

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 29 September 2020
- b. **Date Received:** 13 October 2020
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is general (under honorable conditions). The applicant requests a change to their reentry code.

(2) The applicant seeks relief stating they were charged with driving under the influence (DUI) in March 2015. They know the severity of such action and sincerely apologize for it. They didn't anticipate the great length their higher command would go to, to end their career. They only had the one incident of misconduct in their 8 years of outstanding service as evidence by their Noncommissioned Officer Evaluation Reports (NCOERs).

(3) According to Army Regulation 600-200, separation for one occurrence of DUI is not required but it is an option for the command. This is looked as if the Soldier has other misconduct in the past or is generally a mediocre performer (chapter 14-12c). Even though the administrative separation board was supposed to evaluate their record, they didn't even allow their character witnesses to testify. Due to their DUI, they received a general officer memorandum of reprimand (GOMOR) and nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice (UCMJ) with a reduction in rank/grade from staff sergeant/E-6 to sergeant/E-5 and a reentry code of 3, in addition to civilian court punishment. They love the Army and with the Board's help they would love an opportunity to be reinstated.

b. Board Type and Decision: In a records review conducted on 31 January 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's post service-connected combat-related PTSD mitigates the basis of separation (failed a field sobriety test) and the applicant's in-service mitigating factors (length, quality, and combat) warrant a change to the narrative reason for separation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and change to the separation authority to AR 635-200, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reentry code was proper and equitable and voted not to change it.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct, (Serious Offense) / Army Regulation 635-200, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 23 October 2018

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 11 April 2018

(2) Basis for Separation: on or about 10 March 2018, failed a field sobriety test, and a breathalyzer test detected blood alcohol content of 0.18-percent

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

(4) Legal Consultation Date: 17 April 2018

(5) Administrative Separation Board: On 14 September 2018, the administrative separation board convened, and the applicant appeared with counsel. The board recommended the applicant's discharge with characterization of service of general (under honorable conditions).

(6) Separation Decision Date / Characterization: 19 September 2018 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 25 August 2017 / 2 years

b. Age at Enlistment / Education / GT Score: 29 / one semester of College / 108

c. Highest Grade Achieved / MOS / Total Service: E-6 / 11B2V, Infantryman / 8 years, 5 months, 18 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Romania, Turkey, Germany, SWA / Iraq (25 May 2011 – 27 November 2011, 31 January 2016 – 24 May 2016)

f. Awards and Decorations: ARCOM-3, AAM-4, AGCM-2, NDSM, GWTEM, GWTSM, ICM-CS, NCOPDR-2, ASR, OSR-2, IRCM-CS

g. Performance Ratings: 1 July 2014 – 30 June 2015 / Among the Best
1 July 2015 – 6 October 2015 / Among the Best
7 October 2015 – 5 October 2016 / Qualified
6 October 2016 – 6 January 2018 / Highly Qualified
7 January 2018 – 29 October 2018 / Not Qualified

h. Disciplinary Action(s) / Evidentiary Record:

(1) A Military Police Desk Blotter, dated 10 March 2018, reflects the applicant as the named subject with the offenses of Aggravated Driving While Intoxicated and Obstructing Intersection. The case narrative states the state police observed the applicant's vehicle obstructing an intersection. A traffic stop was initiated, and they were identified as the operator of the vehicle. An odor of an alcoholic beverage was detected emanating from their breath. They were administered a Standardized Field Sobriety Test, which they failed. They submitted a Breathalyzer Test, which resulted in a 0.18-percent BAC.

(2) A DA Form 4856 (Developmental Counseling Form), dated 11 March 2018, reflects the applicant received event-oriented counseling for driving under the influence. The key points of discussion states the brigade has a zero tolerance policy on Driving Under the Influence and the applicant may have a hearing because of their time and grade. The 0.18-percent BAC is over twice the state legal limit. The Plan of Action consisted of instructions to the applicant to

complete pre-chapter process, start preparing defense for Trial Defense Services appointment and reading for Article 15/Chapter, make appointments at Army Substance Abuse Program for Command Referral and enrollment in Substance Use Disorder Clinical Care program, and stop drinking alcohol. The applicant agreed with the information and signed the form.

