

1. Applicant's Name: [REDACTED]

a. **Application Date:** 20 November 2020

b. **Date Received:** 23 November 2020

c. **Counsel:** None

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

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

(1) The applicant seeks relief contending, they served in the United States Army from January 2004 – February 2014 and was separated for misconduct (drug abuse); however, they are requesting their character of service be upgrade to an Honorable and their narrative changed due to their PTSD (Posttraumatic Stress Disorder). They were diagnosed with PTSD before the flag was initiated and several doctors wrote letters to inform their leadership of how their PTSD led them to an addiction. Their medical history is parallel to the supporting reasons for their 70% PTSD service-connection.

(2) They are a veteran of the Iraq War and served as a leader in the Army Honorably. Over their career, they have struggled with bouts of depression, anxiety, and PTSD disorder. They developed lower back pain early in their career and needed treatments, which included pain medication prescribed by the Army. Later, they became highly addicted to these medications to mask their feelings of PTSD, Anxiety, and Depression. Before the applicant knew it, they were in a leadership position and felt as if they would lose their career, if they brought their addiction to light.

(3) At the time, they had no idea the symptoms were PTSD and they were only attempting to escape their issues through the medications. They were not being honest with themselves as an addict nor anyone else. Now, they regret not asking for the help they needed because they lost their career. Their NCOERS reflect their character, performance, and Honorable service. Leaders, peers, and doctors wrote the attached letters for their separation in support of their character, which were not taken into consideration. They provide a better scope of the applicant's PTSD and service. They have additionally provided their Veteran Affairs (VA) and court documents, which displayed their continued struggle with PTSD.

(4) As a part of the separation process, a mental status evaluation was conducted by behavioral health officially diagnosed them with PTSD before their separation but was still cleared for separation. Unfortunately, by that time, it was too late to address the root cause of their addictions and their career was over. After ten years of Honorable service, the applicant cleared the post and their unit and was escorted to the gate and told they were not allowed back on post for a minimum of two years. The ending of their career affected them drastically and the transition for the applicant, as a Soldier into society as a civilian was difficult because of their PTSD and severe Depression and they developed a mistrust of people due to the nature of their Army career separation. They learned through their chapter that many of the leaders, peers, and/or Soldiers that the applicant would have died with honor for in war, would not even write them a letter of character for their case to remain in the service. Fortunately, several stepped forward and spoke to the applicant's character as a leader and Soldier.

(5) Since their separation, they have learned to distance from people, places, and things that were not supportive of their sobriety, which has brought them to the reality of facing their PTSD and depression, as well as the reality of the nature of their separation. Unfortunately, they lost their career and the character of their service has loomed over their head. Disappointments come from expectations and the applicant expected to be a career Soldier. Serving was something the applicant was very proud of and it made them feel as if they were a part of something bigger than themselves. Their characterization of service has prevented them from moving forward and has kept them from feeling proud of their service. On Veterans Day, they question their service and whether or not, the applicant should feel proud. Further, it prevents them from trusting others, including veterans. This mistrust and embarrassment has kept them from working in veteran groups to help with their PTSD. They have felt embarrassed to even tell other veterans about their separation for substance abuse. The most significant reason to upgrade their characterization, would be for their peace of mind. They are requesting a review of the documents be considered, as they were overlooked during their separation. The leadership made an example out of the applicant due to the nature of their leadership role and the basis of their offense.

b. Board Type and Decision: In a records review conducted on 19 February 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's PTSD mitigating the applicant's misconduct - wrongful use of oxymorphone. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's Behavioral Health (BH) diagnosis warranting consideration prior to reentry of military service.

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 (Drug Abuse) / AR 635-200, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 11 February 2014

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 25 November 2013

(2) **Basis for Separation:** The applicant wrongfully used oxymorphone.

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

(4) **Legal Consultation Date:** On 2 November 2013, the applicant elected to consult with legal; however, the record is void of the acknowledgement from defense counsel.

