

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, untreated PTSD while serving, led to substance abuse and the discharge. The applicant completed two ADTP classes and has visited a PTSD inpatient facility for combat veterans. The applicant is undergoing frequent counseling and medication for the PTSD symptoms. The applicant understands the PTSD will never go away, but with the VA's ongoing assistance, the applicant can live a healthy lifestyle. The applicant's PTSD is entirely service connected. The delay in reapplying for an upgrade was because of gaining more life experiences and additional care from the VA for the PTSD and substance abuse. The applicant desires to obtain a degree and work as a social worker for the VA and help other combat veterans.

After returning from Afghanistan, the applicant was aware of having changed but did not realize the magnitude of the transformation until returning home. Every night, the applicant had nightmares and night terrors, reliving the deployment memories. Nothing helped because staying focused was a daily struggle. The applicant was constantly reliving unpleasant experiences and fighting a mental war. This has been going on since returning to the United States in September 2013. The applicant began drinking every night to help sleep and prevent waking up sweating and screaming their head off. The applicant started using a nonprescribed Adderall during the day to help with focusing on work. The applicant met with the behavioral health counselor weekly, which did not appear to help. The applicant would feel fine while in the presence of the counselor but would become irritated again immediately after leaving. The applicant did not feel comfortable notifying the chain of command about the drinking and drug issues without the fear of being discharged. The applicant was diagnosed with PTSD and night terrors by the counselor. The applicant failed the urinalysis in June 2014 because of drug use. The applicant knows for a fact the deployment is what led to the drinking and using nonprescription medications. Prior to the deployment, the applicant never went out with the platoon on weekends. The applicant was constantly focusing on fitness and other non-drinking pursuits. The applicant was discharged on 21 June 2014, after searching for all the available assistance prior to the discharge. The applicant was working on obtaining a prescription for Adderall; unfortunately, the process was lengthy, and it was too late to obtain the prescription. The applicant is currently meeting with a VA counselor and attending PTSD small group sessions, which has helped the applicant cope with what the applicant had been through. The applicant has a disability rating of 70 percent, 50 percent for PTSD. The applicant works part-time as a server while attending Cascadia College full-time. The applicant devotes all the energy and commitment to school. The plan is to transfer to the University of Washington and pursue a degree in Business Marketing. The applicant is deserving of an honorable discharge, which would allow educational benefits. The applicant does not want to look back with regret on their brief military career. The applicant will never forget the incidents and the brothers who died overseas. The applicant's goal is to ensure success not only for oneself but also for their brothers.

b. Board Type and Decision: In a records review conducted on 18 January 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD outweighing applicant's wrongful use of illicit drugs basis for separation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, changed to the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

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 (Drug Abuse) / AR 635-200, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 19 June 2014

c. Separation Facts: The applicant's case separation file is void from the Army Military Human Resource Record (AMHRR).

(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: 6 September 2011 / 3 years, 20 weeks

b. Age at Enlistment / Education / GT Score: 20 / High School Graduate / 97

c. Highest Grade Achieved / MOS / Total Service: E-4 / 19D10, Calvary Scout / 2 years, 9 months, 14 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (26 December 2012 – 22 August 2013)

f. Awards and Decorations: ACM-CS, ARCOM, AAM, NDSM, GWOTSM, ASR, NATOMDL, CAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Orders 168-0026, 17 June 2014, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 19 June 2014 from the Regular Army.

The applicant's Enlisted Record Brief (ERB), 20 June 2014, reflects the applicant was flagged for Drug Abuse (Adverse Action) (UA), effective 8 May 2014 and Involuntary Separation or Discharge (Field Initiated) (BA), effective 8 May 2014; and was ineligible for reenlistment due to Pending Separation (9V). The Assignment Eligibility Availability code (L) reflects Soldiers eligible for PCS reassignment, subject to normal PCS TOS restrictions. There is no termination date. The applicant was reduced from E-4 to E-3, effective 22 May 2014.

The applicant's DD Form 214 reflects the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 14-12c(2), with a narrative reason of Misconduct (Drug Abuse). The DD Form 214 was authenticated with the applicant's electronic signature. The applicant had no lost time.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Report of Mental Status Evaluation, 12 May 2013 (sic), 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 with negative results.