(3) A memorandum, Headquarters, Fort Drum, subject: GOMOR, dated 5 April 2018, reflects the applicant was reprimanded for driving an automobile while under the influence of alcohol. On or about 10 March 2018, the state police observed the applicant's vehicle was obstructing an intersection and initiated a traffic stop. The police identified them as the operator and detected an alcoholic odor emanating from their breath. They were administered a standardized field sobriety test, which they failed, and a breathalyzer test showed that the applicant's blood alcohol content was 0.18-percent. The commanding general states as a leader in the U.S. Army, the applicant is aware that the Army has consistently warned of the dangers concerning driving after consuming alcohol. Their conduct is inconsistent with the behavior, character traits, and values expected of an U.S. Army leader. The applicant has brought discredit to themselves, their unit, and the U.S. Army.

(4) A memorandum, Headquarters and Headquarters Company, 1st Battalion, 32nd Infantry Regiment, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, (Commission of Serious Offense) [Applicant], 11 April 2018, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense with a recommended characterization of service of general (under honorable conditions) for on 10 March 2018, the police observed their vehicle stopped in the middle of an intersection. The police approached their vehicle where they appeared slumped over the steering wheel. They failed a field sobriety test, and a breathalyzer test detected a BAC of 0.18-percent. On the same day the applicant acknowledged the basis for the separation and of the right available to them.

(5) On 17 April 2018, the applicant completed their election of rights signing they had been advised by counsel of the basis for their separation and its effects and of the rights available to them. They elected for consideration of their case by an administrative separation board with a personal appearance.

(6) In the applicant's chain of command recommendations, dated 18 April 2018 and 30 April 2018, they checked "Does not demonstrate potential for future service and I recommend the reprimand be filed in [Applicant's] AMHRR.

(a) The applicant's first sergeant states "[Applicant] did not show the responsibility or leadership ability needed to be a leader in the U.S. Army when [applicant] made the decision to get behind the wheel intoxicated."

(b) The applicant's company commander states "[Applicant] is expected to live and enforce the Army standard as a noncommissioned officer."

(c) The battalion command sergeant major states "[Applicant] is not only a staff sergeant but a leader. At the time was the senior leader for the scout platoon. [Applicant] is also ranger qualified. As a leader and ranger, of all Soldiers [Applicant] knew better than to get behind the wheel."

(d) The battalion commander states "Unacceptable behavior, in-discipline and a complete disregard for his responsibility as an NCO/Leader/Mentor and example for junior officers and Soldiers."

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210006375

(7) In the applicant's memorandum, GOMOR, Rebuttal – [Applicant], dated 9 May 2018, the applicant states, they respectfully request the GOMOR not be filed permanently in their Army Military Human Resource Record (AMHRR) but filed locally. They accept full responsibility for their actions and acknowledge their behavior in question was not in line with the Army Values. They deeply regret they ever made the decision to drive rather than an alternative means available. They continue to attest to their military career, accomplishments, and their outstanding evaluations.

(8) On 16 May 2018, the GOMOR issuing authority, having reviewed the applicant's case file, the GOMOR, the filing recommendations of the applicant's chain of command, and the applicant's rebuttal, directed the GOMOR be placed permanently in the applicant's AMHRR.

(9) A DA Form 2627 (Record of Proceedings under Article 15, UCMJ), dated 29 May 2018, reflects the applicant received nonjudicial punishment for on or about 11 March 2018, with the intent to deceive, made an official statement, to wit: [applicant] were coming from Planet Fitness and going home" or words to that effect, which statement was totally false, and was then known by [applicant] to be false. Their punishment consisted of a reduction in rank/grade from staff sergeant/E-6 to sergeant/E-5 and an oral reprimand. The applicant elected not to appeal.

