

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** [REDACTED]**1. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant's Requests and Issues: The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, despite serving honorably for most of the career and having no problems, the applicant became severely addicted to painkillers after being injured in Iraq and treated by a corrupt Physician's Assistant (PA) who was disciplined for manipulating and overprescribing prescriptions. The applicant had become hopelessly addicted to narcotics, resulting in a divorce and a relief from command. At Fort Rucker, the applicant continued to fight a losing battle with the addiction, and despite completing an in-patient treatment, the applicant was unable to stay sober. After repeated relapses, the applicant resigned the commission without any idea of the type of discharge until seeing the DD Form 214. The combat success as an aviator, selection as an aide-de-camp, and promotion to Company Commander so early in the career demonstrated the applicant was trusted and capable of doing great things in the career. Without the addiction, the applicant would have never had any disciplinary issues and would still be in the Army. The Board should consider all the factors, including the Bronze Star Medal and OERs, and upgrade the discharge. The applicant did not realize the status of the VA benefits and the effects of the discharge until applying for help at VA. The applicant further details the contentions in two separate allied self-authored statements provided with the applications.

Because the applicant suffered under the weight of a less than honorable discharge caused by traumatic events and mental health issues, the Board should carefully consider the applicant's request, based on inequity and impropriety, and grant a relief by upgrading to honorable, including a review of the reason and authority for the discharge. The request for relief is primarily based on matters relating to post traumatic stress disorder (PTSD). The applicant was evaluated for one or more service-connected disabilities by VA and is currently receiving 100 percent service-connected disability compensation, specifically, for PTSD caused by stressful events during multiple deployments to fear of hostile military or terrorist activity. The applicant, a veteran Army Helicopter Pilot, suffered two traumatic brain injuries (TBI) during two combat tours in Iraq. The resulting effects of the injuries led to a diagnosis of PTSD and prescription opioid addiction. Despite the applicant having outstanding officer evaluations throughout the service, the continued mental health deterioration spiraled into an inappropriate relationship, a near fatal overdose, and placement in inpatient care. The applicant received an inequitable and improper discharge because of the situations traced directly to the TBI and PTSD.

The applicant's discharge should be upgraded in the interest of equity because the separation was based on misconduct exacerbated by PTSD and TBI. The PTSD and TBI are mitigating factors under the C.F.R. Title 32 and 10 U.S.C. The PTSD and other mental health disorders causing family and personal problems which affected the capability to serve are mitigating the

reason for the discharge. As a veteran who suffers from PTSD, the applicant's request is entitled to liberal consideration. The applicant's PTSD and TBI outweigh the circumstances leading to the discharge. The misconduct would not have occurred if not for the TBI and PTSD. The applicant's service was otherwise meritorious and honorable to the US Army. The equity guidance in the Wilkie Memorandum directs the Board to grant the request for a discharge upgrade for three reasons: (1) the request is based on PTSD and therefore should be considered on equitable grounds; (2) the applicant made significant sacrifices and achievements throughout the service; and (3) the offenses leading to the discharge were nonviolent. The applicant experienced only two episodes of misconduct which were influenced by the PTSD, TBI, and prescription drug addiction. The Wilkie Memorandum emphasizes that "an honorable discharge characterization does not require flawless military service [and] many veterans are separated with an honorable characterization despite ... infrequent misconduct." For almost a decade, the applicant performed the Army service with exceptional aptitude. The outstanding service was clearly illustrated by over a dozen awards, including the Bronze Star Medal. The applicant continues to make genuine efforts to improve oneself and, thereby, continues to serve the United States as an influential community member in Cody, WY. The applicant's psychologist states the applicant "has shown [the] ability to recognize [the] needs and ability to establish healthy boundaries in [the] life [which] maintains [the] sobriety and show care for [the] children and family." The applicant has reignited the passion for physical fitness and started a cross-fit gym where the applicant offered fellow veterans a lifetime membership for \$50. A few years after opening the gym, the applicant learned of becoming a parent and started a handmade toy business with two employees. Through the parenting challenges and managing another successful business, the applicant has continued the addiction counseling to strengthen the mental and emotional resilience. The applicant consistently attends group meetings where glowing and determined nature has positively influenced others combating opiate addiction. Because of being dedicated to improving the health, the applicant has never relapsed. Through hard work and perseverance, the applicant is now in control of the life as a devoted and responsible parent, a role model to others suffering from addiction, and a successful entrepreneur. The applicant is also entitled to a discharge upgrade based on impropriety because of being separated without a PTSD medical evaluation review. The applicant deserves an honorable discharge because the command committed a prejudicial error when it concluded that an Under Other Than Honorable characterization of service was appropriate when the applicant was separated without a PTSD medical examination review. Counsel further details the contentions in an allied legal brief provided with the application.

