

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 9 November 2020
- b. **Date Received:** 9 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.

The applicant seeks relief contending, in effect, the unit had been trying to medically separate the applicant due to ongoing medical issues. The applicant was a burden to the unit and could not deploy. The unit was attempting to transfer the applicant to the wounded warrior unit. The applicant was going to medical and psychiatric appointments on a weekly basis. The unit began bullying the applicant about not deploying which led to the applicant having a breakdown making it easy to discharge the applicant.

a. **Board Type and Decision:** In a records review conducted on 19 January 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the circumstances surrounding the discharge (MST and IPV experiences and in service PTSD diagnosis) as well as length of time in service. 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, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The reentry eligibility (RE) code remains 4.

b. *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:** Alcohol Rehabilitation Failure / AR 635-200 / Chapter 9 / JPD / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 18 April 2011

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 30 March 2011

(2) **Basis for Separation:** The applicant was informed of the following reasons: the applicant participated unsatisfactorily in treatment while enrolled in the Army Substance Abuse Program (ASAP). The applicant failed to adhere to ASAP policies and guidelines by failing to refrain from the usage of alcohol while enrolled in ASAP. On 17 February 2011, the rehabilitation treatment team considered the applicant a rehabilitation failure.

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

(4) **Legal Consultation Date:** The applicant waived the right to consult with counsel on 31 March 2011.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 4 April 2011 / General (Under Honorable conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 12 August 2008 / 4 years

b. Age at Enlistment / Education / GT Score: 19 / HS Graduate /106

c. Highest Grade Achieved / MOS / Total Service: E-4 / 31B10, Military Police / 2 years, 8 months, 7 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea /None

f. Awards and Decorations: NDSM, GWOTSM, KDSM, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Memorandum, subject: Synopsis of Rehabilitation Efforts of [Applicant], 18 February 2011, reflects, in part, the applicant was command referred to the Fort Drum ASP on 15 November 2010 after becoming belligerent and resistant to efforts made to assist the applicant while under the influence of alcohol. On 13 December 2010, the applicant was screened and met criteria for alcohol abuse. On 21 January 2011, another rehabilitation Team Meeting was held, and the applicant was enrolled in ASAP. On 14 February 2011, a command consultation was held with the applicant's commander who advised the applicant was found drunk over the weekend and was involved in another alcohol related incident where the applicant was belligerent and unwilling to follow direction. On 17 February 2011, a second meeting was held, and the applicant was declared a rehabilitation failure by the commander and was to be discharged as a rehabilitation failure from ASAP.

(2) CG Article 15, 15 March 2011, reflects on 13 February 2011, the applicant was disrespectful towards a noncommissioned officer; was disrespectful in language towards a noncommissioned officer; was drunk and disorderly which conduct was of a nature to bring discredit upon the armed forces; wrongfully communicated a threat to another servicemember; and wrongfully use provoking word. The punishment consisted of reduction to private/E-1; forfeiture of \$342 pay per month for one month; extra duty and restriction for 14 days.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: The applicant provides Clinical Record, 10 March 2010, which reflects an in-service diagnosis. The applicant also provides evidence from the Department of Veteran Affairs (VA) which reflects the applicant has an 80-percent combined service-connected evaluation with 50-percent for PTSD.

(2) AMHRR Listed: NIF

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, Letter from the Department of Veteran Affairs (VA), Disabilities List, DD Form 214, College Acceptance Letter, College Transcripts, Letter of Academic Performance, Authorization for Disclosure of Medical or Dental Information, Clinical Record, Limits of Confidentiality, Medical Records.

6. POST SERVICE ACCOMPLISHMENTS: The applicant provides evidence of college attendance.

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 provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Chapter 9 outlines the procedures for discharging individuals because of alcohol or other drug abuse. A member who has been referred to ASAP for alcohol or drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical. Army policy states that an honorable or general, under honorable conditions discharge is authorized depending on the applicant's overall record of service. However, an honorable discharge is required if limited use information is used in the discharge process. Paragraph 9-4 stipulates the service of Soldiers discharged under this section will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required. An honorable discharge is mandated in any case in which the Government initially introduces into the final discharge process limited use evidence as defined by AR 600-85.

(5) 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.

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

The applicant requests an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends the unit had been trying to medically separate the applicant due to ongoing medical issues and was trying to transfer the applicant to the wounded warrior unit. The evidence reflects the applicant was discharge due to unsatisfactory participation in ASAP.

The applicant contends, in effect, the applicant was going to medical and psychiatric appoints on a weekly basis. The unit began bullying the applicant about not deploying which led to the applicant having a breakdown making it easy to discharge the applicant. The applicant provides Clinical Record, 10 March 2010, which reflects an in-service diagnosis. The applicant also provides evidence from VA which reflects the applicant has an 80-percent combined service-connected evaluation with 50-percent for PTSD.

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: the applicant was diagnosed in-service with PTSD secondary to a Korean MST. Post-service, the applicant is service connected for PTSD due to MST and confirmed victim of IPV by active-duty husband whom she was dating while in-service.

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant was diagnosed in-service with PTSD secondary to a Korean MST. She was dating another service member who was later confirmed to be abusing her, IPV.

(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, MST/IPV, and substance use, the basis for separation is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that the in-service diagnosis with PTSD secondary to a Korean MST and IPV experiences outweighed the basis of separation.

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) The applicant contends the unit had been trying to medically separate the applicant due to ongoing medical issues and was trying to transfer the applicant to the wounded warrior unit. 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 PTSD due to MST/IPV fully outweighing the applicant's basis for separation, Alcohol Rehabilitation Failure.

(2) The applicant contends the applicant was going to medical and psychiatric appointments on a weekly basis. The unit began bullying the applicant about not deploying which led to the applicant having a breakdown making it easy to discharge the applicant. 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 PTSD due to MST/IPV fully outweighing the applicant's basis for separation, Alcohol Rehabilitation Failure.

d. The Board determined the discharge is inequitable based on the circumstances surrounding the discharge (MST and IPV experiences and in service PTSD diagnosis) as well as length of time in service. 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, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The reentry eligibility (RE) code remains 4.

e. Rationale for Decision:

(1) The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of an in-service mitigating factor (Length), to include post service accomplishments, and concurred with the conclusion of the medical advising official that the applicant's PTSD due to MST/IPV experiences does mitigate the applicant's unsatisfactory participation in the ASAP. Based on a preponderance of evidence, the Board determined that the reason for the applicant's separation and the character of service the applicant received upon separation were inequitable.

(2) The Board voted to upgrade the discharge with a Character of Honorable and a narrative Reason of Secretarial Authority with a corresponding separation code to JFF.

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

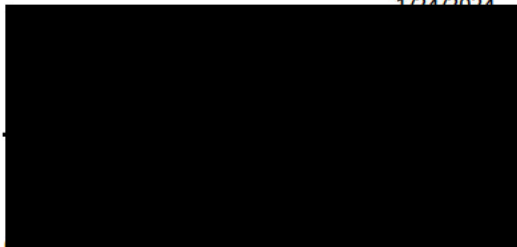
AR20210008365

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

Authenticating Official:

1/24/2024



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