(10) A memorandum, Headquarters and Headquarters Company, 1st Battalion, 32nd Infantry Regiment, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, (Commission of Serious Offense) [Applicant], 29 May 2018, the applicant's company commander notified the applicant of additional misconduct, which will be considered by the separation authority as part of their separate under the provisions of Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, for –

(a) On or about 10 March 2018, they lied to a State Trooper by saying they were coming from Planet Fitness and going home and the only thing they had to drink was pre-workout mix before going to the gym.

(b) On or about 9 May 2018, they lied to the commanding general by saying they regret making the decision to drive themselves to the gym rather than alternative means including calling for a taxi, Uber or asking a friend for a ride when they knew they were impaired.

(11) A memorandum, Headquarters, 2nd Battalion, 2nd Infantry Regiment, subject: Notification to Appear Before Board of Officers, Separation under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, [Applicant], dated 27 August 2018, the applicant was notified of their administrative separation board will convene on 14 September 2018, to determine whether [applicant] should be discharged for Commission of a Serious Offense before the expiration of their term of service. The matter being investigated is the allegation the applicant, did, at or near Watertown, NY, on or about 10 March 2018, physically control a vehicle, to wit: a passenger car while intoxicated with a BAC of 0.18-percent. The board president states they will endeavor to arrange for the presence of any reasonably available and necessary witnesses whom the applicant may desire to call, upon written request from them for such action.

(12) On 14 September 2018, the Administrative Separation Board carefully considered the evidence before it and –

(a) Finds that on or about 10 March 2018, the New York State Police observed the applicant's vehicle stopped in the middle of an intersection. The police approached the vehicle, where the applicant appeared slumped over the wheel and identified him as the operator. The applicant failed a field sobriety test, and a breathalyzer test detected a BAC of 0.18-percent.

The findings warrant separation for commission of a serious offense, separation for discreditable involvement with civil authorities, separation for discreditable conduct and conduct prejudicial to good order and discipline including violating the accepted standards or personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army, and warrants separation for disciplinary infractions.

(b) Recommends the applicant be separated from the U.S. Army before the expiration of their current term of service under the Provisions of Army Regulation 635-200, Chapter 14-12c, for a Commission of a Serious Offense. The board further recommends the applicant receive an Under Other Than Honorable Conditions discharge.

(13) A memorandum, Headquarters, 1st Brigade Combat Team, 10th Mountain Division (Light Infantry), subject: Legal Review of Administrative Separation Board Proceedings under Army Regulation 635-200, Chapter 14-12, Commission of a Serious Offense, [Applicant], dated 19 September 2018, the brigade judge advocate, having reviewed the Administrative Separation Board proceedings found the proceedings legally sufficient to support the board's recommendation to involuntarily separate the applicant.

(14) A memorandum, Headquarters, 1st Brigade Combat Team, 10th Mountain Division (Light Infantry), subject: Separation Under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 19 September 2018, the separation authority, having reviewed the applicant's separation packet, directed that the applicant be separated from the Army prior to the expiration of current term of service. The commanding general directed the applicant's service be characterized as General (Under Honorable Conditions).

(15) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 23 October 2018 and shows in:

- item 4a (Grade, Rate or Rank) – Sergeant
- item 4b (Pay Grade) – E-5
- item 12c (Net Active Service This Period) – 8 years, 5 months, 18 days
- item 12f (Effective Date of Pay Grade) – 4 June 2018
- item 18 (Remarks) – in part,
 - Member has Completed First Term of Service
 - CONTINUOUS HONORABLE ACTIVE SERVICE 20100506 – 20150728
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 25 (Separation Authority) – Army Regulation 635-200, Paragraph 14-12c
- item 26 (Separation Code) – JKQ [Misconduct, Commission of a Serious Offense]
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Misconduct, (Serious Offense)

(16) A DA Form 2166-9-1 (Noncommission Officer Evaluation Report), covering the period 7 January 2018 through 29 October 2018, reflects the applicant's Relief for Cause evaluation filed in their AMHRR performance folder.

