

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 25 January 2021
- b. **Date Received:** 2 February 2021
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant Requests:** The current characterization of service for the period under review is General (Under Honorable Conditions). The applicant requests an upgrade to Honorable.

b. **Applicant Contention(s)/Issue(s):** The applicant did not present any issues of propriety or equity for the Board's consideration but states the upgrade is requested for the use of veteran's benefits to attend school.

c. **Board Type and Decision:** In a records review conducted on 30 April 2025 and by a 5-0 vote, the board determined the discharge is inequitable based on the applicant's IPV experience outweighed the basis for separation (DUI). Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to honorable, changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The board voted not to change the RE-3 code based on the medical records confirming IPV and trauma. Please see Board Discussion and Determination section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

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

b. **Date of Discharge:** 20 November 2019

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 1 November 2019

(2) **Basis for Separation:** The applicant was informed of the following reasons: On or about 22 September 2019, the applicant was arrested by an El Paso Police Officer for driving while intoxicated after the applicant straddled lanes on a two-way lane. The applicant failed a standardized field sobriety test. A breathalyzer test confirmed the applicant's blood alcohol content to be 0.137 in violation of the Uniform Code of Military Justice and Texas Penal Code.

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

(4) **Legal Consultation Date:** 5 November 2019

(5) **Administrative Separation Board:** NA

(6) **Separation Decision Date / Characterization:** 12 November 2019 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 17 March 2017 / 3 years, 26 weeks

b. **Date / Period of Reenlistment(s):** NA

c. **Age at Enlistment / Education / GT Score:** 24 / HS Graduate / 112

d. **Highest Grade Achieved / MOS / Total Service:** E-3 / 91F10, Small Arms/ Artillery Specialist / 2 years, 7 months, 18 days

e. **Prior Service / Characterizations:** NA

f. **Overseas Service / Combat Service:** None

g. **Awards and Decorations:** NDSM, ASR

h. **Performance Ratings:** NA

i. **Disciplinary Action(s) / Evidentiary Record:**

(1) Report of Mental Status Evaluation (MSE), 15 October 2019, reflects the applicant could understand and participate in administrative proceedings and could appreciate the difference between right and wrong.

(2) General Officer Memorandum of Reprimand (GOMOR), 30 October 2019, the applicant was reprimanded for being apprehended for driving while intoxicated after the applicant failed to maintain lane and failed to signal while changing lanes. The applicant had bloodshot eyes, slurred speech, and smelled like alcohol. The applicant failed a standardized field sobriety test. A breathalyzer test confirmed the applicant's blood alcohol content to be .137 in violation of the UCMJ and Texas Penal Code.

(3) GOMOR, 25 June 2019, the applicant was reprimanded for engaging in an inappropriate, intimate relationship with CW3 N.H., a married man who was not the applicant's husband.

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

k. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See "**Board Discussion and Determination**" for Medical Advisor Details.

(1) **Applicant provided:** None

(2) **AMHRR provided:** None

5. APPLICANT-PROVIDED EVIDENCE: 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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. Army Regulation 15-180 (Army Discharge Review Board), dated 25 September 2019, 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.

f. 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. It states:

(a) 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.

(b) 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.

(2) 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. 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, states 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.

(3) Chapter 15 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. If Secretarial Authority is granted normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

8. SUMMARY OF FACT(S): Standard of Review. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. 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.

b. The applicant was separated under the provisions of Army Regulation 635-200, Chapter 14-12c, due to Misconduct (Serious Offense), with a General (Under Honorable Conditions) discharge, and RE Code of '3.' The applicant completed 2 years, 7 months, and 18 days of a 3 years, 26 weeks enlistment.

c. The applicant did not present any issues of propriety or equity for the Board's consideration but states an upgrade is requested for the purpose of using veteran's benefits to attend school.

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 diagnoses/experiences: Adjustment Disorder and victim of IPV/MST.

(2) Did the condition exist, or experience occur during military service? **Yes.** Adjustment Disorder and victim of IPV/MST.

(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 nexus between trauma and substance use, the basis is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** The Board concurred with the opinion of the Board's Medical Advisor, a voting member. As a result, the ADRB applied liberal consideration and found that the applicant's IPV/MST outweighed the DUI basis for separation for the aforementioned reason(s).

b. Response to Contention(s): The applicant did not present any issues of propriety or equity for the Board's consideration but states an upgrade is requested for the purpose of using veteran's benefits to attend school. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's IPV outweighing the applicant's DUI basis for separation.

c. The board determined the discharge is inequitable based on the applicant's IPV experience outweighed the basis for separation (DUI). Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to honorable, changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The board voted not to change the RE-3 code based on the medical records confirming IPV and trauma

d. Rationale for Decision:

(1) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the applicant's petition, available records and any supporting documents included with the petition.

(2) The board voted to change the applicant's characterization of service to honorable because the applicant's IPV experience outweighed the basis for separation (DUI). Thus, the prior characterization is no longer appropriate.

(3) The board voted to change the reason for discharge to Secretarial Authority under the same rationale, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JFF.

(4) The RE code will not change, as the mitigating experience is also service-limiting.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: Secretarial Authority / JFF
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200, Chapter 15

Authenticating Official:

9/22/2025

