

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 honorable. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, the overall service record, the evaluation reports, and awards demonstrate over two years of faithful and honorable active-duty service. Supporting documents demonstrate early signs and symptoms of PTSD and other mental disorders from recent combat tour and VA service-connected disability for PTSD, Depression, Anxiety, ADHD with Neurosis and secondary, migraines, mitigated the deficiencies, which commonly led to abusing drugs and or alcohol as ways of self-medicating for the disorders. If proper medical attention and therapy post combat were received, there would not be an unacceptable conduct and the separation action. A previous request for an upgrade was denied by ADRB for lack of evidence showing the applicant had ADHD, PTSD or any medical condition which would support a medical discharge. As evidence of impropriety and injustice warrants upgrade to fully honorable, the military command was negligent to the medical conditions and did not allow for proper diagnoses and treatment of PTSD/Anxiety/Depression/ADHD and other medical conditions. The narrative reason for discharge is in error and should be amended from "Unacceptable Conduct" to a medical discharge or an equivalent narrative as allowed by the documented diagnoses from the VA of 40 percent service-connection for mental medical conditions incurred and aggravated during service. Post service records show several drug urinalyses at the VA for seven years never showed a positive result. The applicant made tremendous progress in a positive direction with proper therapy and medication treatment for PTSD, ADHD, Neurosis, Anxiety, Depression, secondary Migraines, and any other diagnosed service-connected disorders. The applicant is a second-year medical student with aspiration of becoming a General Surgeon and plans to be married and have a family. The applicant is actively involved in post service treatment at the Erie VA and progressing everyday towards being the old self again. In the DD Form 214, the total service needs correction, block 12e should read 3 years, 5 months, 26 days for Reserve time. The applicant further details the contentions in an allied self-authored statement provided with the application.

b. **Board Type and Decision:** In a records review conducted on 14 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:** Unacceptable Conduct / AR 600-8-24, Chapter 4-2B / JNC / Honorable

b. **Date of Discharge:** 2 June 2008

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 4 January 2008

(2) Basis for Separation: The applicant was informed to show cause for retention on active duty under the provisions of AR 600-8-24, paragraphs 4-2b for misconduct, due to the following reasons:

On 7 August 2007, the unit received a DD Form 2624, indicating the applicant tested positive for cocaine on a 100 percent unit urinalysis inspection conducted on 2 August 2007. The applicant was subsequently removed from all leadership positions because of the actions.

On 9 August 2007, the applicant waived the rights and rendered a written sworn statement to the CID admitting the wrongful use of cocaine.

On 6 September 2007, the applicant received an Article 15 for wrongful use of cocaine from COL J., the USAMRMC GCMCA and Acting Commander. As required by AR 600-8-24, Chapter 4, paragraph 4-2b(11), the applicant's elimination from the Army would be initiated.

(3) Legal Consultation Date: 21 February 2008

(4) Board of Inquiry (BOI): None

(5) GOSCA Recommendation Date / Characterization: On 14 March 2008, the GOSCA recommended approval of the applicant's request for resignation for the good of the service in lieu of elimination proceedings. / General (Under Honorable Conditions)

(6) DA Board of Review for Eliminations: On 14 May 2008, the Army Board of Review for Eliminations considered the GOSCA's request to involuntarily separate the applicant for unacceptable conduct in accordance with AR 600-8-24, Chapter 4-2b.

(7) Separation Decision Date / Characterization: 15 May 2008 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Appointment: 9 September 2005 / Indefinite / Per OBC Active Duty Orders, effective 28 September 2005 for four years.

b. Age at Appointment: / Education: 22 / Bachelor of Science

c. Highest Grade Achieved / MOS / Total Service: O-2 / 25A, Signal, General / 6 years, 2 months, 1 day / The DD Form 214 does not reflect service commencing on USAR enlistment as a Cadet on 2 April 2002, with an 8-year MSO.

d. Prior Service / Characterizations: ROTC Cadet, 2 April 2002 – 8 September 2005 / NA
USAR, 9 September 2005 – 27 September 2005 / NA

e. Overseas Service / Combat Service: SWA / Afghanistan (30 March 2006 – 16 December 2006; 26 December 2006 – 26 March 2007)

f. Awards and Decorations: ARCOM, NDSM, ACM-2BSS, GWOTSM, ASR, NATOMDL, OSR

g. Performance Ratings: 4 March 2006 – 9 July 2007 / Best Qualified
10 July 2007 – 1 June 2008 / Do Not Promote

h. Disciplinary Action(s) / Evidentiary Record: Developmental Counseling Form for testing positive for illegal use of cocaine during a 100 percent urinalysis on 2 August 2007.

