

1. Applicant's Name:

- a. **Application Date:** 18 January 2021
- b. **Date Received:** 22 January 2021
- c. **Counsel:** Yes

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

(1) The current characterization of service for the period under review is honorable. The applicant requests a change of the narrative reason for separation, separation code, and reentry code.

(2) The applicant, through counsel, seeks relief stating this request is made for reasons of propriety and equity. They served honorably and with distinction for more than 15 years. In May 2012, they were undergoing a turbulent time in their life after they had suspicious about their spouse's fidelity. On 6 May 2012, the local police were called to their residence due to their involvement in a domestic violence incident. They were detained by police and on 7 May 2012, they received a counseling statement, a no contact order, and was command referred to the Army Substance Abuse Program (ASAP). On 7 June 2012, the Family Advocacy Program investigation concluded they and their spouse were both abusers during the 6 May 2012 incident. Unfortunately, on 19 August 2012, they were arrested and charged with Driving Under the Influence (DUI) and on 25 October 2012, they received a general officer memorandum of reprimand (GOMOR). Subsequently, they were notified of administrative separation proceedings on 14 March 2013 for alcohol rehabilitation failure. They received an honorable discharged on 1 August 2013.

(3) They have been unjustly stigmatized because of the reason for separation and reentry code on their DD Form 214 (Certificate of Release or Discharge from Active Duty). A review of their service clearly and convincingly demonstrates they served with exceptional valor, punctuated with impressive awards and decorations, and combat service. They are haunted whenever they have to show their DD Form 214, having to explain why they were discharged after 15 years. Their command made an error in discretion by discharging them for alcohol rehabilitation failure without actually providing them a meaningful opportunity to address and overcome their alcohol abuse.

b. Board Type and Decision: In a records review conducted on 23 October 2024, and by a 5-0 vote, the board denied the request upon finding the separation was both proper and equitable.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Alcohol Rehabilitation Failure / Army Regulations 635-200, Chapter 9 / JPD / RE-4 / Honorable

b. Date of Discharge: 9 December 2013

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 14 March 2013

(2) Basis for Separation: The applicant was informed of the following reasons:

- failed to make satisfactory progress in the ASAP by having two referrals to ASAP within a 12-month period
- on 5 May 2012, involved in a domestic dispute while under the influence of alcohol
- on 19 August 2012, arrested for DUI

(3) Recommended Characterization: Honorable

(4) Legal Consultation Date: 19 March 2013

(5) Administrative Separation Board: On 29 March 2013, the applicant was notified to appear before an administrative separation board and advised of rights. On 4 June 2013, the administrative separation board convened, and the applicant appeared with counsel. The board recommended the applicant's discharge with characterization of service of honorable.

(6) Separation Decision Date / Characterization: 11 July 2013 / Honorable

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 16 October 2008 / Indefinite

b. Age at Enlistment / Education / GT Score: 36 / HS Graduate / 110

c. Highest Grade Achieved / MOS / Total Service: E-7 / 38B4L, Civil Affairs Specialist / 15 years, 8 months, 1 day

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Germany, Kosovo, SWA, Colombia / Kosovo (15 May 2000 – 5 December 2000), Iraq (10 May 2003 – 10 July 2004)

f. Awards and Decorations: ICM-2CS, MSM, ARCOM-3, AAM-4, PUC, ASUA, AGCM-4, NDSM, GWTEM, GWTSM, KCM, NCOPDR-3, ASR, OSR-3, NATOMDL, CIB

g. Performance Ratings: September 2001 – August 2002 / Fully Capable
September 2002 – August 2003 / Among the Best
September 2003 – March 2004 / Fully Capable
April 2004 – February 2005 / Fully Capable
March 2005 – 15 April 2009 / Among the Best
16 April 2009 – 11 May 2012 / Fully Capable
10 May 2012 – 10 November 2012 / Marginal