Chronological Record of Medical Care, 12 December 2013, reflects the applicant was diagnosed with "Axis I, Adjustment Disorder with Depressed Mood," and "Sleep Terrors" disorder on 14 January 2014.

Department of Veterans Affairs disability rating decision, 17 January 2015, reflecting the applicant was rated 50 percent disability for PTSD, with an overall combined rating of 70 percent disability.

Department of Veterans Affairs summary of benefits letter, 30 December 2020, reflecting the applicant received a combined service-connected evaluation of 100 percent disability.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149; Certificate of Merit; and VA Summary of Benefits letter. Previous 2015 ACTS online application with signature page; self-authored statement; DD Form 214; VA Benefits letter; DA Form 638; and Chronological Records of Medical Care, 31 October 2013 to 20 May 2014.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has obtained part-time employment as a server while attending college full-time.

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

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the

Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

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

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

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

c. Army Regulation 15-180 (Army Discharge Review Board) sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the

Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10, United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

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

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

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

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12c(2) terms abuse of illegal drugs as serious misconduct. It continues; however, by recognizing relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under paragraph 14-12a or 14-12b as appropriate.

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 "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (drug abuse).

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) 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 14, paragraph 14-12c(2), by reason of Misconduct (Drug Abuse), with a characterization of service of general (under honorable conditions).

The applicant contends untreated PTSD led to substance abuse and the discharge and subsequently, being diagnosed with PTSD by the VA. The applicant provided several medical documents which support diagnoses of in-service depression and night terror, and was prescribed medication, and a Department of Veterans Affairs disability rating decision, 17 January 2015, reflecting the applicant was rated 50 percent service-connected disability for the PTSD. The applicant also provided documentation of receiving a mental status evaluation (MSE) on 12 March 2014, which indicates the applicant was mentally responsible and was able to recognize right from wrong.

The applicant contends an upgrade would allow educational benefits to obtain a degree and become a social worker for the VA. Eligibility for veterans' 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. The Board does not grant relief to gain employment or enhance employment opportunities.

The applicant contends having focused on fitness and other non-drinking pursuits prior to deployment.

The applicant contends obtaining employment and attending college. 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.

The third-party statement, certificate of merit, provided with the application reflects the applicant was commended for being dedicated with a sincere commitment to promoting personal recovery physically, psychologically, and spiritually and being an asset to the therapeutic community.

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, Sleep Terror Disorder, 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 Sleep Terror Disorder. The applicant is also 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? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was diagnosed in service with an Adjustment Disorder and Sleep Terror Disorder. The applicant is also diagnosed and service connected by the VA for PTSD. Given the nexus between PTSD and self-medicating with substances, the drug use that led to the applicant's separation is mitigated.

(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 PTSD outweighed the wrongful use of cocaine basis for separation for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant contends untreated PTSD led to substance abuse and the discharge and subsequently, being diagnosed with PTSD by the VA. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's wrongful use of cocaine basis for separation.

(2) The applicant contends an upgrade would allow educational benefits to obtain a degree and become a social worker for the VA. 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.

(3) The applicant contends having focused on fitness and other non-drinking pursuits prior to deployment. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's wrongful use of cocaine basis for separation.

(4) The applicant contends obtaining employment and attending college. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's wrongful use of cocaine basis for separation.

c. The Board determined the discharge is inequitable based on the applicant's PTSD outweighing applicant's wrongful use of cocaine basis for separation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, changed to the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the

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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 PTSD mitigated the applicant's misconduct of cocaine. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

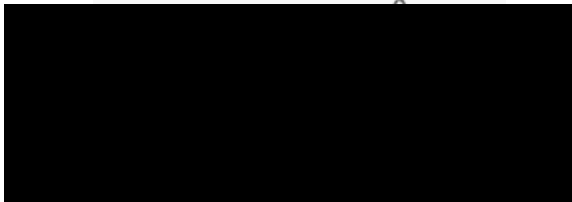
(3) The Board voted to change the RE code to RE-3.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214:** Yes
- b. Change Characterization to:** Honorable
- c. Change Reason / SPD Code to:** Misconduct (Minor Infractions)/JKN
- d. Change RE Code to:** RE-3
- e. Change Authority to:** AR 635-200, paragraph 14-12a

Authenticating Official:

4/30/2024



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