

**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 and a change to the narrative reason for separation.

The applicant seeks relief contending, in effect, personally seeking help for alcohol abuse and was transferred to another unit where the applicant went above and beyond the standard in work performance. Under Chapter 14, Separation for Misconduct, the commander must ensure the Soldier has had adequate counseling and an adequate opportunity for rehabilitation. Rehabilitation efforts vary but may include a transfer to a new section or platoon within the unit or to a new unit. The applicant completed both the Army Substance Abuse Program and performed outstandingly in the 14th Military Police (MP) Detachment, receiving two character references from the commander, Captain H. R., and the acting first sergeant, Sergeant First Class N. S., before receiving the orders to be separated. The applicant was the subject of a sexual assault case, which required the applicant to prove the applicant's innocence by submitting to a polygraph examination. The applicant surrendered the applicant's only cell phone, which was not returned for almost a year. The applicant's original command made the judgment based on the false accusations and not on the applicant's honesty, even when implicating oneself regarding underage drinking and being the only person under the influence of a substance. The applicant's actions only hurt the applicant and the applicant's career. The applicant's second alcohol-related incident was based on pure chaos because of a false accusation, which most of the lower enlisted were aware of, including most of the Soldiers the applicant was close to, and they believed the applicant had done such a thing. However, when the applicant relocated to the 4th MP Detachment, the applicant found clarity and motivation to fight to stay in the Army and prove the applicant was an asset in the military.

The applicant is married to a Service Member who served with the applicant in the 14th MP Detachment. The applicant is a certified ambulance driver, Cardiopulmonary Resuscitation (CPR), Automated External Defibrillator (AED) certified, volunteer firefighter and fire police in Pennsylvania, and the stepparent of a deaf, autistic 7-year-old child. The applicant is applying to attend college and pursue a criminal justice degree, pharmacy technician certification, and eventually an emergency medical technician (EMT) certification. The applicant misses the life of the military and loves the country. The applicant's past mistakes gave the impression the applicant was a bad person when the applicant fell for the wrong person and consumed drinks bought by a friend, to calm down from the confusion of what had happened. The applicant's duty performance after the incident is represented by letters and a lost career, but it is worthy of an Army award. The applicant is haunted by losing the dream career because of silly actions. The applicant proved to coworkers, leadership, and family the applicant is rehabilitated and resilient. The applicant made a mistake, acknowledged the mistake, attempted to correct it, and lives with it humbly. Things are meant to happen in life, and the applicant believes there is a reason for this but requests an unbiased review to show the applicant proved to be an asset to the country.

**b. Board Type and Decision:** In a records review conducted on 11 January 2024, and by a 4-1 vote, the Board determined that the characterization of service was inequitable based on the applicant's post-service accomplishments, good service following a rehabilitative transfer, and the nature of the applicant's documented misconduct. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to honorable. The Board determined the narrative reason, SPD code, and RE 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:** Pattern of Misconduct / AR 635-200, Paragraph 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 14 April 2014

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 23 January 2014

**(2) Basis for Separation:** The applicant was informed of the following reasons: On 21 June and 11 July 2013, the applicant failed to obey a general regulation by wrongfully consuming alcohol while under the legal age of 21, and on 21 June 2013, the applicant failed to obey an order by wrongfully entering the barracks room of a Soldier of the opposite sex.

**(3) Recommended Characterization:** General (Under Honorable Conditions) / The Commander and Detachment Sergeant of the 14th Military Police Detachment recommended retention. The applicant's AMHRR reflects the applicant was assigned to the 142nd Military Police Company, the organization which initiated the separation.

**(4) Legal Consultation Date:** 28 January 2014

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

**(6) Separation Decision Date / Characterization:** 12 February 2014 / General (Under Honorable Conditions)

### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 17 July 2012 / 5 years

**b. Age at Enlistment / Education / GT Score:** 18 years / HS Graduate / 100

**c. Highest Grade Achieved / MOS / Total Service:** E-2 / 31B10, Military Police / 1 year, 8 months, 28 days

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

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

**f. Awards and Decorations:** NDSM, GWOTSM, KDSM, ASR, OSR

**g. Performance Ratings: NA**

**h. Disciplinary Action(s) / Evidentiary Record:** Memorandum for Record, subject: Findings on Commander's Inquiry regarding Private First Class (PFC) J. S. and [Applicant], 15 July 2013, an informal investigation was initiated to investigate the events which occurred on 11 July 2013 involving PFC J. S. who may have violated Article 92 – Failure to obey a lawful order, Article 107 – False official statement, and Article 134 – Contributing to the delinquency of a minor, and the applicant who may have violated Article 92 – Failure to obey a lawful order and Article 134 – Underage drinking. The investigating officer found PFC J. S. committed the offenses of Articles 107 and 134, and the applicant committed the offenses of Article 92 and 134, and recommended Article 15s for both Soldiers.

The applicant provided a CID Report of Investigation - Final, 17 August 2013, reflecting the applicant was under investigation for the offense of Sexual Assault (Adult), reported on 1 July 2013, was unfounded. The Senior Trial Counsel, concurred the applicant did not commit the offense of Sexual Assault because the elements of proof for the offense did not occur as the applicant did not use force, fear, or incapacitation to have sexual intercourse with [redacted]. Investigation determined the applicant engaged in a consensual sexual act with [redacted].