b. Board Type and Decision: In a records review conducted on 19 September 2023, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder providing medical mitigation of the applicant's drug abuse offense and also the applicant's length and quality of service, to include combat service mitigating the applicant's inappropriate relationship offense. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General. The Board determined the narrative reason/SPD 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)

2. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Unacceptable Conduct / AR 600-8-24, Chapter 4-2B / JNC / Under Other Than Honorable Conditions

b. Date of Discharge: 14 June 2012

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 26 January 2012

(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, moral, or professional dereliction, conduct unbecoming of an officer and for receiving adverse information filed in the Army Military Human Resource Record in accordance with AR 600-37, due to the following reasons: A series of substantiated derogatory activity resulting in a GOMOR, 10 February 2011; an Article 15 under the UCMJ, 9 February 2011; and a referred Officer Evaluation Report for the period 30 May 2010 – 21 January 2011.

(3) Legal Consultation Date: 10 May 2012

(4) Board of Inquiry (BOI): On 10 May 2012, the applicant voluntarily waived consideration of the case before a Board on Inquiry.

(5) GOSCA Recommendation Date / Characterization: On 14 May 2012, the GOSCA recommended approval of the applicant's unconditional request for discharge. / Under Other Than Honorable Conditions

(6) DA Board of Review for Eliminations: On 6 June 2012, 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: 8 June 2012 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Appointment: 22 September 2005 / Indefinite (unassigned branch); 10 November 2005 / Indefinite (Aviation branch) / The applicant's Officer Record Brief (ORB) reflects a Basic Active Service Date of 5 December 2005, which coincides with the DD Form 214 (a period under current review) and the expiration of the OBV is 5 December 2014, a period of 9 years.

b. Age at Appointment: / Education: 23 / Bachelor's Degree

c. Highest Grade Achieved / MOS / Total Service: O-3 / 15A C2, Aviation, General / 11 years, 7 months, 17 days

d. Prior Service / Characterizations: USAR, 29 August 2001 – 4 December 2005 / NA

e. Overseas Service / Combat Service: Hawaii, SWA / Iraq (5 June 2007 – 15 October 2007; 4 August 2009 – 6 August 2010)

f. Awards and Decorations: BSM, ARCOM, AAM, MUC-2, NDSM, GWOTEM, GWOTSM, ICM-CS-2, ASR, OSR, MOVSM

g. Performance Ratings: 2 May 2007 – 29 May 2009, Best Qualified
30 May 2009 – 29 May 2010, Best Qualified
30 May 2010 – 21 January 2011, Do Not Promote

h. Disciplinary Action(s) / Evidentiary Record: GO Article 15, 25 January 2011, for knowingly fraternize with SPC J. B., an enlisted person, on terms of military equality (between 15 September and 31 December 2010), in violation of the custom of the US Army in which officers shall not fraternize with enlisted persons and in violation of Article 134, UCMJ, and such conduct being unbecoming of an officer and a gentleman, was in violation of Article 133, UCMJ. The punishment consisted of a written reprimand.

