

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 a narrative reason change and separation code change.

The applicant seeks relief contending, in effect, up until the tour in Korea, the applicant's 14-year military service was unblemished, exhibiting no history of misbehavior. In fact, the last OER placed the applicant in the top five lieutenants within the Battalion. The reasons for requesting an assignment to Korea from Fort Bragg were extraordinary, as the applicant wished to gain the mandatory separation requirements necessary for divorce in the state of North Carolina while stationed in Korea. The applicant had been married for 14 years at the time and three kids. However, upon arrival in Korea, the applicant experienced a deep depression, which manifested in the negative actions which led to the separation. Since separation, the applicant has started a master's degree and desires to use this degree to gain employment in the private sector. However, the narrative reason for separation and separation code will likely prevent the applicant from finding employment even with a master's degree.

b. **Board Type and Decision:** In a records review conducted on 28 September 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:** 24 April 2014

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 3 January 2014

(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 (5) and (8) for Personal misconduct, moral, and, conduct unbecoming of an officer due to the following reasons:

On 29 May 2013, at 0042 the Warrior Readiness Company (WRC) Charge of Quarters (CQ) observed the applicant returning to the WRC barracks. At the time, it was discovered the applicant had not signed in or out with a battle buddy, in violation of paragraph 3, WRC Policy Letter number 8. The applicant was then instructed by the CQ to report to the WRC Commander for

counseling. During the verbal counseling, the applicant stated only leaving post once and had done so without a battle buddy. However, during the commander's inquiry, it was found the applicant had left post on two separate occasions. During the second verbal counseling, the applicant maintained only left base one time on 29 May 2013, returning to WRC at 0042 on 30 May 2013. The Defense Biometrical Identification (DBIDS) shows the applicant went off base on 26 May 2013, and returned to Camp Casey/Hovey on 27 May 2013, around 0043. DBIDS report clearly shows the applicant was dishonest when asked if violated the policies previously. Moreover, by leaving post without a pass, the applicant violated paragraph 3, WRC Policy Letter# 8, and paragraph 10(c), 21D Command Policy Letter # 10-1, Curfew, Pass, and Leave.

On 31 May 2013, the applicant was given a written and verbal order by the Battery Commander, CPT M., informing the applicant of conditions on liberty. The applicant was ordered not to travel outside of Camp Casey or Camp Hovey for unofficial purposes without approval from the battery commander, and as ordered not to consume any alcohol for 30 days.

The applicant continued insubordination by repeatedly violating CPT M.'s, direct order. A DBIDS report showed the applicant left post on four separate occasions after receiving an order, a fact the applicant admitted to when confronted by CPT M. The applicant left post on 6 June 2013, 9 June 2013, 19 June 2013, and 22 June 2013. Furthermore, the applicant purchased alcohol on two separate occasions and admitted to drinking alcohol at least twice during the period in which the applicant was prohibited from doing so. This occurred on 8 June 2013 and 22 June 2013.

The applicant disobeyed a general order on 26 December 2013, when the applicant violated paragraph 5, 21D Command Policy Letter# 10-1, Curfew, Pass, and Leave, by being off assigned installation, Camp Casey, after 0100. On 26 December the applicant was discovered off post at 0400 by the Korean National Police at Han's Club in Dongducheon, Republic of Korea. Conduct unbecoming a United States Army Officer.

(3) Legal Consultation Date: NIF

(4) Board of Inquiry (BOI): NA

(5) GOSCA Recommendation Date / Characterization: On 29 January 2014, the GOSCA recommended disapproval of the applicant's request for retention and recommended the applicant be involuntarily eliminated from service / Honorable

(6) DA Board of Review for Eliminations: On 25 March 2014, 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: 25 March 2014 / Honorable

4. SERVICE DETAILS:

a. **Date / Period of Appointment:** 8 April 2010 / Indefinite

b. **Age at Appointment: / Education:** 29 / Master's Degree

c. **Highest Grade Achieved / MOS / Total Service:** O-2 / 13A Field Artillery, General / 14 years, 8 months

d. **Prior Service / Characterizations:** USAF, 25 August 1999 – 7 December 2009 / HD
RA, 8 December 2009 – 7 April 2010 / HD

e. Overseas Service / Combat Service: Korea / NIF

f. Awards and Decorations: AFAAM, AFCM, AAM-2, AFOUA, AFGCM-2, NDSM, GWOTSM, GWOTEM, KDMS, OSR, AFLSR, AFTNGR, AFMER

g. Performance Ratings: 8 April 2010 – 20 February 2012 / Fully Qualified
20 February 2012 – 30 October 2012 / Best Qualified
30 October 2012 – 26 March 2013 / Best Qualified

h. Disciplinary Action(s) / Evidentiary Record: Commander's Inquiry, 4 June 2013, reflects on 29 May 2013, at 0042 the WRC Charge of Quarters observed the applicant returning to the WRC Barracks. At the time, it was discovered the applicant had not signed in or out with a battle buddy. The applicant was then instructed by the CQ to report to the WRC Commander for counseling. During the verbal counseling, the applicant stated, only left post once, and had done so without a battle buddy. However, during the Commander's inquiry, it was founded the applicant left post on two separate occasions. During the second verbal counseling the applicant stated only left base, one time on 29 May 2013, returning to WRC at 0042. The Defense Biometrical Identification (DBIDS) shows the applicant went off post on 27 May 2013 and returned to Camp Casey/Hovey on or about 0043. The DBIDS report clearly shows the applicant was dishonest. According with 2/D Policy Letter #10-1, Curfew, Pass, and Leave, and WRC Policy Letter #8, Rules of Engagement for Soldiers in transient status at WRC, the applicant should be subject to Uniform Code of Military Justice.