Electronic Copy of DD Form 2624, 7 August 2007, reflects the applicant tested positive for COC 3933 (cocaine), during an Inspection Unit (IU) urinalysis testing, conducted on 2 August 2007.

GO Article 15, 6 September 2007, for wrongfully using cocaine (between 27 July and 2 August 2007). The punishment consisted of forfeiture of \$1,620 pay per month for two months and a written reprimand.

General Officer Memorandum Of Reprimand, 6 September 2007, reflects the wrongfully used illegal drugs based on a positive urinalysis during a 100 percent unit urinalysis and subsequently admitting the wrongful use on 1 August 2007 during an interview with a CID investigator.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: VA Continuity of Care Documents listing Problems and Conditions reflects the applicant being actively treated for Prolong Post trauma Stress; Opioid Dependence; ADHD; PTSD; Depression, NOS, and Anxiety State.

Erie VAMC Behavioral Health Consult, 2 July 2014, reflects "Diagnoses" based on the criteria from the DSM-5 and "Clinical Disorder(s): ADHD by history; PTSD by history; Opioid Dependence."

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Online application; self-authored statement; Case Report and Directive with Congressional letters (AR20130020376); ABCMR letter; DD Forms 214 and 215; Behavioral Health Intake Assessment Questionnaire; Mental Health Diagnostic Study Notes; VA Continuity of Care documents; Understanding PTSD and Substance Abuse article; two VA Summary of Benefits letters; New York Times articles; Secretary of Defense Memorandum; ADHD article; prescription label; Adderall article; DD Form 2808; three OERs; DA Form 1059; ARCOM certificate; news article; drafted picture; eBenefits Claim Details; five third-party letters; article on the applicant; and résumé.

6. POST SERVICE ACCOMPLISHMENTS: The applicant completed the Master's in physician assistant studies from Seton Hill University in 2012, with a 3.8 GPA; was accepted to Lake Erie College of Osteopathic Medicine in July 2014 and completing the first year; and has been active in several charity organizations with military involvement such as the IAVA, Ancient And Accepted Freemasons, and Baltimore Valley Scottish Rite as a 32nd degree Mason.

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 600-8-24 (Officer Transfers and Discharges) sets forth the basic authority for the separation of commissioned and warrant officers.

(1) Paragraph 1-23 provides the authorized types of characterization of service or description of separation.

(2) Paragraph 1-23a, states an officer will normally receive an honorable characterization of service when the quality of the officer's service has met the standards of acceptable conduct and performance of duty, or the final revocation of a security clearance under DODI 5200.02 and AR 380-67 for reasons that do not involve acts of misconduct for an officer.

(3) Paragraph 1-23b, states an officer will normally receive a general (under honorable conditions) characterization of service when the officer's military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A separation under general (under honorable conditions) normally appropriate when an officer: submits an unqualified resignation; separated based on misconduct; discharged for physical disability resulting from intentional misconduct or neglect; and, for final revocation of a security clearance.

(4) Chapter 4 outlines the policy and procedure for the elimination of officers from the active Army for substandard performance of duty.

(5) Paragraph 4-2b, prescribes for the elimination of an officer for misconduct, moral or professional dereliction, or in the interests of national security.

(6) Paragraph 4-20a (previously 4-24a), states an officer identified for elimination may, at any time during or prior to the final action in the elimination case elect one of the following options: (1) Submit a resignation in lieu of elimination; (2) request a discharge in lieu of elimination; and (3) Apply for retirement in lieu of elimination if otherwise eligible.

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 "JNC" as the appropriate code to assign commissioned officers who are discharged under the provisions of Army Regulation 600-8-24, Chapter 4-2b, Unacceptable Conduct.

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 a change in the narrative reason.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 4, paragraph 4-2b, AR 600-8-24 with a general discharge that was previously upgraded to honorable by a previous ADRB. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Unacceptable Conduct," and the separation code is "JNC." Army Regulation 635-8, Separation Processing and Documents, governs preparation of the DD Form 214 and dictates the 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 overall service record, the evaluation reports, and awards demonstrate over two years of faithful and honorable active-duty service.

The applicant contends supporting documents demonstrate early signs and symptoms of PTSD and other mental disorders from recent combat tour and VA service-connected disability for PTSD, Depression, Anxiety, and ADHD with Neurosis and secondary, migraines, mitigated the deficiencies, which commonly led to abusing drugs as ways of self-medicating for the disorders. The applicant provided several medical documents indicating diagnoses and treatment for PTSD, Opioid Dependence, ADHD, Depression, Anxiety, and prescribed medication. The applicant's AMHRR is void of any medical evidence or indication the applicant was suffering from a disabling medical or mental condition during the discharge processing, warranting separation processing through medical channels.

