

**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, their service was honorable, but the service caused PTSD and schizophrenia. Combat fatigue with the PTSD were the underlying causes for the serious misconduct, such as being intoxicated on duty and causing reckless endangerment. During deployment the applicant responded to the scene of a suicide bombing and pulled security for the bomb dog handler while checking for secondary explosives. This was all while stepping over human body parts. The applicant began having trouble accepting reality and sleep deprivation worsened. While serving out the punishment of extra duty after receiving the second Article 15, the applicant found alcohol in the MWR box and began dosing themselves to be numb enough to sleep. The applicant was surprised with a mission, after having dosed themselves before bed, and was found to be intoxicated. The applicant was court-martialed and discharged. No investigation was conducted to see if PTSD, Combat Fatigue, or the applicant's Sanity were factors in their misconduct. cursory psych evaluations were done before the discharge but no follow up appointments to prove the evaluation was conclusive. The applicant's DD Form 214 reads "member has not contributed to GI Bill" though the applicant's paystubs read otherwise. The applicant began hearing voices in their head and having flashbacks and was hospitalized and became homeless. Currently, the applicant's family and friends suggest they go see someone with regards to them being denied VA benefits due to the characterization of discharge.

**b. Board Type and Decision:** In a records review conducted on 9 August 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 (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 15 February 2008

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 25 October 2007

**(2) Basis for Separation:** The applicant was informed of the following reasons:

On 31 August 2007, the applicant violated paragraph 5 (a) (2), CJTF-82 General Order No. 1, dated 8 June 2007, by wrongfully failing to maintain positive personal control of their assigned weapon and wrongfully consuming alcohol, they were found drunk while on duty as a turret gunner on a HMMWV during a mounted patrol, and wrongfully and recklessly manned a .50 caliber machine gun while intoxicated on a mounted combat patrol, conduct likely to cause death or grievous bodily harm to the members of that patrol.

On 3 August 2007, the applicant failed to go at the time prescribed to the appointed place of duty, to wit: 0300 Company TOC.

On 21 April 2007, at or near Border Check Point 5, Khost Province, Afghanistan, while receiving special pay under 37 U.S.C. & 310, being posted as a lookout on a gun truck, the applicant was found sleeping on their post.

On 5 May 2007, at or near Arca of Operation of Begshan, Afghanistan, while receiving special pay under 37 U.S.C. & 310, being posted as lookout on a gun truck, the applicant was found sleeping on their post.

**(3) Recommended Characterization:** Under Other Than Honorable Conditions

**(4) Legal Consultation Date:** 25 October 2007

**(5) Administrative Separation Board:** On 25 October 2007, the applicant unconditionally waived consideration of the case before an administrative separation board, pursuant to their offer to plead guilty on 16 October 2007, and receive an Other Than Honorable discharge.

On 11 November 2007, the request for the unconditional waiver of administrative separation board proceedings was approved.

**(6) Separation Decision Date / Characterization:** 11 November 2007 / Under Other Than Honorable Conditions

#### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 8 March 2006 / 4 years, 19 weeks

**b. Age at Enlistment / Education / GT Score:** 17 / HS Graduate / 120

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 11B1P, Infantryman / 1 year, 11 months, 8 days

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

**e. Overseas Service / Combat Service:** SWA / Afghanistan (6 January 2007 – 22 December 2007)

**f. Awards and Decorations:** ACM, GWOTSM, ASR, OSR, NATOMDL

**g. Performance Ratings:** NA

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

CG Article 15, dated 20 May 2007, for on or about 21 April 2007, at or near Border Check Point (BCP) 5, Khost Province, Afghanistan, while receiving special pay under 37 U.S.C. & 310, being posted as a lookout on a gun truck was found sleeping upon their post on or about 5 May 2007, at or near the Area of Operation of Begshan, Afghanistan, while receiving special pay under 37 U.S.C. & 310, being posted as a lookout on a gun truck was found sleeping on post. The punishment consisted of a reduction to E-2; forfeiture of \$363 pay; extra duty for 14 days; and restriction to the limits of their tent and the company area for 14 days.

CG Article 15, dated 16 August 2007, for on or about 3 August 2007, the applicant failed to go at the time prescribed, to wit: 0300 Company TOC. The punishment consisted of a reduction to E-1; forfeiture of \$326 pay; and extra duty and restriction for 14 days.

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

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

**(1) Applicant provided:** Letter from Central Counties Services and Central Counties Services Intake Psychiatric Assessment, dated 11 November 2015 reflecting the applicant was diagnosed with Schizophrenia and PTSD. The applicant also provided medical records from Austin State Hospital, dated 23 June 2014, reflecting the applicant was diagnosed with Provisional Schizoaffective Disorder, Depressed Type PTSD, Polysubstance Abuse: Alcohol, Marijuana and Nicotine Dependence, problems with primary support, unemployment, financial stress, homelessness, no insurance, and pending charges.

**(2) AMHRR Listed:** Report of Mental Status Evaluation, dated 25 June 2007, reflects the applicant was diagnosed with problems with primary support group, problems related to social environment and occupational problems but was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements.

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; DD Form 214; self-authored statement; Timeline and Correlation; Letter from Central Counties Services; ACTS Screenshot; medical records; instructions for completing DD Form 293.