General Officer Memorandum Of Reprimand, 10 February 2011, reflects the applicant wrongfully entered an inappropriate relationship with SPC J. B., a junior Soldier under the applicant's command, and the fraternization with a junior Soldier was in violation of Article 134, UCMJ, and the conduct unbecoming an officer and a gentleman was in violation of Article 133, UCMJ.

Officer Evaluation Report (OER) for period 30 May 2010 thru 21 January 2011, a referred and a relief for cause OER, reflects in the evaluation of the applicant's principal duty title as a company commander, the rater evaluated the applicant's performance and potential for promotion as "Unsatisfactory Performance, Do Not Promote" and the senior rater evaluated the applicant's promotion potential as "Do Not Promote." The referred OER was reviewed as clear, accurate, complete, and fully in accordance with AR 623-3 by the GCMCA.

General Officer Memorandum Of Reprimand, 2 March 2012, reflects the applicant intentionally misled the flight surgeon when failed to inform the surgeon of the applicant's medical treatments and pain medication received from multiple Florida medical treatment facilities between 23 August and 19 September 2011, and taking steps to conceal the events when insisting on cash payments to the treating physicians to reduce paper trail.

A Personnel Action form reflects the applicant's duty status changed as follows: From "Present for Duty (PDY)," to "Absent Without Leave (AWOL)," effective 7 May 2012.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Veterans Administration Disability summary of benefits letter, 28 August 2018, reflects the applicant was granted a combined service-connected evaluation for one or more service-connected disabilities and compensated at the 100 percent rate for the disabilities.

Bradford Health Services Discharge Summary, 6 to 17 April 2012, indicates the applicant relapsing on opiates had been in prior treatment for opiate dependency and PTSD. The clinical findings were the applicant had a history of TBI due to concussion-type blows while in Iraq, and the applicant had a psychiatric consultation for depression, PTSD, and TBI. The applicant was diagnosed with major depression, chronic and recurrent; posttraumatic stress disorder, combat related; and rule-out traumatic brain injury, and prescribed medication. Final DSM-IV discharge diagnoses were: "Axis I": Opiate dependence; Nicotine dependence; Sedative/hypnotic use; Posttraumatic stress disorder, combat related; Rule-out traumatic brain injury; Major depression, chronic and recurrent; "Axis II" was deferred; "Axis III": Degenerative disc disease of the lumbosacral spine; High blood pressure; History of trauma brain injury; "Axis IV": Severe; and "Axis V": GAF was 50/70 percent.

Chronological Record of Medical Care, 20 March through 17 May 2012, reflects, relative to behavioral health issues, the applicant had been seen and treated for PTSD; major depressive disorder, single episode; opioid dependence; alcohol abuse; depression; major depression,

recurrent; severe recurrent major depression without psychotic features; adjustment insomnia; adjustment disorder; and insomnia.

Review Post Traumatic Stress Disorder (PTSD), Disability Benefits Questionnaire, 8 December 2015, reflects the applicant was diagnosed with: Post-Traumatic Stress Disorder and Major Depressive Disorder.

Out-Patient Behavioral Health Clinic letter, 2 March 2020, rendered by an Outpatient Mental Health and Substance Use Disorder Clinician, indicates since October 2016, the applicant had been receiving treatment for Opioid Use Disorder and Posttraumatic Stress Disorder. The applicant had not suffered any relapses since being treated; has found stability in the personal life with the mental health needs; has made several positive connections in the community; and has been a volunteer at multiple gyms.

