

1. Applicant's Name:

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant's Requests and Issues:** The current characterization of service for the under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, while serving, the applicant had surgery and received an Article 15 for not being in the room, on quarters, which the unit claims was the basis for the adverse discharge. The applicant was staying with a friend. A Staff Sergeant also assaulted the applicant, resulting in a broken cheek bone. There is medical evidence to support the issue. The applicant has reason to assume the leadership failed the applicant and, rather than being understanding of the medical issues, the applicant was punished. Additionally, the applicant suffered an allergic reaction to medication and was under the influence of the prescribed narcotics (codeine). The applicant understands receiving an honorable discharge, but desires to have the separation codes reversed since they are unjustified or sufficient. Instead of Private First Class, the rank should be Specialist.

b. **Board Type and Decision:** In a records review conducted on 30 November 2023, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

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

Board member names available upon request.

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Misconduct (Minor Infractions) / AR 635-200, Chapter 14-12a / JKN / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 27 January 2003

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 11 December 2002

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant failed to go at the time prescribed to the appointed place of duty on several occasions and made false official statements to several noncommissioned officers.

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

(4) **Legal Consultation Date:** On 12 December 2002, the applicant waived legal counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 20 December 2002 / General
(Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 20 November 2001 / 3 years

b. Age at Enlistment / Education / GT Score: 19 / High School Graduate / 100

c. Highest Grade Achieved / MOS / Total Service: E-4 / 63B10, Light Wheeled Vehicle
Mechanic / 1 year, 2 months, 8 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: NDSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Twelve Developmental Counseling
Forms for various acts of misconduct.

Two Physical Profiles reflect the applicant had the following medical conditions: Asthma and
Pilonidal cyst surgery.

CG Article 15, 18 November 2002, for making a false official statement on 19 September 2002.
The punishment consisted of a reduction to E-2 (suspended); forfeiture of \$289 pay (suspended);
and extra duty and restriction for 45 days.

Report of Mental Status Evaluation, 21 November 2002, reflects the applicant was psychiatrically
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.

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; DD Form 214; and VSO cover letter.

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

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

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides
for the creation, composition, and scope of review conducted by a Discharge Review Board(s)

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

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

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

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

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

of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10, United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

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

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

(2) Paragraph 3-7a 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 14-12a addresses minor disciplinary infractions, defined as a pattern of misconduct, consisting solely of minor military disciplinary infractions.

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

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 14-12a, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Minor Infractions)," and the separation code is "JKN." 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 further stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends the SPD code should be changed. The SPD codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 (Separation Program Designator (SPD) Codes) to track types of separations. The SPD code specified by Army Regulations for a discharge under Chapter 14, paragraph 14-12a, is "JKN."

The applicant contends the justification for the request to change the discharge is based on having surgery and receiving an Article 15 for not being in the room while on quarters and staying with a friend, which were basis for the adverse discharge. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's AMHRR reflects the basis for the separation were the applicant failing to go at the time prescribed to the appointed place of duty on several occasions and making false official statements to noncommissioned officers. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends the leadership failed the applicant because rather than being understanding of the medical issues, the applicant was punished. The evidence of record shows the command attempted to assist the applicant in performing and conducting to Army standards by providing counseling and the imposition of non-judicial punishment. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends a Staff Sergeant assaulted the applicant, resulting in a broken cheek bone. The applicant did not submit any evidence, other than the applicant's statement, to support the contention.

The applicant contends the rank should be Specialist and not Private First Class. The applicant's request does not fall within this board's purview. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by ██████████ the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **No.** The Board's Medical Advisor, a voting member, reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused or mitigated a discharge.

(2) Did the condition exist or experience occur during military service? **N/A.**

(3) Does the condition or experience excuse or mitigate the discharge? **N/A.**

(4) Does the condition or experience outweigh the discharge? **N/A.**

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined there is insufficient evidence in the applicant's file to support a narrative reason change. 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. Considering the current evidence of record, the Board determined the applicant's discharge was appropriate.

(2) The applicant contends the SPD code should be changed. The Board considered this contention and determined that the applicant received the appropriate SPD code (JKN) for the discharge specified by AR 635-200, paragraph 14-12a(2). Therefore, no change is warranted.

(3) The applicant contends the leadership failed the applicant because rather than being understanding of the medical issues, the applicant was punished. The Board considered this contention and determined there is insufficient evidence in the applicant's file to support the claim. 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. Considering the current evidence of record, the Board determined the applicant's discharge was appropriate.

(4) The applicant contends a Staff Sergeant assaulted the applicant, resulting in a broken cheek bone. The Board considered this contention and determined there is insufficient evidence in the applicant's file to support an upgrade since the basis of separation was for failing to report and making false official statements. The evidentiary record contained no evidence of retaliatory or malicious actions by the command. 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. Considering the current evidence of record, the Board determined the applicant's discharge was appropriate.

(5) The applicant contends the rank should be Specialist and not Private First Class. The Board determined that the applicant's requested change to the DD Form 214 does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR) using a DD Form 149. A DD Form 149 may be obtained from a Veterans' Service Organization and/or online.

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidentiary record. The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. 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 to the evidentiary record, the applicant did not have a BH condition or experience that could excuse or mitigate the basis of separation (failure to report on several occasions and making false official statements to noncommissioned officers). The Board found that the totality of the applicant's record does not warrant a discharge upgrade. 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.

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

(3) The RE code will not change. 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:

2/9/2024

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