**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 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 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

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 honorable service, including a combat tour. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends the service caused them to suffer from PTSD and schizophrenia. The applicant provided a letter from Central Counties Services and a Central Counties Services

Intake Psychiatric Assessment, dated 11 November 2015, reflecting the applicant was diagnosed with Schizophrenia and PTSD. The applicant also provided medical records from Austin State Hospital, dated 23 June 2014, reflecting the applicant was diagnosed with Provisional Schizoaffective Disorder, Depressed Type PTSD, Polysubstance Abuse: Alcohol, Marijuana and Nicotine Dependence, problems with primary support, unemployment, financial stress, homelessness, no insurance, and pending charges. The applicant's AMHRR contains documentation which supports a diagnosis of problems with primary support group, problems related to social environment and occupational problems. The record shows the applicant underwent a mental status evaluation (MSE) on 25 June 2007, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The MSE was considered by the separation authority.

The applicant contends after being found intoxicated while on duty, they were discharged with no investigation conducted to see if PTSD, Combat Fatigue or Sanity were contributing factors in the applicant's misconduct. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends the DD Form 214 reads "member has not contributed to the GI Bill" though the applicant's paystubs say otherwise. The applicant's requested to change to the DD Form 214 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.

The applicant contends current homelessness and the need for help. Eligibility for housing support program benefits for Veterans 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. Moreover, all veterans at risk for homelessness or attempting to exit homelessness can request immediate assistance by calling the National Call Center for Homeless Veterans hotline at 1-877-424-3838 for free and confidential assistance.

The applicant contends an upgrade of the discharge would allow veterans benefits. 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.

## 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: PTSD, schizophrenia, and schizoaffective disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found applicant is service connected for PTSD, linking it to applicant's period of active service. Evidence associated with schizophrenia and schizoaffective disorders suggests onset of psychosis after discharge.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that applicant

is service connected for PTSD and records contain references to diagnoses of schizophrenia and schizoaffective disorder. Available records indicate onset of psychotic symptoms in approximately 2012 or 2013; there is no compelling evidence that psychosis (schizoaffective disorder or schizophrenia) was active during the period of service. The presence of PTSD established by service connection results in partial mitigation of the conduct leading to discharge. PTSD is associated with avoidance behaviors, which results in a nexus between the condition and failure to report. Sleep difficulties and sleep disruption are also part of the natural history and sequelae of PTSD, resulting in mitigation of falling asleep on duty although the advisor appreciates the significance of this action in a combat zone especially while posted as a lookout. Finally, PTSD is associated with misuse of substances as a form of self-medication of symptoms which would mitigate the simple act of drunk on duty even if violating an order or regulation. However, the advisor determined that the significant and severe nature of the aggravating conditions of failing to maintain positive control of a weapon in a combat zone and acting in reckless manner likely to cause death or significant bodily harm (manning .50 caliber machine gun while intoxicated on a combat patrol) are beyond the parameters of mitigation provided by the relationship between PTSD and substance misuse.

**(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 PTSD, Schizophrenia and Schizoaffective disorder outweighed the basis for applicant's separation – failure to maintain positive control of assigned weapon, wrongfully and recklessly manned a .50 caliber machine gun while intoxicated on a mounted combat patrol, conduct likely to cause death or grievous bodily harm to the members of that patrol.

**b. Response to Contention(s):**

**(1)** The applicant contends the service caused them to suffer from PTSD and schizophrenia. The Board considered this contention and determined applicant's PTSD and Schizophrenia diagnoses do not mitigate applicant's failure to maintain positive control of assigned weapon, wrongfully and recklessly manned a .50 caliber machine gun while intoxicated on a mounted combat patrol, conduct likely to cause death or grievous bodily harm to the members of that patrol. The applicant's overall record and BH conditions do not outweigh the misconduct due to the severity of the misconduct.

**(2)** The applicant contends after being found intoxicated while on duty, they were discharged with no investigation conducted to see if PTSD, Combat Fatigue or Sanity were contributing factors in the applicant's misconduct. The Board considered this contention and determined the applicant's PTSD mitigated applicant's intoxication while on duty, however, the applicant's failure to maintain positive control of assigned weapon, wrongfully and recklessly manned a .50 caliber machine gun while intoxicated on a mounted combat patrol, conduct likely to cause death or grievous bodily harm to the members of that patrol is not mitigated or excused by applicant's PTSD, combat fatigue or sanity as there is not a nexus between them.

**(3)** The applicant contends the DD Form 214 reads "member has not contributed to the GI Bill" though the applicant's paystubs say otherwise. 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 regarding this matter. A DD Form 149 may be obtained from a Veterans' Service Organization.

**(4)** The applicant contends current homelessness and the need for help.

(5) The applicant contends homelessness, a need for help and an upgrade of the discharge would allow veterans benefits. 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.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of 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 of all the evidence before the Board, the applicant's PTSD, schizophrenia, and schizoaffective disorder did not excuse or mitigate the offenses of failure to maintain positive control of assigned weapon, wrongfully and recklessly manned a .50 caliber machine gun while intoxicated on a mounted combat patrol, conduct likely to cause death or grievous bodily harm to the members of that patrol. 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 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.

(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:**

1/17/2024

**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