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DA Form 4856 (Developmental Counseling Form) dated 7 May 2012, reflects the applicant received event oriented counseling for Domestic Violence (Spouse Abuse, Uniform Code of Military Justice (UCMJ)) and Charged with Simple Assault (Civil). The Key Points of

Discussion states the applicant, on 6 May 2012 was arrested by civilian police for their involvement in a domestic violence (Spouse Abuse) incident. The applicant was issued a no contact order for their spouse and a no contact order of firearms. As a result of this incident the applicant and their spouse were charged with assault. The Plan of Action consisted of the applicant will see a conflict resolution/case worker, attend ASAP Command evaluation, see behavioral health counselor, obey no contact orders, and will be escorted to their house to retrieve life support items to live in on-post barracks. The applicant was advised that failure to comply with any of the above will result in additional punishment and potentially separation from the Army. The applicant agreed with the information and signed the form.

(2) A DA Form 8003 (ASAP Enrollment) dated 10 May 2012, reflects the applicant was Command referred to the ASAP for a comprehensive assessment to determine whether or not they meet the criteria for enrollment due to their 6 May 2012 arrest for Domestic Assault. The reason for the referral reflects an incident involving alcohol on 5 May 2012.

(3) Two memorandums, Womack Army Medical Center, subject: Command Notification of Family Advocacy Program Case Review Committee (CRC) Incident Determination and Treatment Plan for [Applicant] and Family Members, dated 7 June 2012, reflects the allegation was adult physical abuse. The CRC determined the incident met criterial for physical abuse. The abuser was identified as both the applicant and their spouse. The CRC recommendations consisted of ASAP evaluation/treatment, Anger Management Group, individual counseling, and for the Command to counsel the applicant on the CRC outcome and recommendations.

(4) A memorandum, Headquarters, U.S. Army Special Operations Command, Fort Bragg, subject Administrative Reprimand [GOMOR], dated 25 October 2012, reflects the applicant was reprimanded in writing for, on 19 August 2012, at 0229 hour, they were stopped by a deputy sheriff for impeding traffic by traveling 25 miles per hour in a 45 mile per hour zone. A subsequent Intoxilyzer test determined their breath alcohol content to be 0.12 grams per 210 liters.

(5) A DA Form 2166-8 (NCO Evaluation Report) covering the period 10 May 2012 through 10 November 2012, reflects in –

- Part IV (Army Values/Attributes/Skills/Actions- the applicant's rater marked "NO" to Duty, Honor, and Integrity, and commented –
 - "showed lack of integrity; poor example to subordinates
 - Failed to follow U.S. Army's Policy on safe motor vehicle operation
 - Recklessly displayed lack of principles, values, and behavior during rated period"
- Part IVb (Competence) – the applicant's rater checked "Needs Improvement (Much)" and commented "[applicant's] decision to drive while under the influence indicated poor judgement and constituted an absolute failure to discharge [applicant's] duties as an enlisted Soldier"
- Part IVd (Leadership) – the applicant's rater checked "Needs Improvement (Much)" and commented "displayed a total lack of leadership and a flagrant disregard for both the law and the safety of [applicant's] fellow Soldiers and the general public"
- Part IVf (Responsibility & Accountability) – the applicant's rater checked "Needs Improvement (Much)" and commented "demonstrated irrational decisions which questions [applicant's] reliability to be responsible enough to make the right decisions on and off duty"

- Rater Overall Performance – the applicant's rater marked "Marginal"
- Part Vc (Senior Rater – Overall Performance) – the applicant's senior rater marked "5 – Poor"
- Part Vd (Senior Rater – Overall Potential) – the applicant's senior rater marked "5 – Poor"
- Part V (Senior Rater Overall Potential) – the applicant's senior rater commented
 - "do not promote
 - allowed the pressure of family issues to affect [applicant's] judgement in making the right decision and ultimately hindered [applicant's] potential future as a U.S. Soldier
 - continuously halted daily operations due to [applicant's] personal issues; ultimately having others to increase their workload to accomplish the mission'

(6) A memorandum, Headquarters, U.S. Army Garrison, Fort Bragg, subject: Summary of Rehabilitation Efforts for [Applicant], dated 13 November 2012, the licensed clinical psychologist states –

(a) The applicant was screened by ASAP on 24 August 2012, as a driving while intoxicated referral for a second time in less than 5 weeks. The applicant was previously enrolled in ASAP on 10 May 2012 for alcohol abuse and successfully completed the ASAP treatment on 17 July 2012.

