

**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, being a Specialist in the Army, 82nd Airborne Division. The applicant was discharged because the applicant did not have the discipline expected of the applicant and regrettably inflicted injury to a civilian off-post. The applicant threw out years of hard dedicated training and mental preparations to maintain military bearing. Because the applicant did not handle the mission successfully, the applicant deserved the punishment. Before the incident, the applicant was a great Soldier and was valued greatly in the unit. The applicant knew and did the job very well and was a high-speed paratrooper. In 2009, during a tour in Iraq, the applicant received a concussion from a mortar explosion and later became very ill. The applicant was diagnosed with Sarcoidosis. The applicant had to have surgery and was medevacked to the United States. The applicant was prescribed steroids and other medications, which altered the applicant's body in different ways.

Before the diagnosis and reassignment to the Warrior Transition Company for wounded warriors, the applicant received several awards. After the incident with the civilian, the applicant reached out for some help from Chaplains who provided resources which could be beneficial to the applicant's health and welfare. A few of those resources, such as Alcohol Anonymous (AA) and group therapy meetings, had a great impact on the applicant's life. The applicant took it upon oneself to continue to improve. The applicant reached out to the communities surrounding the post, helping, and ministering to the youth on weekends. The applicant became actively involved in all areas to help the applicant spiritually, mentally, and emotionally. The applicant not only apologizes but pleads for a second chance even if the applicant is not allowed back in the military, an under honorable conditions discharge is just not honorable. The president believes in change and the applicant 100 percent agrees with the president. The applicant believes people can change and the applicant has truly made a difference in the applicant's life. The applicant humbly requests reconsideration of the applicant's discharge.

The applicant's action was detrimental to the applicant's credibility, but the applicant would never let the flag touch the ground. The applicant has dusted off after the fall and marched with dignity and pride as a Soldier who played a part in America's history, and it will never be taken away from the applicant. The military taught the applicant so much about self and every day the applicant looks in the mirror and thinks about all the long and rough days of basic, the nonstop learning of advanced individual training (AIT), the long hot days of Airborne School, and the blood, sweat, and tears the applicant poured into the Army, the man hours of the 82nd deployment. The applicant really made a mistake and the one mistake cost the applicant the career, nearly the applicant's life. The applicant wants to apologize for the applicant's actions and behaviors. The applicant was to maintain military bearing at all times. The applicant wants to apologize for embarrassing oneself, but most importantly, every troop, every branch of service, and the Commander and Chief, which form a team. The applicant greatly appreciated the opportunity to serve in the military.

**b. Board Type and Decision:** In a records review conducted on 14 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 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, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 17 September 2010

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 27 July 2010

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant failed to report on five occasions and committed multiple counts of assault with serious bodily injury.

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

**(4) Legal Consultation Date:** 27 July 2010

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

**(6) Separation Decision Date / Characterization:** 12 August 2010 / General (Under Honorable Conditions)

### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 22 August 2006 / 6 years

**b. Age at Enlistment / Education / GT Score:** 20 / HS Graduate / 96

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 25B1P, IT Specialist / 4 years, 20 days

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

**e. Overseas Service / Combat Service:** SWA / Iraq (4 December 2008 – 4 December 2009) / The applicant's AMHRR reflects the applicant served in Iraq during the period indicated; however, the period is not reflected on the applicant's DD Form 214.

**f. Awards and Decorations:** ARCOM, AAM, AGCM, NDSM, GWOTSM, ICM-CS, ASR, OSR, CAB / The applicant's AMHRR reflects award of two ARCOMs; however, the second award is not reflected on the DD Form 214.

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Warrior Transition Battalion Executive Summary, 1 April 2010, reflects the applicant assaulted the applicant's spouse. The spouse was transported to the Emergency Room by the spouse's family, treated for extensive facial lacerations, and released. The spouse alleged the applicant punched and kicked the spouse several times and the applicant indicated suicidal ideations. The applicant was, under command direction, seen by Family Advocacy and admitted to Womack Army Medical Center for further evaluation. Fayetteville Police informed the chain of command a warrant had been issued for the applicant's arrest for misdemeanor charges of assault and inflicting serious bodily injury. The applicant had a primary diagnosis of Sarcoidosis with heart disease. The applicant had been prescribed antidepressants, but not to the extent the medication would alter the applicant's mood to the level of the incident.

Two Personnel Action forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Confined by Civil Authorities (CCA), effective 4 April 2010; and

From CCA to PDY, effective 10 April 2010.