(2) AMHRR Listed: Summary of Rehabilitation memorandum, 10 May 2012, reflects the applicant was command referred into the Army Substance Abuse Program (ASAP), initially at Schofield Barracks on 21 January 2011, and was received as a patient at Fort Rucker ASAP on 2 March 2012, for "DSM-IV TR Diagnostic Code 304.00 Opiate Dependence and 305.00 Alcohol Abuse." In December 2011, the applicant was admitted into Eisenhower Medical Center for residential services after a suicide attempt; discharged on 23 January 2012; entered a residential behavioral health service at a treatment center on 1 March 2012 and completed a detoxification program and released on 15 March 2012 because of being noncompliant with the program requirements; returned to Fort Ruck treatment program with no change in the diagnosis; and admitted to Bradford Health Services on 6 April 2012 for residential substance abuse treatment and transferred to the Eisenhower Residential Treatment Facility on 17 April 2012. On 6 May 2012, the applicant was discharged as being unsuccessful and not eligible for re-admission, because of being noncompliant with the substance abuse treatment.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149; DD Form 214; self-authored statement; OER; third-party letter; Assumption of Command memorandum; APFT Test Scorecard; and The Bronze Star Medal certificate. Additional: DD Form 293 and Legal Brief with listed enclosures, Exhibits A through Y.

6. POST SERVICE ACCOMPLISHMENTS: The applicant established own CrossFit gym, offering lifetime memberships to veterans of Iraq and Afghanistan; plans to attend college to become a nurse practitioner; has started a small business selling wooden toy cameras; and has remained sober and a responsible parent of two children.

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) Paragraph 1-23c, states a discharge under other than honorable conditions is an administrative separation from the service. A discharge certificate will not be issued. An officer will normally receive an under other than honorable conditions when he or she: Resigns for the good of the Service; is dropped from the rolls (DFR) of the Army in accordance with paragraph 5-9; is involuntarily separated due to misconduct, moral or professional dereliction, or for the final revocation of a security clearance under DODI 5200.02 and AR 380-67 as a result of an act or acts of misconduct, including misconduct for which punishment was imposed; and, is discharged following conviction by civilian authorities.

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

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

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 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 changed. The applicant was separated under the provisions of Chapter 4, paragraph 4-2b, AR 600-8-24 with a under other than honorable conditions discharge. 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 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 to track types of separations. The SPD code specified by Army Regulations for a discharge under Chapter 4, paragraph 4-2b, is "JNC."

The applicant contends becoming severely addicted to painkillers after being injured in Iraq, and the subsequent misconduct that was exacerbated by PTSD and TBI. The applicant provided several medical records reflecting treatment with prescribed medications for opiate dependency, PTSD, major depressive disorder, alcohol abuse, major depression, adjustment disorder, and adjustment insomnia. The Veterans Administration summary of benefits letter, 28 August 2018, reflects the applicant was granted 100 percent for service-connected disabilities. The applicant's AMHRR contains a summary of rehabilitation memorandum which provides a diagnosis of "DSM-IV TR Diagnostic Code 304.00 Opiate Dependence and 305.00 Alcohol Abuse" and summarizes the applicant's treatment for the diagnosis. The memorandum was considered by the separation authority.

The applicant contends serving exceptionally as a platoon leader, Aide-de-Camp for the deputy commanding general of USARPAC, and company commander of a headquarters company, including being a top graduate of a flight school class and completing the SERE school, flying over 150 combat missions and multiple air assaults capturing high-value targets, and earning a Bronze Star Medal and exceptional OERs. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends not realizing the discharge affected the status of VA benefits, until applying for help at VA. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

The applicant contends because of the misconduct being traced directly to the TBI and PTSD, and the command committing a prejudicial error when concluding an Under Other Than Honorable characterization of service was appropriate and separating the applicant without a PTSD medical evaluation review, the discharge was inequitable and improper. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends assuming responsibility for the actions, remaining sober, and currently, a thriving family person and entrepreneur. 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 found, based on the Board's Medical Advisor opine, and after reviewing the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation, that the applicant has the following potentially-mitigating