The applicant contends the military command was negligent to the medical conditions and did not allow for proper diagnoses and treatment of PTSD, Anxiety, Depression, ADHD, and other medical conditions. The applicant's available AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends completing the Master's in physical assistance studies, being accepted, and completing one year with a college of Osteopathic Medicine and being actively involved in several charity organizations. 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 statements provided with the application speak highly of the applicant's character and performance and recognize the applicant's good conduct and achievements after leaving the Army.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by [REDACTED] 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, after applying liberal consideration found the applicant's Post Traumatic Stress Disorder (Neurosis (Depression), Anxiety Disorder) that warranted a previous Board's to upgrade the discharge characterization to HD now warrants reconsideration of applicant's discharge narrative.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board Medical Advisor found the applicant's Post Traumatic Stress Disorder (Neurosis (Depression), Anxiety Disorder) existed during the applicant's service.

(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's Post Traumatic Stress Disorder (Neurosis (Depression), Anxiety Disorder) does not mitigate the applicant's wrongful cocaine for the purpose of the applicant's narrative reason for discharge.

(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, while the applicant's PTSD mitigated the applicant's wrongful cocaine use for purposes of characterization of service, the applicant's behavioral health conditions do not outweigh the applicant's narrative reason for discharge as the applicant engaged in the wrongful drug use for which the proper narrative reason is "unacceptable conduct."

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge needs changed. The Board liberally considered this contention and the applicants's current characterization of service is honorable. The Board determined that, while the applicant's PTSD mitigated the applicant's wrongful cocaine use for purposes of characterization of service, the applicant's behavioral health conditions do not outweigh the applicant's narrative reason for discharge as the applicant engaged in the wrongful drug use for which the proper narrative reason is "unacceptable conduct".

(2) The applicant contends the overall service record, the evaluation reports, and awards demonstrate over two years of faithful and honorable active-duty service. The Board determined that the totality of the applicant's record does not warrant a change in the applicant's narrative reason because, while the applicant's PTSD mitigated the applicant's wrongful drug use for purposes of characterization of service, the applicant engaged in the wrongful drug use for which the proper narrative reason is "unacceptable conduct".

(3) The applicant contends supporting documents demonstrate early signs and symptoms of PTSD and other mental disorders from recent combat tour and VA service-connected disability for PTSD, Depression, Anxiety, and ADHD with Neurosis and secondary, migraines, mitigated the deficiencies, which commonly led to abusing drugs as ways of self-medicating for the disorders. The Board liberally considered this contention and the applicant's current characterization of service is honorable, there is no further relief available with respect to characterization. Liberal consideration was applied to the narrative reason and the Board determined that the narrative reason is proper and equitable, and voted not to change it because, while the applicant's PTSD mitigated the applicant's wrongful cocaine use for purposes of characterization of service, the applicant's behavioral health conditions do not outweigh the applicant's narrative reason for discharge as the applicant engaged in the wrongful drug use for which the proper narrative reason is "unacceptable conduct."

(4) The applicant contends the military command was negligent to the medical conditions and did not allow for proper diagnoses and treatment of PTSD, Anxiety, Depression, ADHD, and other medical conditions. The Board considered this contention and determined that there is insufficient evidence in the applicant's official record or provided by the applicant that the applicant was not provided sufficient access to medical treatment resources. Therefore, no change is warranted.

(5) The applicant contends completing the Master's in physical assistance studies, being accepted, and completing one year with a college of Osteopathic Medicine and being actively involved in several charity organizations. The Board liberally considered this contention and the applicant's current characterization of service is honorable, there is no further relief available with respect to characterization. Liberal consideration was applied to the narrative reason and the Board determined that the narrative reason is proper and equitable, and voted not to change it because, while the applicant's PTSD mitigated the applicant's wrongful cocaine use for

purposes of characterization of service, the applicant's behavioral health conditions do not outweigh the applicant's narrative reason for discharge as the applicant engaged in the wrongful drug use for which the proper narrative reason is "unacceptable conduct."

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 determined the discharge is proper and equitable as a prior ADRB has upgraded the discharge with a Character of Honorable; therefore is no further relief available.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code as the applicant engaged in the wrongful drug use for which the proper narrative reason is "unacceptable conduct." Therefore, 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:

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