

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 period under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, the reason for requesting an upgrade is because the applicant served honorably from 2008 to 2012 and is receiving treatment from the VA for PTSD. The applicant has been a contributing member of society.

b. **Board Type and Decision:** In a records review conducted on 9 January 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

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

(Board member names available upon request)

3. DISCHARGE DETAILS:

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

b. **Date of Discharge:** 24 October 2013

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 25 June 2013

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

On 2 November 2012, the applicant was ordered and failed to report for duty at 0700 to open the unit arms rooms for weapons issue to D CO, 457th CA BN ADVON party.

On 17 November 2012, the applicant failed the record APFT.

On 11 January 2013 and 14 March 2013, the applicant failed to complete corrective training as ordered by the supervising senior NCO.

On 13 February 2013, the applicant was ordered to report to the Credit and Debt Management Training course to assist the application with the financial responsibilities and debt mismanagement. Even though the supervising senior NCO called to remind the applicant the very morning, the applicant still failed to report as ordered.

In preparation for the noted Credit and Debt Management Training course, the applicant was directed by the supervising NCO to bring in a copy of the credit report, the Citibank Government

travel Charge Card (GTCC) denial letter, and the outstanding bills to determine: why the personal finances was in such poor condition as to make the applicant ineligible for a GTCC; why the applicant was unable to pay the USAREC driver's license fee; and why the applicant did not have sufficient funds to pay for meals and basic groceries. The applicant failed to provide any of the requested documents and failed to attend the ordered training.

On 22 February 2013, the applicant was disrespectful and insubordinate in the tone and response to questions presented to the applicant by two unit senior NCOs who were sent to locate the applicant when the applicant did not report for duty.

On 8 March 2013, the applicant repeatedly left the duty station without notifying the Section NCO or unit OIC where the applicant was going, or when the applicant would be returning.

On 22 April 2013, the applicant failed to report for duty at 0800 for the 361st CA BDE change of command ceremony practice at Landstuhl.

20 May 2013, the applicant failed to complete the mission to pick up VSAT equipment in Miesau after being specifically directed to do so by the supervising senior NCO. Instead, and without authorization or informing the supervising senior NCO or unit OIC beforehand, the applicant took the POV and drove another Soldier to Landstuhl.

On 5 June 2013, the applicant failed to report for duty at 0930 at Landstuhl for the ASAP meeting and had to be roused up by two senior NCOs at 1200 in the barracks room when it was discovered the applicant had failed to report back to the unit.

On 5 June 2013, without authorization and prior notice to the supervisory senior NCO or unit OIC, the applicant departed the place of duty at 1539, and did not report back to the unit until the following morning at 0900.

On 23 October 2012 through 14 June 2013, the applicant, having been repeatedly directed (to include counseling statements), failed to provide and post the weekly work schedule into the unit Outlook calendar on Friday by 1500 of every week.

On 23 October 2012 through 14 June 2013, the applicant, having been repeatedly directed (to include counseling statements), failed to report the whereabouts during duty hours to either the supervising senior NCO, or unit OIC when the applicant would not be at the place of duty at the appointed time, and/or when the applicant failed to report at all.

On 23 October 2012 through 14 June 2013, the applicant, having been repeatedly directed (to include counseling statements), failed to stop smoking in the barracks room creating an unnecessarily dangerous living situation for both the applicant and fellow Soldiers.

On 23 October 2012 through 14 June 2013, the applicant, having been repeatedly directed (to include counseling statements), failed to keep the barracks room in a clean and orderly fashion creating an unprofessional and unsanitary living situation for the applicant and fellow Soldiers.

On 23 October 2012 through 14 June 2013, the applicant, having been repeatedly directed (to include counseling statements), failed to complete the duty position directed tasks and responsibilities as directed by the section supervising senior NCO and/or section OIC.

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

(4) Legal Consultation Date: 25 June 2013

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

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

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 19 September 2012 / 3 years (Pursuant to Order R-08-288031, 13 August 2012, Ordered to Active Duty in Active Reserve Status)

b. **Age at Enlistment / Education / GT Score:** 21 / High School Graduate / NIF

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 92Y10, Unit Supply Specialist / 4 years, 10 months, 19 days / The DD Form 214 reflects inaccurate total service dates.

d. **Prior Service / Characterizations:** USAR, 6 December 2008 – 7 June 2009 / NA
IADT, 8 June 2009 – 21 August 2009 / NIF
USAR, 22 August 2009 – 1 June 2011 / NA
IADT, 2 June 2011 – 4 August 2011 / HD
(Concurrent Service)

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

f. **Awards and Decorations:** NDSM, GWOTSM, ASR / The applicant's AMHRR reflects award of an AAM and ARCAM, however, the awards are not reflected on the DD Form 214.

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** Personnel Action form reflects the applicant was reduced to Private First Class/E-3, effective 12 March 2013, pursuant to AR 27-10, paragraph 3-19b(6) and AR 600-8-19, paragraph 10-13c.

Report of Mental Status Evaluation, 11 July 2013 reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant showed no evidence of a disorder which would limit the potential to succeed in the military and cleared to participate in advanced military training. The examining medical physician provided no further comments. The diagnoses, if any, were deferred.

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

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

(1) **Applicant provided:** Atlanta VAMC Consult Requests, 17 February 2015, reflects the applicant was rated 70 percent service-connected disability for Chronic Adjustment Disorder.