(5) **Administrative Separation Board:** On 2 November 2013, the applicant waived their right for their case to be considered by the board.

(6) **Separation Decision Date / Characterization:** 14 January 2014 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 8 November 2012 / 6 years (2nd Reenlistment)

b. Age at Enlistment / Education / GT Score: 30 / Some College / 98

c. Highest Grade Achieved / MOS / Total Service: E-6 (SSG) / AH-64 Attack Helicopter Repairer / 10 years, 15 days

d. Prior Service / Characterizations:

- Regular Army (RA) / 27 January 2004 – 12 February 2008 / Honorable
- RA / 13 February 2008 – 7 November 2012 / Honorable

e. Overseas Service / Combat Service: SWA / Iraq (6 June 2007 – 18 August 2008) / 1 year, 2 months, 13 days

(1) SWA / Iraq (14 March 2010 – 28 February 2011) / 11 months, 15 days

(2) Germany / None (21 August 2004 – 2 December 2008) / 4 years, 3 months, 12 days (concurrent service)

f. Awards and Decorations:

- Army Commendation Medal (3rd Award)
- Army Achievement Medal (2nd Award)
- Meritorious Unit Commendation (2nd Award)
- Valorous Unit Award
- Army Good Conduct Medal (3rd Award)
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal w/Campaign Star (3rd Award)
- Army Service Ribbon
- Overseas Service Ribbon (2nd Award)
- Basic Aviation Badge
- Driver and Mechanic Badge – Mechanic

g. Performance Ratings: SGT (1 August 2008 – 5 December 2010) / Among the Best

(1) SSG (6 December 2010 – 25 August 2011) Among the Best

(2) SSG (26 August 2011 – 1 March 2012) / Fully Capable

(3) SSG (2 March 2012 – 1 March 2013) / Among the Best

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 8 November 2012, the applicant completed their second reenlistment for 6 years as a staff sergeant, SSG (E-6), with 8 years, 9 months, and 11 days of prior active service. The Enlisted Record Brief provides in a previous enlistment, the applicant served two tours in Iraq with a combined 26 months of service (2007-2008 and 2010-2011); on 26 July 2013, they were flagged, Suspend Favorable Personnel Actions (FLAG), for drug abuse adverse action (UA);

and on 4 November 2013, for involuntary separation (BA).

(2) On 5 July 2013, The Army Substance Abuse Program (ASAP) Coordinator, informed the command of the applicant's positive urinalysis for oxymorphone and provided the required actions IAW AR 600-85, such as notifying local CID, refer the Soldier to Behavioral Health for evaluation/assessment within five duty days; initiating their FLAG; and to comply with regulatory guidance AR 635-200.

(3) On 17 October 2013, the applicant accepted nonjudicial punishment in violation of Article 112a, UCMJ (wrongful use of a schedule II substance), for having wrongfully used oxymorphone on or about 23 – 26 June 2013. They did not appeal and their punishment imposed a reduction to sergeant (E-5); forfeiture of \$723 pay per month for two months; \$723 pay, suspended, to be automatically remitted if not vacated before 17 November 2013; extra duty for 45 days; and restriction to the limits of company area, dining/medical facility, and place of worship for 45 days, suspended, to be automatically remitted, if not vacated before 15 April 2014.

(4) On 23 and 29 October 2013, the applicant completed a separation physical exam at IACH, Fort Riley, KS, which indicated diagnoses of Degenerative Joint Disease, lumbar spine, with a history of PTSD and substance abuse. They were medically prescribed Suboxone, Prazosin, and Hydroxyzine. The provider qualified them for separation and recommended the applicant follow up with their primary care manager and dental as needed.

(5) On 25 November 2013, the battalion commander notified the applicant of their intent to initiate separation proceedings under the provisions of AR 635-200, Chapter 14-12c (2), Misconduct (Drug Abuse), for illegal oxymorphone use. They recommended a General (Under Honorable Conditions) characterization of service, in which the brigade commander concurred with. The applicant acknowledged receipt of their separation notice. They elected to waive their right to an administrative separation board and although the applicant elected to consult with legal and elected to provide a statement (summarized below), defense counsel's acknowledgement is not in the record.

