

1. Applicant's Name:

a. Application Date: 17 March 2021

b. Date Received: 5 April 2021

c. Counsel: None

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

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

b. The applicant seeks relief contending, when they were discharged, they were under a great amount of stress between school, COVID-19, family issues, and problems with the Army, which made them feel like they needed a way out of their problems permanently. The applicant realized that would not solve their problems and has been working on ways to fix those problems, by exercising more, staying away from all forms of negativity which makes them feel worthless, and working at focusing on the positive. They have been continuing their education, while staying away from trouble. The applicant participates in a Christian church and when they experience depressive thoughts, they pray and talk with people who cheer them up. Their main concern now, is getting their career off the ground and having support from the military would help greatly.

c. Board Type and Decision: In a records review conducted on 4 September 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

Please see Board Discussion and Determination of this document for more detail regarding the Board's decision.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Alcohol or Other Substance Abuse Rehabilitation Failure / NGR 600-200, Chapter 8-35h / NIF / NIF / General (Under Honorable Conditions)

b. Date of Discharge: 30 June 2020

c. Separation Facts:

(1) Date of Notification of Intent to Separate: NIF

(2) Basis for Separation: NIF

(3) Recommended Characterization: NIF

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: NIF

4. SERVICE DETAILS:

- a. Date / Period of Enlistment:** 21 July 2017 / 6 years
- b. Age at Enlistment / Education / GT Score:** 21 / Associate's Degree / 117
- c. Highest Grade Achieved / MOS / Total Service:** PFC / 11B10 Infantryman / 2 years, 7 months, 23 days
- d. Prior Service / Characterizations:** IADT, 8 November 2017 – 9 March 2018 / Honorable (Concurrent Service)
- e. Overseas Service / Combat Service:** None
- f. Awards and Decorations:** COA [missing from DD Form 214], NDSM, ASR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:**

(1) On 21 July 2017, the applicant enlisted in the Army National Guard for 6 years as a PVT (E-1). A DD Form 214 (Certificate of Release of Discharge from Active Duty) provides the period of service between 8 November 2017 – 9 March 2018, with the following listed:

- Authority: AR 635-200, Chapter 4
- Narrative: Release from Active Duty Training
- SPD Code: MBK
- Reentry Code: RE-1
- Service Characterization: Honorable
- Total NET Active Service this Period: 4 months, 2 days
- Remarks: Member has completed first full term of service.
- Lost Time: None
- Signature: Electronically signed.

(2) A National Guard Report of Separation and Record of Service, reflects their period of service between 21 July 2017 – 30 June 2020, including their active duty time listed above. They were not available to sign as the remarks notes, "Soldier was discharged without personal notice due to constructive notification by the Office of the Adjutant General."

- Authority: NGR 600-200, 8-35h
- Narrative: Alcohol or Other Substance Abuse Rehabilitation Failure
- Reentry Code: RE-3
- Service Characterization: General (Under Honorable Conditions)
- Total NET Service this Period: 2 years, 11 months, 10 days

(3) On 17 July 2020, their separation orders were issued under the provisions of National Guard Bureau 600-200, indicating they were involuntary separated effective 20 July 2020.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Army Certificate of Achievement; Two Basic Training Completion Certificates

6. POST SERVICE ACCOMPLISHMENTS: None submitted with this 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].

(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 135-178 (Enlisted Administrative Separations) sets forth the policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard and USAR enlisted Soldiers for a variety of reasons. The separation policies throughout the different Chapters in this regulation promote the readiness of the Army by providing an orderly means to judge the suitability of persons to serve on the basis of their conduct and their ability to meet required standards of duty performance and discipline. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, and convictions by civil authorities.

(1) The possible characterizations of service include an honorable, general (under honorable conditions), under other than honorable conditions, or uncharacterized if the Soldier is in entry-level status. However, the permissible range of characterization varies based on the reason for separation.

(2) The characterization is based upon the quality of the Soldier's service, including the reason for separation, and determined in accordance with standards of acceptable personal conduct and performance of duty as found in the UCMJ, Army regulations, and the time-honored customs and traditions of the Army. The reasons for separation, including the specific circumstances that form the basis for the discharge are considered on the issue of characterization.

(3) Chapter 13 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 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.

f. 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.

(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.

(2) 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.

(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.

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. A review of the AMHRR is void of the specific facts and circumstances concerning the events which led to their discharge from the ARNG. Their separation orders and a properly constituted NGB-22 provides they were involuntarily y separated under the provisions of NGR 600-200, Chapter 8-35h, Alcohol or

Other Substance Abuse Rehabilitation Failure, with a General (Under Honorable Conditions) characterization of service. They served nearly half of their six year contractual obligation.

b. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impeded 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? **No.** The Board's Medical Advisor reviewed DoD, and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused, or mitigated a discharge.

(2) Did the condition exist or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Prior Decisions Cited: None

c. Response to Contention: The applicant seeks relief contending, when they were discharged, they were under a great amount of stress between school, COVID-19, family issues, and problems with the Army, which made them feel like they needed a way out of their problems permanently. The applicant realized that would not solve their problems and has been working on ways to fix those problems, by exercising more, staying away from all forms of negatively which makes them feel worthless, and working at focusing on the positive. They have been continuing their education, while staying away from trouble. The applicant participates in a Christian church and when they experience depressive thoughts, they pray and talk with people who cheer them up. Their main concern now, is getting their career off the ground and having support from the military would help greatly. The Board acknowledged the applicant's contention that the applicant is working to improve their life. However, 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.

d. The Board determined that the discharge is, at this time, proper and equitable, in light of 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 applicant's characterization of service based on the following reasons. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found insufficient evidence of in-service mitigating factors and the applicant does not have a Behavioral Health condition that mitigates the applicant's misconduct of Alcohol or Other Substance Abuse Rehabilitation Failure. The Board members also stated the applicant did not provide sufficient evidence to consider an upgrade. Based on a preponderance of evidence, the Board determined the reason for the applicant's separation and the character of service the applicant received upon separation were proper and equitable.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, as 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:

9/17/2024

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