(b) In consultation with Command at the initial Rehabilitation Team Meeting on 30 August 2012, it was determined they applicant failed to achieve satisfactory progress for having two referrals to ASAP within a 12-month period, making them not retainable in the Army.

(7) A memorandum, Headquarters and Headquarters Company, 98th Civil Affairs Battalion (Airborne), subject: Separation under Army Regulation 635-200, Chapter 9, Alcohol or Other Abuse Rehabilitation Failure, [Applicant], dated 14 March 2013, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Chapter 9, Alcohol or Other Drug Abuse Rehabilitation Failure; with a recommended characterization of service of honorable. On the same day, the applicant acknowledged receipt of separation notice and of the rights available to them.

(8) On 19 March 2013, the applicant completed their election of rights signing they understand that they are entitled to an administrative separation board because they have 6 years or more of active and reserve service at the time of notification of separation. They have been given time to confer with counsel and request a personal appearance before an administrative separation board, appointment of military counsel for representation and elect to submit statements on their own behalf. [Note: statements in their behalf are not in evidence for review.]

(9) A memorandum, Headquarters and Headquarters Company, 98th Civil Affairs Battalion (Airborne), subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Chapter 9, Alcohol or Other Drug Abuse Rehabilitation Failure, [Applicant], dated 28 March 2013, the applicant's company commander submitted a request to separate them from the Army prior to their expiration of their current term of service. The company commander states –

(a) The applicant has received counseling on six separate occasions. For rehabilitation attempts, the applicant was command-referred to ASAP on 7 May 2012 and on

30 August 2012. They were also transferred to a different unit on 11 May 2012. Report of mental status evaluation or psychiatric report are not applicable for this chapter.

(b) They do not consider it feasible or appropriate to accomplish other disposition as the applicant had an alcohol related event that occurred within 12 months of completion of ASAP; this identifies them as a rehabilitation failure, and separation must be initiated. It is their recommendation that the applicant be separated with an Honorable Discharge. In August 2012, based on their NCO Evaluation Report, they would have recommended the applicant be retained in order for them to continue to serve and to retire with honor as a sergeant first class.

(c) However, due to a continued display of immaturity in their personal life, and erratic bouts of disrespect toward senior NCOs and professional life, they do not recommend the applicant be retained. Soldier in the U.S. Army. The actions they have seen since August 2012 show a professional/personal immaturity that is not becoming of a sergeant first class in the U.S. Army, let alone as a special operations forces NCO. The applicant has served honorable and has made mistakes; however, their past service, performance, and deployments merit an Honorable Discharge.

(d) As a result of the applicant's failure of rehabilitation through ASAP, it is clear that they have no potential for useful service under conditions of full mobilization and is therefore ineligible for transfer into the Individual Ready Reserve Program.

(10) A memorandum, Headquarters, 98th Civil Affairs Battalion, 95th Civil Affairs Brigade (Airborne), subject: Separation under Army Regulation 635-200, Chapter 9, Alcohol or Other Abuse Rehabilitation Failure, [Applicant], dated 14 March 2013, the applicant's battalion commander, after careful consideration of all matters recommended the applicant be separated from the U.S. Army prior to the expiration of their current term of service. The battalion commander recommended the applicant's service be characterized as General (Under Honorable Conditions).

(11) A memorandum, Headquarters and Headquarters Company, 98th Civil Affairs Battalion (Airborne), subject: Notification to Appear Before Board of Officers, Separation under Army Regulation 635-200, Chapter 9, Alcohol or Other Abuse Rehabilitation Failure, [Applicant], dated 29 March 2013, reflects the applicant received notification that a Board of Officers will convene to determine whether they should be discharged for Alcohol or Drug Abuse Rehabilitation Failure before the expiration of their term of service.