Warrior Transition Battalion Executive Summary, 5 April 2010, reflects the applicant was charged in Fayetteville District Court for assault with grievous bodily harm. The applicant was psychiatrically cleared for any administrative action deemed appropriate by command and did not exhibit symptoms of either post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI). On 4 April 2010, the applicant was released from Behavioral Health and turned over to Cumberland County Sheriff's office and arrested.

Military Police Report, 13 April 2010, reflects the applicant was apprehended for: assault, with serious bodily injury (off post). Investigation revealed on 4 April 2010 [sic], the applicant and M. were involved in a verbal altercation which escalated into a physical altercation when the applicant struck M. in various body parts with unknown weapon.

Index to Criminal Actions (ICA) Inquiry printout, 5 May 2010, reflects the applicant had a pending warrant for Assault Serious Bodily Injury, committed on 1 April 2010.

Sworn Statement, 4 August 2010, reflects the applicant reported having PTSD and not knowing where to turn. After the incident, the applicant realized the applicant needed help and took the initiative to seek help through Stress Management, Anger Management, Army Substance Abuse Program, Family Counseling, and Walking to Change.

Seven Developmental Counseling Forms, for:

Missing appointments,  
Failing to inform supervisors of scheduled appointments in a timely manner,  
Missing formation,  
Committing assault with serious bodily injury, and  
Chapter 14-12c, Commission of a Serious Offense initiated against the applicant.

The applicant provided Criminal/Infractions (CR/IF) Case Processing printout, 7 July 2014, reflecting on 19 August 2010, the applicant pled guilty and was convicted of assault. The sentence consisted of a fine of \$100.

**i. Lost Time / Mode of Return:** 6 days (CCA, 4 April 2010 – 9 April 2010) / Released from Confinement

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Report of Behavioral Health Evaluation, 4 April 2010, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; was mentally responsible; and met medical retention requirements. The applicant had been screened for PTSD and TBI. The applicant was diagnosed with adjustment disorder, with mixed disturbance of emotions and conduct; sarcoidosis; and asthma.

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 214; DD Form 293; self-authored statement; Cumberland County Sheriff's Office Criminal Records Check; six CR/IF Case Processing Statewide Name Inquiry; and Cumberland Infractions Index.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

**a.** Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

**b.** Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo]).

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the

time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

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

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

(3) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(4) 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.

(5) 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.

(6) 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.

(7) 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 contends a concussion and medication, prescribed for an illness, affected behavior which led to the separation. The applicant's AMHRR reflects the applicant was diagnosed with an illness and prescribed medication. The record shows the applicant underwent a behavioral health evaluation (BHE) on 4 April 2010, which indicates the applicant was mentally responsible. The applicant was diagnosed with medical conditions, including a mental health condition. The BHE was considered by the separation authority.

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

The applicant contends good service, including a combat tour.

The applicant desires to rejoin the Military Service. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes if appropriate.

**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, 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 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 actually 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 Depression and is diagnosed and service connected by the VA for PTSD. Given the nexus between Depression, PTSD, and avoidance, as well as between Depression and decreased motivation, the FTRs are mitigated. However, there is no natural sequela between an Adjustment Disorder, Depression, or PTSD and domestic assault which involves a specific victim, motivation, and rationalization uncharacteristic of an incident that may have been associated with a PTSD response.

(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, Depression and PTSD outweighed the remaining unmitigated basis for applicant's separation – domestic assault.

b. Response to Contention(s):

(1) The applicant contends a concussion and medication, prescribed for an illness, affected behavior which led to the separation. The Board considered this contention and determined a concussion and the applicant's prescribed medication do not have a nexus with domestic assault. There is insufficient evidence in the applicant's documentation and file to support this contention, the applicant's discharge was proper and equitable.

(2) The applicant contends the event which led to the discharge from the Army was an isolated incident. The Board considered this contention and determined that the applicant's claim of an isolated incident does not excuse or outweigh the severity of domestic assault, which is the remaining unmitigated basis for separation. Therefore, the applicant was properly and equitably discharged.

(3) The applicant contends good service, including a combat tour. The Board considered the applicant's 4 years of service, including a combat tour in Iraq and the numerous awards received by the applicant but determined that these factors did not outweigh the applicant's domestic assault.

(4) The applicant desires to rejoin the Military Service. The Board considered this contention and voted to maintain the RE-code to a RE-3, which is a waivable code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can

best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate.

**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, Depression and PTSD did not excuse or mitigate the offenses of domestic assault. 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, as 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.



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

**AR20210001293**

**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:**

5/3/2024

**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