(a) In a self-authored rebuttal to their separation, the applicant provided they have been on prescription pain medicine for a lower back injury incurred in 2005 and eventually developed an addiction over the years, which became a way to cope with their PTSD symptoms. Although the applicant understood that there was no excuse for their behavior, they have deep regret for not having the fortitude to ask for help. At the time, they were working with BH to seek counseling for PTSD, as they still struggle with reoccurring nightmares and social withdrawal. Further, they have successfully completed an inpatient treatment program in efforts to overcome the pain medication addiction and on that day, remained sober.

(b) As a NCO, they have excelled in their career, serving in positions of greater responsibilities and leadership. Even though they have faced a setback, the applicant refused to allow them to define who they were as a Soldier and a leader. If they were unable to be retained for future service, the applicant requested an Honorable discharge, as they have served for a decade without any administrative actions or flags until this occurrence. They have served in numerous contingency operations (Operations Iraqi Freedom, Enduring Freedom, and New Dawn) and have been repeatedly decorated during their service in honor of their performance. Throughout their career, they have continuously set the example, excelled above their peers, and completed the missions at hand.

(6) On 14 January 2014, the separation authority approved the discharge, with a General (Under Honorable Conditions) characterization of service. On 30 January 2014, their

orders were issued and later amended. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects that the applicant was discharged accordingly, on 11 February 2014, with a total of 10 years and 2 months of total service. They provided their electronic signature and has completed their first full term of service.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s): PTSD, Opioid Dependence

(1) Applicant provided: A VA Rating Decision, dated 5 June 2015, the applicant was granted a 70% service-connected disability rating for PTSD, with Major Depressive Disorder, Recurrent (claimed as PTSD, Insomnia, and Memory Loss). Additionally, they were granted individual unemployability as they were unable to secure or follow a substantially gainful occupation, which resulted from their service-connected disabilities.

(a) On 9 March 2018, the State Superior Court involuntarily committed the applicant for mental health treatment pursuant to chapter 71.05 RCW (Revised Code of Washington) and prohibited them from firearm access, until later restored by a court of record. If involuntary treatment beyond the 14-day period or beyond the 90 days of less restrictive treatment was to be sought, the applicant should have had the right to a full hearing or jury trial as required by law.

(2) AMHRR Listed: On 19 September 2013, the Chief of Addiction Medicine at Fort Belvoir Residential Treatment Facility provided a summary letter and opined that the applicant should be retained for future service and further recommended the continuance BH over the course of the next year to assist them in coping with probable PTSD symptoms. During their enrollment, personal situations that the applicant had kept hidden deep inside were uncovered. Therapy has shown them tools and methods of how to deal with personal issues, rather than through medication. It is their belief that the program has educated and empowered the applicant to deal with personal situations, rather than hiding them through the use of medication. The staff review identified deep conviction to helping others through their personal experience. The applicant's respect toward others was supportive with their peers in the program and demonstrated exceptional leadership skills while on the unit.

(a) On 27 September 2013, the clinical psychologist, PsyD, documented the applicant's BH prognosis, which indicated a history of significant substance abuse that has interfered with duty to a point of administrative action against them. The applicant has suffered from PTSD for years and it is assumed their substance abuse was a means of tolerating anxiety and stress. Although this does not excuse their substance abuse or their subsequent behaviors, it should be taken into consideration that many Soldiers like the applicant, attempt to "self-treat" with substances for similar issues.