(12) A DA Form 1574 (Report of Proceedings by Investigating Officer/Board of Officers) dated 4 June 2013, reflects the Board of Officers, having carefully considered the evidence, found by a preponderance of the evidence: the applicant was enrolled in the ASAP in May 2012. The applicant failed to successfully complete that program by engaging in serious alcohol-related misconduct within 12 months following the course. The applicant lacks potential for continued Army service, and rehabilitation efforts are no longer practical. The Board of Officers, in view of the above findings, recommend the applicant be discharged from the service with the issuance of an Honorable Discharge Certificate.

(13) A memorandum, Headquarters and Headquarters Company, 98th Civil Affairs Battalion (Airborne), subject: Legal Review of the Administrative Separation Packet and Board of [Applicant], dated 9 July 2013, the Brigade Judge Advocate, after conducting a legal review of the applicant's separation packet found that it is legally sufficient. There are no substantial errors in the packet, there is sufficient evidence to support the separation, and the recommendations are consistent with the findings.

(14) A memorandum, Headquarters, 95th Civil Affairs Brigade (Airborne), subject: Separation under Army Regulation 635-200, Chapter 9, Alcohol or Other Abuse Rehabilitation Failure, [Applicant], dated 11 July 2013, the separation authority having carefully considered the separation packet and recommendations of the chain of command that the applicant be considered for separation from the Army prior to the expiration of their current term of service. The separation authority directed the applicant be discharged with a characterization of service as honorable and is ineligible for transfer to the Individual Ready Reserve.

(15) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 9 December 2013, with 15 years, 8 months, and 1 day of net active service this period. The DD Form 214 shows in –

- item 24 (Character of Service) –Honorable
- item 26 (Separation Code) – JPD
- item 27 (Reentry Code) – 4
- item 28 (Narrative Reason for Separation) – Alcohol Rehabilitation Failure

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s): None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Counsel's Brief in Support of Application for Discharge Upgrade, with excerpt from applicant's consisting –
 - DD Form 214
 - GOMOR, with supporting documents
 - Case Files for Approved Separations
 - Enlisted Record Brief
 - NCO Evaluation Reports

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

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

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

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

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board) sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Title 10, U.S. Code, Section 1553; and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 6 September 2011, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) An Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and

performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(2) A General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

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

(4) Chapter 9 (Alcohol or Other Drug Abuse Rehabilitation Failure) outlines the procedures for discharging individuals because of alcohol or other drug abuse. A member who has been referred to the Army Substance Abuse Program (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.

(5) Paragraph 9-4 (Characterization 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.

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

e. Army Regulation 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 "JPD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, for alcohol rehabilitation failure

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 DoD Instructions 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)) governs the program and identifies Army policy on alcohol and other drug abuse, and responsibilities. The ASAP is a command program that emphasizes readiness and personal responsibility. The ultimate decision regarding separation or retention of abusers is the responsibility of the Soldier's chain of command. Abuse of alcohol or the use of illicit drugs by military personnel is inconsistent with Army values and the standards of performance, discipline, and readiness necessary to accomplish the Army's mission. Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement. Paragraph 8-13 (Rehabilitation Progress) stated the unit commander, in consultation with the other members of the rehabilitation team, determines rehabilitation progress using the following factors: conduct, duty performance, and relationship with co-workers; further incidents of alcohol or other drug abuse; and motivation to overcome alcohol or other drug abuse problems. If the unit commander determines the conduct, duty performance, and progress are unsatisfactory, and that further rehabilitation efforts cannot be justified, they will initiate a discharge from military Service. ASAP counseling service will be provided until the Soldier is separated. Referral to Department of Veterans Affairs services will be offered.

h. Manual for Courts-Martial, United States (2012 Edition) stated, 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 order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following Article 111 (Drunk or Reckless Operation of Vehicle, Aircraft, or Vessel) and Article 134 (Drunkenness).

