

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, after the applicant returned from Iraq, the applicant's spouse left the applicant and took their children. The applicant began to self-medicate because of post-traumatic stress disorder (PTSD) and the loss of friends, and the horrible things the applicant had witnessed. The applicant was enrolled in the Army Substance Abuse Program (ASAP) and was doing well until the applicant went to visit the children one night and the applicant ex-spouse would not let the applicant see the children. The applicant's ex-spouse said the ex-spouse was getting remarried and the children were not the applicant's business anymore. At this point, the applicant violated the ASAP policy, became drunk, and was found driving under the influence (DUI). The applicant has not had a drink since.

b. **Board Type and Decision:** In a records review conducted on 25 January 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Depression, Traumatic Brain Injury (TBI), and PTSD outweighing the applicant's Alcohol Rehabilitation Failure. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and the reentry code to 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:

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

b. **Date of Discharge:** 11 March 2013

c. Separation Facts:

- (1) **Date of Notification of Intent to Separate:** NIF
- (2) **Basis for Separation:** NIF
- (3) **Recommended Characterization:** NIF
- (4) **Legal Consultation Date:** NIF

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

(6) **Separation Decision Date / Characterization:** NIF

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 22 March 2005 / 3 years, 12 weeks / The applicant's DD Form 214 reflects immediate reenlistment period 13 December 2007 through 11 March 2011; however, the AMHRR is void of any enlistment contract retaining the applicant on active duty after the most recent enlistment period.

b. Age at Enlistment / Education / GT Score: 26 / HS Graduate / 97

c. Highest Grade Achieved / MOS / Total Service: E-6 / 12B38 2S 2B, Combat Engineer / 8 years, 11 months, 23 days

d. Prior Service / Characterizations: RA, 6 June 2000 – 8 June 2001 / HD

e. Overseas Service / Combat Service: Korea, SWA / Iraq (23 September 2005 – 3 September 2006)

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

g. Performance Ratings: 1 August 2007 – 26 November 2007 / Fully Capable
27 November 2007 – 25 November 2010 / Among the Best
NIF
9 February 2012 – 20 June 2012 / Fully Capable
21 June 2012 – 28 February 2013 / Marginal

h. Disciplinary Action(s) / Evidentiary Record: Orders 063-007, 4 March 2013, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 11 March 2013 from the Regular Army.

The applicant's DD Form 214 reflects the applicant had completed the first full term of service. The applicant was discharged under the authority of AR 635-200, chapter 9, with a narrative reason of Alcohol Rehabilitation Failure. The DD Form 214 was authenticated with the applicant's electronic signature. The applicant's AMHRR reflects the highest grade the applicant held was E-6, and the applicant's DD Form 214 reflects the applicant was separated as an E-5, with an effective date of pay grade 28 February 2013.

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 293 (two copies); third party support letters from parents; National Personnel Records Center (NPRC) letter; and NPRC Service Request Details.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has not had a drink of alcohol since the issues with alcohol in the Army.

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 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.

(5) 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 applicant's Army Military Human Resources Record (AMHRR) is void of the specific facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 9, by reason of Alcohol Rehabilitation Failure, with a characterization of service of general (under honorable conditions).

The applicant contends PTSD 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 provided a third party letters from the parents, which described the applicant's change in behavior after returning from combat and supported the applicant's PTSD contention. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends not having a drink of alcohol since the issues with alcohol in the Army. 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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder, Depression, Anxiety, TBI, 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, Depression, Anxiety, and a TBI. The applicant is service connected by the VA for PTSD and TBI. Service connection establishes that the applicant's PTSD also 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 are multiple BH conditions that mitigate the Alcohol Rehabilitation Failure that led to the applicant's separation.

Given the nexus between PTSD, TBI, Depression, and self-medicating with substances, the applicant's BH conditions more likely than not contributed to the Alcohol Rehabilitation Failure.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's Depression, TBI, and PTSD outweighed the applicant's Alcohol Rehabilitation Failure.

b. Response to Contention(s):

(1) 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 Board liberally considered the applicant's behavioral health conditions and determined that the applicant's Depression, TBI, and PTSD outweighed the applicant's Alcohol Rehabilitation Failure.

(2) The applicant contends not having a drink of alcohol since the issues with alcohol in the Army. The Board commended the applicant's sobriety and considered this during proceedings but ultimately did not address the issue due to an upgrade being granted.

c. The Board determined that the characterization of service was inequitable based on the applicant's Depression, TBI, and PTSD outweighing the applicant's Alcohol Rehabilitation Failure. Accordingly, the Board voted to grant relief in the form of an upgrade 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.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Depression, TBI, and PTSD outweighed the applicant's Alcohol Rehabilitation Failure. Therefore, 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 Board came to this conclusion because technically (per regulation), the applicant did fail ASAP guidelines.

(3) The RE code will change to RE-3.

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: AR 635-200

Authenticating Official:

2/14/2024



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