- **Course of Treatment:** The applicant presented as being highly motivated for change and based on their report and observations, they would have been a good candidate for treatment of PTSD, which would have involved twelve to sixteen weekly sessions in a group or individual format. This treatment has been found to significantly decrease these types of issues exhibited by the servicemember.
- **Prognosis:** They reported having attended AA/NA meetings daily, maintained their sobriety, to remained in compliance with ASAP requirements. It was likely that if the applicant was treated, they would significantly improve, which would decrease the likelihood of future substance abuse, because the cause

for abuse would have been treated. The PsyD opined that the applicant had potential for rehabilitation and retention from a psychiatric standpoint.

(b) On 23 October 2013, the applicant completed a mental status evaluation at IACH (Irwin Army Community Hospital), Fort Riley, KS and was diagnosed with PTSD and Opioid Dependence. The BH provider psychologically cleared them for full duty, as the applicant could understand and participate in administrative proceedings, could appreciate the difference between right and wrong, and met medical retention requirements (i.e., does not qualify for a Medical Evaluation Board). Additionally, their PTSD and Mild Traumatic Brain Injury (TBI) and were both positive: **PTSD scored 4/4** and **Mild scored TBI 6/10**. They recommended the applicant's adherence to the Suboxone Clinic instructions regarding their medications and referred the applicant to the TBI clinic for further evaluation.

(c) On 2 December 2013, the clinical psychologist, PsyD, revealed the applicant was receiving treatment for PTSD. The associated emotional and psychological pain of PTSD was the primary factor that led them to drug use, which was used to numb them from emotional pain; however, the applicant had been an open and motivated participant in their therapy. The applicant had continued to express their love and dedication to the Army and their fervent desire to continue their career, and the PsyD therefore, requested the applicant's retention in the Army.

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty; Medical and Behavioral Health Records; Partial Separation Package; VA Rating Decision; Seven Character Letters

a. Their significant other contends the applicant was a great parent/partner and lives with PTSD, anxiety, insomnia, memory loss, night terrors and other issues. The applicant twitches, talks screams, and walks in their sleep (when they do sleep), often waking up in the middle of the night crying and then would completely shut down. They can become unapproachable at times, stuck in the past years when they served in the military; sees the negativity in everything, and will seldom have anything positive to say. It puts a strain on their relationship, their family, and the applicant's work ethic. The applicant has not been able to overcome their experiences while in the military and is destructive for everything in their path if the applicant is unable to cope with their past history.

b. Former leadership and colleagues provided the following contentions: the applicant took the step to admit they had a problem, completed treatment, made a complete turn for the better and with resiliency, they could have made a full recovery and could have become a wiser NCO.

c. The applicant has always proved themselves to be an outstanding and knowledgeable Operations NCOIC. Their expertise has contributed to the success of multiple operations throughout the battalion such as the BN FTX, CAB, 11D community events, and several training events, in preparation for deployment to Afghanistan. In understanding the applicant's action was unbecoming, the U.S. Army at the time, had been at war for over a decade with hundreds and maybe thousands of Soldiers like the applicant, who had dealt with medical treatment, through pain medications, which are addictive in nature.

d. The applicant exemplified leadership, promoted, volunteered to help the kid's basketball team in the community, which helped them achieve second place in the European championships and the kids looked up to them. They were dependable, responsible, honest, and courteous. Their peers looked up to the applicant and came to the applicant for guidance and leadership when they needed to see what "right" looked like.

e. The reduction and forfeiture should be waived and SFC concluded the extra duty would have been the most appropriate punishment. Upon picking the applicant up from training, their counselor expressed that the medication used to deal with physical pain led to them using them to hide personal trauma situations. Their previous history of prescriptions could have signaled a pattern of use and ultimately may have led to them being helped sooner. They recommended the applicant be retained. They had been counseled for poor attendance and their demeanor on the job has suffered throughout. It appeared as if fatigue and overall stress was overtaking them, which caused great concern for their safety and for the safety of the team while on the job.

f. Their current employer documented the struggles the applicant has had while working as a maintenance technician role and their training shined through with their performance on maintaining tasks – machines were repaired at first onset, their ability to be trained and the retention of the training was evident in their lack of reluctance to troubleshoot and repair any issue on a machine.

g. A coworker contends working close with the applicant at UPU Industry and is aware of their PTSD struggles, which has often affected their job performance, to the point that the plant and production managers have considered replacing the applicant. The applicant had missed more and more days and rating them unemployable for the severity of their illnesses, would give them the opportunity to address the issues that they have been avoiding solely because they are attempting to maintain their job.

