

**1. Applicant's Name:** [REDACTED]

a. **Application Date:** 10 May 2021

b. **Date Received:** 18 May 2021

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 under honorable conditions (general). The applicant requests an upgrade to honorable and a narrative reason change.

(1) The applicant states in effect, they were wrongfully charged with attempted murder and assault with a firearm of three Fayetteville police officers who were sent to check on them after they called the suicide hotline. They were wrongfully incarcerated for three years, and the charges were later dropped. They received a general discharge and since all the charges have been dropped, they are requesting an honorable discharge.

(2) They were a guest at service members home while they were seeking housing as they had just arrived from Germany. One night the male soldier snuck into the room and started performing unwanted oral sex on the applicant while they were sleeping. The applicant immediately pushed them off, and the soldier left the room, since the incident the applicant started to isolate and drink heavily to numb the feelings that made them question their masculinity. Their drinking led to depression, and they were anxious around other people and soldiers; thinking they knew what happened. They started reporting to late work and missing formations due to their suspicions, they started having suicidal thoughts and January of the following year they were going to take their life, but they called the suicide prevention hotline. Instead of receiving help they were arrested, they spent three years protesting their innocence while incarcerated unjustly until all their charges were dropped.

b. **Board Type and Decision:** In a records review conducted on 11 December 2024, and by a 5-0 vote, the board determined the discharge is inequitable based on the applicant's PTSD due to MST experiences outweighing the applicant's misconduct (DUI). 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 board determined the RE code was proper and equitable and voted not to change it

*Please see Section 9 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

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

b. **Date of Discharge:** 30 October 2017

**c. Separation Facts:**

- (1) Date of Notification of Intent to Separate:** 15 June 2017
- (2) Basis for Separation:** On 20 November 2016 the applicant wrongfully operated a vehicle while intoxicated.
- (3) Recommended Characterization:** General, under honorable conditions.
- (4) Legal Consultation Date:** 25 August 2017
- (5) Administrative Separation Board:** N/A
- (6) Separation Decision Date / Characterization:** 21 September 2017 / GD

**4. SERVICE DETAILS:**

- a. Date / Period of Enlistment:** 21 March 2016 / 2 years.
- b. Age at Enlistment / Education / GT Score:** 25 / bachelor's degree / 106
- c. Highest Grade Achieved / MOS / Total Service:** E-5 / 35F2P Intelligence Analyst / 4 years, 1 month, 23 days.
- d. Prior Service / Characterizations:** RA; 20121114 – 20160320 / Concurrent Service
- e. Overseas Service / Combat Service:** Germany / None
- f. Awards and Decorations:** AAM, AGCM, NDSM, GWTSM, NCOPDR, ASR, OSR
- g. Performance Ratings:** 20160501 – 20171030; Not Qualified
- h. Disciplinary Action(s) / Evidentiary Record:**
  - (1)** A Cumberland County Sheriff's incident report indicates the applicant was arrested and charged with DWI on 20 November 2016.
  - (2)** A Developmental Counseling form indicates the applicant as counseled on 21 November 2016. They were flagged for involuntary separation due to being apprehended by the Sheriff Department on 19 November 2016 for operating a motor vehicle while impaired, they refused to submit a BAC.
  - (3)** On 1 December 2016 the applicant received a General Officer Memorandum of Reprimand for driving under the influence of alcohol. On 20 November 2016 they were stopped by police for failure to maintain their lane. The officer noticed an open container of alcohol and administered a field sobriety test. The applicant refused the intoxilyzer test.
  - (4)** Personnel Action Document provides that the applicant's duty status changed from present for duty (PDY) to Civilian Confinement on 7 January 2017.
  - (5)** On 15 June 2017 the applicant's immediate commander notified them of their intent to separate them for commission of a serious offense. The commander recommended a

General (under honorable conditions) characterization of service. The applicant acknowledged the commander's notification and basis for separation, they consulted with counsel and completed their election of rights.