8. SUMMARY OF FACT(S):

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

b. A review of the available evidence provides the applicant was identified by the SUDCC and their command as an Alcohol or Other Drug Abuse Rehabilitation Failure and involuntarily separated from the Army. The applicant's DD Form 214 indicates their discharge under the provisions of Army Regulation 635-200, chapter 9, by reason of Alcohol Rehabilitation Failure, with a characterization of service of general (under honorable conditions). The applicant completed 2 years and 9 months of net active service this period and did not complete their first full term of service.

c. Chapter 9 (Alcohol or Other Drug Abuse Rehabilitation Failure) outlines the procedures for discharging individuals because of alcohol or other drug abuse. A member who has been referred to the Army Substance Abuse Program (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.

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 diagnosis: the applicant was diagnosed in-service with an Adjustment Disorder with Anxious Mood. The applicant had multiple FAP cases for spousal and child abuse as perpetrator.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant was diagnosed in-service with an Adjustment Disorder with Anxious Mood. The applicant had multiple FAP cases for spousal and child abuse as perpetrator.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that difficulty adjusting to stressors does not impair an individual's ability to make conscious choices, know right from wrong, and understand consequences.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the Board's application of liberal consideration, the Board determined the applicant's medical diagnosis does not outweigh applicant's basis for separation (failed to make satisfactory progress in ASAP by having two referrals to ASAP in a 12-month period, involved in a domestic dispute while under the influence of alcohol, and arrested for DUI).

b. Response to Contention(s):

(1) The applicant contends this request is made for reasons of propriety and equity. They served honorably and with distinction for more than 15 years. The Board considered this contention and noted the applicant's length and quality of service. However, the Board concurred with the Board's Medical Advisor, a voting member, that despite applying liberal consideration of all the evidence before the Board, the applicant's medical diagnosis did not excuse or mitigate the applicant's basis for separation.

(2) The applicant contends they have been unjustly stigmatized because of the reason for separation and reentry code on their DD Form 214. They are haunted whenever they have to show their DD Form 214, having to explain why they were discharged after 15 years. The Board considered this contention, however after reviewing the applicant's military records, the Board determined the SPD and RE Codes were proper and equitable for the discharge, as specified by regulatory guidance.

(3) The applicant contends a review of their service clearly and convincingly demonstrates they served with exceptional valor, punctuated with impressive awards and decorations, and combat service. The Board considered the applicant's 15 years of service, including one combat tour in Iraq and the numerous awards received by the applicant, however

the Board determined that these factors did not outweigh the applicant's multiple FAP cases for spousal and child abuse as perpetrator. Additionally, the Board noted the applicant's basis for separation included multiple acts of misconduct.

(4) The applicant contends their command made an error in discretion by discharging them for alcohol rehabilitation failure without actually providing them a meaningful opportunity to address and overcome their alcohol abuse. The Board considered this contention and the applicant's assertion of inequity, however the Board there was no evidence in the file that proved the discharge was inequitable. The applicant did not provide supporting documentation to prove the contention.

d. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. However, the applicant may request a personal appearance hearing to address the 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

e. Rationale for Decision:

(1) The Board voted not to change the characterization of service, as it is currently Honorable.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code because, despite applying liberal consideration of all the evidence before the Board, the available evidence did not support a conclusion that the applicant's Adjustment Disorder with Anxious Mood outweighed the basis for separation (failed to make satisfactory progress in ASAP by having two referrals to ASAP in a 12-month period, involved in a domestic dispute while under the influence of alcohol, and arrested for DUI). As such, the reason the applicant was discharged was both proper and equitable.

(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:** No
- b. Change Characterization to:** No Change
- c. Change Reason / SPD code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** No Change

Authenticating Official:

11/6/2024

X

Presiding Officer, COL, U.S. ARMY
Army Discharge Review Board

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