diagnoses/experiences: Post Traumatic Stress Disorder, Major Depressive Disorder, Traumatic Brain Injury.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found, based on the Board's Medical Advisor's opine, that the conditions existed during service and were related to service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board applied liberal consideration, to include considering the Board's Medical Advisor's opine, and found that the applicant's PTSD mitigates the applicant's drug abuse misconduct. As there is a relationship between PTSD and substance abuse, there is a nexus between the applicant's misconduct characterized as substance abuse and summarily a nexus between failing to report the substance abuse to the flight surgeon, such that the misconduct is mitigated by the disorder. However, the applicant's misconduct of engaging in an inappropriate relationship with an enlisted Soldier under the applicant's command and the subsequent relief for cause, is not mitigated by PTSD as the conduct is not natural sequela of the disorder, and the disorder did not render the applicant unable to differentiate between right and wrong and adhere to the right. This analysis is also applicable to the applicant's potentially mitigating diagnosis of MDD; namely, it partially mitigates the applicant's misconduct because there is a sequela between this behavioral health condition and substance abuse, or actions related to substance abuse. Regarding the service-connected diagnosis of TBI, there is no evidence in the records that the disorder was of such severity as to have noteworthy impact on behavior, judgment, or cognition and therefore it does not mitigate the misconduct of engaging in an inappropriate relationship.

(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 Post Traumatic Stress Disorder, Major Depressive Disorder, or Traumatic Brain Injury outweighed the applicant's medically unmitigated inappropriate relationship offense, which was sufficient basis for the applicant's discharge.

b. Response to Contention(s):

(1) The applicant contends becoming severely addicted to painkillers after being injured in Iraq, and the subsequent misconduct that was exacerbated by PTSD and TBI. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, or Traumatic Brain Injury outweighed the applicant's medically unmitigated inappropriate relationship offense. However, the Board did find that the applicant's service record, the discharge having served its purpose in the time since separation, and the applicant's post-service accomplishments did mitigate the applicant's inappropriate relationship offense. Therefore, an upgrade of the characterization of service to General is warranted.

(2) The applicant contends serving exceptionally as a platoon leader, Aide-de-Camp for the deputy commanding general of USARPAC, and company commander of a headquarters company, including being a top graduate of a flight school class and completing the SERE school, flying over 150 combat missions and multiple air assaults capturing high-value targets, and earning a Bronze Star Medal and exceptional OERs. The Board considered the totality of the applicant's service record and factored it into the decision to upgrade the applicant's characterization of service.

(3) The applicant contends because of the misconduct being traced directly to the TBI and PTSD, and the command committing a prejudicial error when concluding an Under Other Than Honorable characterization of service was appropriate and separating the applicant without a PTSD medical evaluation review, the discharge was inequitable and improper. The Board liberally considered this contention and found that the applicant's behavioral health conditions partially mitigated the applicant's misconduct. The Board found insufficient evidence to support that the applicant should have received additional medical evaluation considering the applicant, with counsel, voluntarily resigned from service.

(4) The applicant contends the narrative reason and associated SPD code for the discharge should be changed. The Board considered this contention but found insufficient mitigating factors to merit a change from the Unacceptable Conduct narrative reason for separation.

(5) The applicant contends not realizing the discharge affected the status of VA benefits, until applying for help at VA. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(6) The applicant contends assuming responsibility for the actions, remaining sober, and currently, a thriving family person and entrepreneur. The Board considered the applicant's post-service accomplishments and factored them into the decision to upgrade the applicant's characterization of service.

c. The Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder and Major Depressive Disorder providing medical mitigation of the applicant's drug abuse offense; and also the applicant's length and quality of service, to include combat service, mitigating the applicant's inappropriate relationship offense. Accordingly, the Board voted to grant partial relief in the form of an upgrade to the characterization of service to General. The Board determined the narrative reason/SPD 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 General because the applicant's Post Traumatic Stress Disorder and Major Depressive Disorder, both service-related conditions, provided medical mitigation of the applicant's drug abuse offense; and also the applicant's length and quality of service, to include combat service, mitigated the applicant's inappropriate relationship offense. Further upgrade is not warranted as the applicant's conduct 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001575

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** General, Under Honorable Conditions
- c. **Change Reason / SPD Code to:** No Change
- d. **Change Authority to:** No Change

Authenticating Official:

4/22/2024



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