Company Grade Article 15, 27 August 2013, for violating a lawful general order by wrongfully consuming alcohol while under the age of 21 (11 July 2013). The punishment consisted of a reduction to E-1; forfeiture of \$353 pay (suspended); and extra duty and restriction for 14 days.

Report of Mental Status Evaluation, 25 September 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.

Field Grade Article 15, 22 November 2013, for failing to obey a lawful general regulation by wrongfully consuming alcohol while under the legal drinking age of 21 (21 June 2013) and failing to obey a lawful order from Lieutenant Colonel T. S., issued through policy memorandum, by wrongfully entering the barracks room of a Soldier of the opposite sex (21 June 2013). The punishment consisted of a forfeiture of \$758 pay; extra duty and restriction for 30 days; and an oral reprimand.

Four Developmental Counseling Forms, for but not limited to:

Failing to obey order or regulation, command barracks policy,  
Drinking while underage on multiple occasions,  
Suspension of favorable personnel actions, and  
Initiation of involuntary separation.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** None.

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 214; DD Form 293; CID Report; and Supplemental CID Report.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant is a certified ambulance driver and CPR/AED certified, a volunteer Firefighter and Fire Police, and a step-parent of a deaf, autistic 7 year old child. The applicant is applying to attend college and pursue a criminal justice degree, pharmacy technician certification, and eventually an EMT certification.

**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's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12b, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Pattern of Misconduct," and the separation code is "JKA." Army Regulation 635-8 (Separation Processing and Documents), governs preparation of the DD Form 214, and dictates entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be exactly as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends a false allegation of sexual assault led to the applicant's discharge. The applicant provided a CID Report reflecting the applicant was accused of sexual assault (adult). The investigation determined the accusation was unfounded and the applicant and the accuser had consensual sexual contact. The applicant's AMHRR reflects the proposed reason for initiating the discharge was for, on two occasions, wrongfully consuming alcohol while under the legal age of 21 and failing to obey an order by wrongfully entering the barracks room of a Soldier of the opposite sex. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service. The third party statements provided with the application reflect the applicant good military duty performance. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends being a certified ambulance driver and CPR/AED certified, volunteer firefighter and fire police, and a stepparent of a deaf, autistic 7-year-old child. The applicant is applying to attend college and pursue a criminal justice degree, pharmacy technician certification, and eventually an EMT certification. 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: Adjustment 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. The applicant is service connected by the VA for PTSD related to a trauma that occurred in 2019. There is no evidence that the applicant's PTSD existed during the period of military service under review.

(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 was diagnosed in service with an Adjustment Disorder. However, an Adjustment Disorder does not have a natural sequela with underage drinking or wrongfully entering the barracks room of a soldier of the opposite sex since an Adjustment Disorder is a transient reaction to stress that does not have a nexus with self-medicating or differentiating between right and wrong and acting in accordance with the right. The applicant is service connected by the VA for PTSD, which does have a nexus with self-medicating with substances. However, the trauma index that led to the service connection occurred in March 2019. There is no evidence that the applicant's PTSD existed prior to 2019, so the PTSD does not provide any mitigation for the basis of separation.

(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 and Post Traumatic Stress Disorder outweighed the medically unmitigated offenses of wrongfully entering the barracks room of a soldier of the opposite sex and underage drinking.

b. Response to Contention(s):

(1) The applicant contends good service. The Board considered this contention and determined that the current characterization of service is too harsh in view of the applicant's good service following a rehabilitative transfer, the applicant's post-service accomplishments, and the minor nature of the applicant's documented offenses. Therefore, a characterization upgrade is warranted.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention but found that the applicant committed multiple medically unmitigated offenses. Therefore, the Pattern of Misconduct narrative reason for separation is proper and equitable.

(3) The applicant contends a false allegation of sexual assault led to the applicant's discharge. The Board considered this contention and did not in any way consider the false accusation against the applicant. The Board only relied on the applicant's documented misconduct in its decision to not upgrade the narrative reason for separation and reenlistment eligibility code.

(4) The applicant contends being a certified ambulance driver and CPR/AED certified, volunteer firefighter and fire police, and a stepparent of a deaf, autistic 7-year-old child. The Board considered the applicant's post-service accomplishments and credited the applicant for them in its vote to upgrade the applicant's characterization of service.

c. The Board determined that the characterization of service was too harsh based on the applicant's post-service accomplishments, good service following a rehabilitative transfer, and the nature of the applicant's documented misconduct, and as a result it is inequitable. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to honorable. The Board determined the narrative reason, SPD code, and RE code were proper and equitable and voted not to change them. However, the applicant may request a personal appearance hearing to address further issues before 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 to change the applicant's characterization of service to Honorable because the applicant's post-service accomplishments, good service following a rehabilitative transfer, and the nature of the applicant's documented misconduct outweighed the applicant's offenses of wrongfully entering the barracks room of a soldier of the opposite sex and underage drinking. Thus, the prior characterization is no longer appropriate.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code due to the applicant's multiple medically unmitigated offenses. 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.

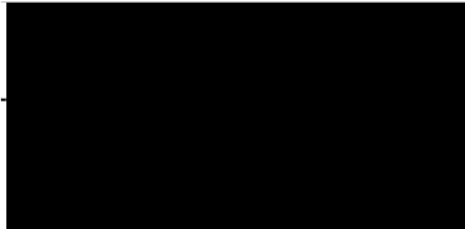


**10. BOARD ACTION DIRECTED:**

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

**Authenticating Official:**

2/22/2024



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