FG Article 15, 31 July 2013, for disobeying a lawful order by wrongfully leaving Camp Casey on five occasions (between 26 May and 22 June 2013). For wrongfully consuming alcohol on two occasions (between 8 June and 22 June 2013). For not being in assigned room on two occasions (between 27 May and 30 May 2013). The punishment consisted of forfeiture of \$2,584 pay per month for two months; restriction for 60 days and written reprimand.

General Officer Memorandum Of Reprimand, 9 August 2013, reflects for violating a lawful written order and lying to a superior commissioned officer. On 30 May 2013, while assigned to the Warrior Readiness Company (WRC), the applicant went off post and returned at 0023. This is in violation of WRC Policy Letter Number 8. Furthermore, CPT J., WRC's commander, asked if the applicant went off post before, and the applicant said no. A Defense Biometrical Identification (DBIDS) report later confirmed the applicant, in fact, left post on 27 May 2013, and returned at 0043 hours, again violating Policy Letter Number 8.

Military Police Report, 30 December 2013, reflects the applicant was apprehended for failing to obey a general order (off post).

FG Article 15, 24 January 2014, for wrongfully being off the installation after curfew on or about 26 December 2013. The punishment consisted of forfeiture of \$2,682 pay per month for two months (suspended); restriction for 60 days and written reprimand.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: The applicant submitted a self-authored statement that asserts experiencing a deep depression that manifested into the negative actions that lead to the applicant's separation.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Online application; DD Form 214; Embry Riddle unofficial transcript; Five Enlisted Performance Reports; Three Officer Evaluation Reports.

6. POST SERVICE ACCOMPLISHMENTS: The applicant completed master's degree.

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

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

(5) 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 and change to the SPD code.

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 honorable 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 suffering from depression. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR is void of a mental status evaluation.

The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

The applicant contends family issues affected behavior and ultimately caused the discharge. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

The applicant contends good service.

The applicant contends obtaining a master's degree. 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 [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, 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: None. The applicant asserts Depression, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant is asserting Depression at the time of 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, while the VA diagnosed the applicant with Major Depressive Disorder six years after the applicant's discharge from the

Army, however, the VA did not service connect the applicant's depression and there is no evidence in the applicant's record or provided by the applicant other than the applicant's assertion that this condition existed during military service. As such, applicant's asserted Depression does not mitigate the applicant's misconduct referenced in paragraph 3c(2) above given lack of medical evidence to substantiate that the condition existed during military service.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, to include the Board Medical Advisor opine, the Board determined that the applicant's MDD did not outweigh the medically unmitigated basis of separation – disobeying a lawful order on multiple occasions, making a false official statement, insubordination, and disobeying a General Order by violating curfew.

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention and determined the applicant's narrative reason for discharge is appropriate as there is insufficient evidence provided by the applicant to support a change to applicant's discharge. 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. In light of 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 for the discharge specified by AR 600-8-24, Chapter 4-2B is JNC. Therefore, no change is warranted.

(3) The applicant contends suffering from depression. The Board liberally considered this contention and determined that the applicant's asserted depression does not mitigate or outweigh the applicant's discharge because there is insufficient medical evidence to support the applicant's asserted depression is service connected. Without supporting medical evidence, the Board determined that a discharge upgrade is not warranted.

(4) The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

(5) The applicant contends family issues affected behavior and ultimately caused the discharge. The Board considered this contention and determined that the applicant's asserted depression does not mitigate the applicant's conduct personal misconduct, moral, and, conduct unbecoming of an officer as noted in paragraph 3c(2) above as the Army affords many avenues to Soldier's including seeking separation for hardship.

(6) The applicant contends good service. The Board considered the applicant's 14 years of service and the numerous awards received by the applicant but determined that these factors did not outweigh the applicant's conduct referenced in paragraph 3c(2) above.

(7) The applicant contends obtaining a master's degree. The Board considered this contention and determined that the applicant obtaining a master's degree does not outweigh the misconduct based on the seriousness of the applicant's offense of conduct referenced in paragraph 3c(2) above.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001823

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. The current characterization of service is honorable, there is no further relief available with respect to characterization.

(2) 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.

(3) The Board voted not to change the applicant's reason for discharge or accompanying SPD code, the applicant's depression assertion does not mitigate the applicant's conduct referenced in paragraph 3c(2) above warranting a change to the narrative reason or SPD code. The reason the applicant was discharged was both proper and equitable.

(4) As there is no RE-code listed on the applicant's discharge paperwork, no upgrade actions are required for this item.

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: No Change

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