, which made matters worse. This would have been the applicant's first Article 15 in the entire Army career. The applicant's chain of command did not follow procedures for the chapter. The command had originally told the applicant the applicant would be retained, but almost overnight the command decided to discharge the applicant. The separation proceedings began in January 2014, but the applicant was not officially discharged until 18 June 2014. The applicant regrets the actions and wishes the applicant could do it over but cannot. The next step is to attend school to become a fiber optic splicer. The applicant requests not to let the past haunt the applicant any more than it has and to upgrade the discharge to an honorable because of the mitigating circumstances.

b. **Board Type and Decision:** In a records review conducted on 28 March 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's depression and PTSD mitigating the basis of separation (Alcohol Rehabilitation Failure). Therefore, the Board voted to grant relief in the form of upgrades to the characterization of service (Honorable) and reentry code (RE-3). The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them.

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

Board member names available upon request.

3. DISCHARGE DETAILS:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001290

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

b. Date of Discharge: 18 June 2014

c. Separation Facts:

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

(2) Basis for Separation: The applicant was informed of the following reasons, in accordance with the Commander's Report: the applicant was command referred to ASAP for alcohol abuse on 9 July 2013. While enrolled in ASAP, the applicant relapsed. On 5 December 2013, the commander (in consultation with the rehabilitation team) determined further rehabilitative efforts could not be justified, rendering the applicant as a rehabilitation failure.

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

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NA

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

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 15 April 2010 / 6 years

b. Age at Enlistment / Education / GT Score: 19 / HS Graduate / 95

c. Highest Grade Achieved / MOS / Total Service: E-4 / 91B10, Wheeled Vehicle Mechanic / 5 years, 9 months, 29 days

d. Prior Service / Characterizations: RA, 20 August 2008 – 14 April 2010 / HD

e. Overseas Service / Combat Service: Hawaii, SWA / Afghanistan (15 January 2012 – 24 December 2012)

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

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Commander's Report as described in previous paragraph 3c.

Memorandum, subject: Separation Under AR 635-200, Chapter 9, Alcohol or Drug Abuse Rehabilitation Failure [Applicant], undated, reflects the brigade judge advocate stated the separation was legally sufficient and informed the separation authority of various options, including:

Approve the separation with a General (Under Honorable Conditions);
Approval and suspension of the execution up to 12 months;

Recommend approval of the separation with an Honorable Discharge; or
Recommend approval of the separation with an Other Than Honorable Conditions
Discharge.

The company and battalion commanders recommended General (Under Honorable
Conditions).

The applicant's Enlisted Record Brief (ERB), 19 June 2014, reflects the applicant was flagged for Involuntary Separation or Discharge (Field Initiated) (BA), effective 9 January 2014, Drug Abuse (Adverse Action) (UA), effective 30 April 2014, and Adverse Action (AA), effective 1 May 2014; and was ineligible for reenlistment because of Pending Separation (9V). The applicant was reduced from E-4 to E-3, effective 15 October 2013, and from E-3 to E-1, effective 19 May 2014.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 214; DD Form 293.

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 1 provides the general provisions of the regulation.

(2) Paragraph 1-8 (previously 1-7), states processing time for separations when the notification procedure is used, will not normally exceed 15 working days. Failure to process an administrative separation within the timeframe will not prevent separation or characterization of service.

(3) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(4) 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.

(5) 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.

(6) Chapter 9 outlines the procedures for discharging individuals because of alcohol or other drug abuse. A member who has been referred to the Army Substance Abuse Program (ASAP) for alcohol or drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical.

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

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JPD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, for alcohol rehabilitation failure.

f. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1 defines reentry eligibility (RE) codes. RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

8. SUMMARY OF FACT(S): The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The evidence of Army Military Human Resource Record (AMHRR) indicates on 5 December 2013, the unit commander (in consultation with the rehabilitation team) declared the applicant a rehabilitation failure. The team determined further rehabilitative efforts could not be justified and rendered the applicant a rehabilitation failure.

The applicant contends anxiety and depression because of deployment and family issues affected behavior, which led to the discharge. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from any medical condition. The applicant's AMHRR contains no documentation of an anxiety or depression diagnosis. The AMHRR is void of a mental status evaluation.

The applicant contends the command did not assist the applicant with mental or family issues. The evidence of record shows the command attempted to assist the applicant by enrolling the applicant in the ASAP. Army Regulation 600-85, paragraph 7-3 entitled voluntary (self) identification and referral, states voluntary (self) ID is the most desirable method of identifying substance use disorder. The individual whose performance, social conduct, interpersonal relations, or health becomes impaired because of these problems has the personal obligation to seek help. Soldiers seeking self-referral for problematic substance use may access services through BH services for a SUD evaluation. The Limited Use Policy exists to encourage Soldiers to proactively seek help.

The applicant contends the chain of command did not follow proper separation procedures by stating the applicant would be retained in service and lengthening the time to process the separation. Army Regulation 635-200, paragraph 1-8 (previously 1-7), provides failure to process an administrative separation within the processing goal timeframe will not prevent separation or characterization of service. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

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.

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, 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 and Depression, and the VA has diagnosed and service connected the applicant 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? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of BH conditions that mitigate the basis of separation. The applicant was diagnosed in service with an Adjustment Disorder and Depression, and the VA has diagnosed and service connected the applicant for PTSD. Given the nexus between Depression, PTSD, and self-medicating with substances, the applicant's Depression and PTSD likely contributed to the Alcohol Rehabilitation Failure that led to separation.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board

determined that the applicant's Depression and PTSD outweighed the Alcohol Rehabilitation Failure basis for separation.

b. Response to Contention(s):

(1) The applicant contends anxiety and depression because of deployment and family issues affected behavior, which led to the discharge. The Board considered this contention and determined the applicant's depression and PTSD mitigate the applicant's Alcohol Rehabilitation Failure basis for separation. Therefore, the Board voted to upgrade the characterization of service to Honorable.

(2) The applicant contends the command did not assist the applicant with mental or family issues. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the applicant's depression and PTSD mitigating the Alcohol Rehabilitation Failure basis for separation.

(3) The applicant contends the chain of command did not follow proper separation procedures by stating the applicant would be retained in service and extending the length of time to process the separation. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the applicant's depression and PTSD mitigating the Alcohol Rehabilitation Failure basis for separation.

(4) The applicant contends good service, including a combat tour. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the applicant's depression and PTSD mitigating the Alcohol Rehabilitation Failure basis for separation.

(5) 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 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.

c. The Board determined the discharge is inequitable based on the applicant's depression and PTSD mitigating the basis of separation (Alcohol Rehabilitation Failure). Therefore, the Board voted to grant relief in the form of upgrades to the characterization of service (Honorable) and reentry code (RE-3). The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them. However, the applicant may request a personal appearance hearing to address further 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 to change the applicant's characterization of service to Honorable because the applicant's depression and PTSD mitigated the basis of separation (Alcohol Rehabilitation Failure). Thus, the prior characterization is no longer appropriate.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code as the reason the applicant was discharged was both proper and equitable. The applicant did in fact fail a rehabilitation program.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001290

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: No Change
- d. Change RE Code to: RE-3
- e. Change Authority to: No Change

Authenticating Official:

5/3/2024

Legend:

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

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

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

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