(6) The chain of command endorsed and concurred with the commander's discharge recommendation and on 21 September 2021 the appropriate authority approved the separation and directed a General, under honorable conditions characterization of service.

- First Sergeant remarks: "soldier member has been toxic to the organization. Recommend not to retain."
- Company Commander remarks: "soldier member currently confined due to multiple legal and behavioral health issues, has no potential to serve. "

i. **Lost Time / Mode of Return:** Confinement; 20170107 – 20171030 / None.

j. **Behavioral Health Condition(s):** MST, Depression

(1) **Applicant provided:** The applicant did not provide any medical documentation.

(2) **AMHRR Listed:** Alcohol abuse.

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 149 (Correction Military Record), one page statement, DD Form 214, State of North Carolina consent order, State of North Carolina petition and order of expunction provides the driving while impaired charge (20161120) was expunged, a news article from fayobserver.com, and two letters of recommendation in support of their petition.

6. **POST SERVICE ACCOMPLISHMENTS:** None submitted in support of their application.

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

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

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.

(1) 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 provides the authorized types of characterization of service or description of separation.

(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) 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.

(4) Except as otherwise indicated in this regulation, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and, therefore, should be separated. In this regard, commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings for the following reasons. Rehabilitative requirements are not required for individuals separated under Chapter 14-12c.

- Involuntary separation due to parenthood
- Personality disorder
- Other designated physical or mental conditions
- Entry-level performance and conduct
- Unsatisfactory performance
- Minor disciplinary infractions or a pattern of misconduct
- Failure to meet body fat standards

(5) 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 subject to this discharge under this regulation will be considered and processed for discharge even though he/she has filed an appeal or has stated his/her intention to do so. 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.

(6) 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 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. It provides 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 missions.

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 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 DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

- RE-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
- 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
- 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

**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. The applicant's DD-214 provides that the applicant received a General (under honorable conditions) characterization of service, rather than an under other than honorable conditions (UOTHC) discharge which is normally considered appropriate for a soldier discharged for serious misconduct.

**b.** Based on the available evidence the applicant enlisted in the army at the age of 25, they reenlisted on 21 March 2016 and advanced to the rank of sergeant. Roughly six months after they reenlisted, they were apprehended for driving while intoxicated. The applicant received a GOMOR, and they were processed for administrative separation while in civilian confinement.

**c.** The applicant was notified of the intent to separate them for commission of a serious offense, they acknowledged they understood the basis for separation under the provisions AR 635-200, CH 14-12c, they consulted with counsel and the appropriate authority approved the separation. A DD Form 214 indicates they were discharged under the provisions of AR 635-200, CH 14-12c, by reason of misconduct (Serious Offense) with a general, under honorable conditions characterization of service on 30 October 2017.

**d.** Chapter 14 establishes policy and prescribes procedures for members being separated 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.

e. 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: PTSD, MST.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for PTSD due to MST establishes nexus with active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has two mitigating BH conditions/experiences: PTSD and MST. As there is an association between PTSD, MST and self-medication with alcohol, there is a nexus between these conditions/experiences and his arrest for DUI.

(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 PTSD related to MST outweighed the applicant wrongfully operated a vehicle while intoxicated.

b. Response to Contention(s):

(1) The applicant contends their charges were dropped after they received a general discharge. The board considered this contention, and ultimately did not address it due to an upgrade being granted.

(2) The applicant contends MST caused them to drink heavily. The board considered this contention, and ultimately did not address it due to an upgrade being granted.

c. The board determined the discharge is inequitable based on the in service factors of length and quality of service and PTSD due to MST outweighing the applicant misconduct (wrongfully operated a vehicle while intoxicated).

d. Rationale for Decision:

(1) The board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD due to MST mitigated the applicant's misconduct of wrongfully operating a vehicle while intoxicated. Thus, the prior characterization is no longer appropriate.

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

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

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214 / Separation Order: 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:**

3/19/2025

**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