6. POST SERVICE ACCOMPLISHMENTS: They are receiving treatment from the VA and is rated 70% service-connected for PTSD.

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), 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.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 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) Chapter 3 provides 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.

(a) 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.

(b) An Under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain

circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(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. 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.

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 "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14-12c (2), Misconduct (Drug Abuse).

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:

(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 waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaiverable 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.

g. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) provided a comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers for ASAP services. 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. All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

(1) 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. ASAP participation is mandatory for all Soldiers who are command referred. Failure to attend a mandatory counseling session may constitute a violation of Article 86 (Absence Without Leave) of the UCMJ.

(2) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(3) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(4) All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

h. Manual for Courts-Martial (2012 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good orders and discipline in the Armed Forces. Article 112a (wrongful use of a schedule I, II, III controlled substance) states in the subparagraph, the maximum punishment consists of a dishonorable discharge, forfeiture of all pay and allowances, and confinement for five years.

i. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered, medically unfitting

for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

8. SUMMARY OF FACT(S): 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 and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. A review of the available evidence provides the applicant completed their second reenlistment as a SSG, with 8 years, 9 months, and 11 days of prior active service, which included an overseas tour in Germany and two deployments to Iraq, totaling 26 months in 2007-2008 and 2010-2011. They served this period a total of 8 months and 18 days prior to the misconduct which led to their involuntary separation.

(1) Two and a half years, post redeployment, the applicant received NJP for having wrongfully used oxymorphone, in violation of Article 112a, UCMJ (wrongful use of schedule II substance) and was consequently reduced to SGT. Separation proceedings were initiated under the provisions of AR 635-200, Chapter 14-12c (2), Misconduct (Drug Abuse), with a General (Under Honorable Conditions) characterization of service.

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 Department of Defense 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 diagnoses/experiences: Variations of Adjustment Disorder, Panic Disorder, Anxiety Disorder NOS, PTSD, Alcohol Dependence, Opioid Dependence, and Benzodiazepine Abuse.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found variations of Adjustment Disorder, Panic Disorder, Anxiety Disorder NOS, PTSD, Alcohol Dependence, Opioid Dependence, and Benzodiazepine Abuse.

(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 trauma occurred prior to the misconduct, and nexus between trauma and substance use, the basis for separation, wrongfully used oxymorphone, 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 Adjustment Disorder, Panic Disorder, Anxiety Disorder NOS, PTSD, Alcohol Dependence, Opioid Dependence, and Benzodiazepine Abuse outweighed the applicant's misconduct - wrongful use of oxymorphone.

b. Response to Contention(s): The applicant did not make any contentions. The Board reviewed all available evidence and determined that relief was warranted. The Board 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 characterization of service was inequitable based on the applicant's PTSD mitigating the applicant's misconduct - wrongful use of oxymorphone. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to the applicant's BH diagnosis warranting consideration prior to reentry of military service. The applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

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

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code as the reason the applicant was discharged was both proper and equitable.

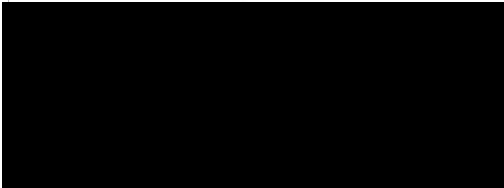
(3) The RE code will not change due to applicant's BH diagnoses warranting consideration prior to reentry of military service.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214:** Yes
- b. Change Characterization to:** Honorable
- c. Change Reason / SPD Code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** No Change

Authenticating Official:

4/18/2025



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