VAMC Problem lists, 5 December 2014, and 3 November 2014, reflect Primary ICD-9-CM: 309.91 (Posttraumatic Stress Disorder) and 304.30 (Cannabis Dependence Unspecified).

(2) AMHRR Listed: Report of Mental Status Evaluation, 10 June 2013, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The examining medical physician noted the applicant was enrolled in ASAP and should continue until completion from the counselor, and commented: The applicant was deemed fit for duty and did not have a personality disorder or other mental health condition which would amount to a medical disability; did appear to be impulsive at times, as evidenced by the behaviors; does not have a psychiatric diagnosis which would exonerate the actions; and had been afforded psychiatric care and would continue with the current therapist and ASAP counselor.

Report of Medical Examination, 7 August 2013, the examining medical physician noted in the comments section: Adjustment Disorder and Alcoholism.

Report of Medical History, 7 August 2013, the applicant noted behavioral health issues and the examining medical physician noted in the comments section: "reviewed AHLTA notes."

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293; ARCAM memorandum; two DD Forms 214; ACTS Data sheet; CMD ARBA letter; VA medical records; CMD ARBA letter; WLC certificate; DA Form 1059; AAM certificate; and VA Summary of Benefits letter.

6. POST SERVICE ACCOMPLISHMENTS: The applicant contends being a contributing member of the society.

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

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

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

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters

relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

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

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

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

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

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

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

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

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

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

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

f. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1 defines reentry eligibility (RE) codes: RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

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

The applicant requests an upgrade to honorable.

The applicant contends having serving honorably as demonstrated by the documented evidence.

The applicant contends receiving treatment from the VA for PTSD. The applicant provided several medical documents indicating a diagnosis of adjustment disorder and alcoholism, PTSD and cannabis dependence, and prescribed medication. The AMHRR shows the applicant underwent two mental status evaluations (MSE) on 6 June and 11 July 2013, which indicate the applicant was mentally responsible and recognized right from wrong. The MSE does not indicate any diagnosis. The MSE, 11 July 2013, was considered by the separation authority.

The applicant contends being a contributing member of the society. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Chronic Adjustment Disorder, PTSD, and Major Depressive Disorder (MDD).

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant 70 percent SC for Chronic Adjustment Disorder by the VA.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant is 70 percent SC for Chronic Adjustment Disorder by the VA, with potential mitigating diagnosis of PTSD and MDD. Records suggest that during applicant's period of service the applicant's Adjustment Disorder was not of a severity to impair applicant's, cognition, behavior, or ability to differentiate between right and wrong and adhere to the right. The applicant's misconduct characterized by disobeying lawful orders, disrespect of NCOs, FTR, and leaving applicant's place of duty, all appear to have been done with willfully, not the result of a BH condition, and therefore not mitigated by the disorder. Records further demonstrate that the applicant consistently denied depression, anxiety, mania, psychosis, and combat-related trauma, across the arch of applicant's BH treatment, in service. Additionally, the applicant's impulsive behavior (e.g., making suicidal gestures, suicidal statements, throwing of a table, and willfully altering of stories), are more consistent with a personality disorder, than an adjustment disorder, and records show the applicant has been diagnosed with Borderline Personality Disorder. Regarding the applicant's diagnosis of PTSD, the diagnosis was based on a combat related incident for which there is no documentation to support, given the applicant's files are void of any deployment history. Regarding applicant's diagnosis of MDD, the onset occurred post-service and was related to issues with employment.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the applicant's VA service connected Chronic Adjustment Disorder, PTSD, and MDD did not outweigh the basis of separation - disobeying lawful orders, disrespect of NCOs, FTR, and leaving his place of duty.

b. Response to Contention(s):

(1) The applicant contends serving honorably as demonstrated by the documented evidence. The Board considered the applicant's 4 years of service and the numerous awards received by the applicant but determined that these factors did not outweigh the applicant's multiple FTRs, APFT failure, failure to complete corrective training, failed to attend GTCC training, disrespectful towards senior NCOs, smoking in barracks, failure to maintain a clean barracks room, failure to complete duty position directed tasks and responsibilities.

(2) The applicant contends receiving treatment from the VA for PTSD. The Board considered this contention and determined there is insufficient evidence to support the applicant's PTSD diagnosis for combat a related incident due to the applicant's records having no documentation of a combat deployment. The applicant's discharged is proper and equitable.

(3) The applicant contends being a contributing member of the society. The Board considered this contention and determined that the applicant's contribution to society does not

outweigh the misconduct based on the seriousness of the applicant's offense of multiple FTRs, APFT failure, failure to complete corrective training, failed to attend GTCC training, disrespectful towards senior NCOs, smoking in barracks, failure to maintain a clean barracks room, failure to complete duty position directed tasks and responsibilities.

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 Chronic Adjustment Disorder, PTSD, and MDD did not excuse or mitigate the offenses of FTRs, APFT failure, failure to complete corrective training, failed to attend GTCC training, disrespectful towards senior NCOs, smoking in barracks, failure to maintain a clean barracks room, failure to complete duty position directed tasks and responsibilities. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process. Therefore, the applicant's General discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, and the reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214 / Separation Order:** No
- b. **Change Characterization to:** No Change
- c. **Change Reason / SPD Code to:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

Authenticating Official:

4/26/2024

X

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