(a) Part IVc (Intellect) shows the rater marked "Did Not Meet Standard" and commented, in part "made a bad decision and was cited for driving under the influence."

(b) Part IVf (Leads) shows the rater marked "Did Not Meet Standard" and commented, in part, "set a bade example for Soldiers in the battalion through bad decision making; resulted in being arrested."

(c) Part V (Senior Rater Overall Potential) shows the senior rater rated the applicant's as "Not Qualified" and commented "NCO has great potential but exhibited poor judgement by driving while intoxicated. Recommend retain at current rank and hold all school opportunities."

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

j. **Behavioral Health Condition(s):** None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Three NCO Evaluation Forms
- Prime for Life Certificate
- Enlisted Record Brief
- DD Form 369 (Police Record Check)
- Justice Court, Certificate of Disposition
- two 3rd Party Statement
- DD Form 214

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

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

a. Title 10, U.S. Code, Section 1553, (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, Title 10 U.S. Code, Section 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 (DoD) 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; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 19 December 2016, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) 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.

(2) 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.

(3) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. 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. Paragraph 14-12c (Commission of a Service Offense), stated 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.

(5) Chapter 15 (Secretarial Plenary Authority), currently in effect, provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

e. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) governs the program and identifies Army policy on alcohol and other drug abuse, and responsibilities. The ASAP is a command program that emphasizes readiness and personal responsibility. The ultimate decision regarding separation or retention of abusers is the responsibility of the Soldier's chain of command. Abuse of alcohol or the use of illicit drugs by military personnel is inconsistent with Army values and the standards of performance, discipline, and readiness necessary to accomplish the Army's mission. Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement.

f. 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 14-12c, misconduct (serious offense).

g. 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 DoD Instruction 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:

(1) RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

(2) RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. The available evidence provides the applicant received a GOMOR for Driving Under the Influence and nonjudicial punishment for violating Article 107 (False Official Statements), UCMJ. A review of the available evidence provides the applicant appeared before an Administrative Separation Board, which determined the applicant be involuntarily separated. The DD Form 214 provides the applicant was discharged with a character of service of general (under honorable conditions) for misconduct, (serious offense). They completed 8 years, 5 months, and 18 days of net active service this period; however, they only completed 1 year, 1 month and 21 days of their 6-year contractual reenlistment obligation.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. 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.

d. Published DoD guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

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'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 diagnosis: the applicant was an offender of IPV in service, post-service, he is service connected for combat related PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The IPV was reported in service, one-time FAP case.

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

separation is solely substance related and the nexus between trauma and substance use, the basis is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's PTSD outweighed the DUI basis for separation for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant contends they were charged with driving under the influence (DUI) in March 2015. They know the severity of such action and sincerely apologize for it. The Board members considered this contention and based on the nexus between PTSD and substance abuse voted to grant relief.

(2) The applicant contends they only had the one incident of misconduct in their 8 years of outstanding service as evidence by their NCOERs. The Board considered this contention and voted to grant relief based on the applicant's PTSD mitigating the DUI.

(3) The applicant contends even though the administrative separation board was supposed to evaluate their record, they didn't even allow their character witnesses to testify. The Board considered this contention and voted to grant relief based on the applicant's PTSD mitigating the DUI.

c. The Board determined the discharge is inequitable based on the applicant's post service-connected combat-related PTSD mitigates the basis of separation (failed a field sobriety test) and the applicant's in-service mitigating factors (length, quality, and combat) warrant a change to the narrative reason for separation. The Board determined these factors of length, quality of service and combat service outweighed the non-basis of separation misconduct of one-time IPV offense. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reentry code was proper and equitable and voted not to change it.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD outweighed the applicant's misconduct of DUI. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

(3) The RE code will not change, as the Board determined the current code is proper and equitable.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200

Authenticating Official:

2/8/2024



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