

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 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 the period under review is general, under honorable conditions. The applicant requests an upgrade to honorable.

The applicant states in effect, they are trying to better themselves since leaving the military. They have successfully completed a treatment program and would like their discharge upgraded so that they may take advantage of the VA education benefits. They want to pursue a career as a goal counselor so that they may help other veterans.

They were an amazing soldier, until they were not. SGT J continued to do counseling in their barracks room while only wearing underwear, which regularly made them feel weird. The SGT used their rank to feel their arms and shoulders and they were scared to tell anyone, which resulted in them being drunk on duty and later a DWI which led to their discharge. When they finally stood up for themselves they were chastised and sent to mental health which drove them deeper into drinking. MST and toxic leadership not only ruined their career, but it also ruined their marriage, their business, and their mind.

b. Board Type and Decision: In a records review conducted on 18 September 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD due to MST mitigating the applicant's Alcohol Rehabilitation Failure and DUI basis for separation. 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, paragraph 14-12a. Accordingly, the narrative reason for separation was changed to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to the applicant's BH diagnosis warranting consideration prior to reentry of military service.

Please see Section 9 Board Discussion and Determination 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: Drug Rehabilitation Failure / AR 635-200, Chapter 9 / JPC / RE- 4 / Under Honorable Conditions (General)

b. Date of Discharge: 4 October 2014**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 20 August 2013

(2) Basis for Separation: The applicant was arrested on 19 July 2013 for driving under the influence of alcohol within 12 months of successfully completing the Army Substance Abuse Program.

(3) Recommended Characterization: General, under honorable conditions.

(4) Legal Consultation Date: 21 August 2013

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: 3 September 2013 / General, under honorable conditions.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 1 May 2012 / 4 years.

b. Age at Enlistment / Education / GT Score: 20 / High School Diploma / 111

c. Highest Grade Achieved / MOS / Total Service: E-2 / 12W10 Carpentry and Masonry / 1 year, 5 months, 4 days.

d. Prior Service / Characterizations: None.

e. Overseas Service / Combat Service: Alaska / None.

f. Awards and Decorations: NDSM, ASR

g. Performance Ratings: N/A

h. Disciplinary Action(s) / Evidentiary Record:

(1) A Military Police Report document provides the applicant was arrested for driving under the influence of alcohol on 19 July 2013 their breath alcohol concentration (BAC) was .146.

(2) A Record of Proceedings UCMJ document signed 26 July 2013 provides the applicant received a NJP for violating Article 111 of the UCMJ; on 19 July 2013 they physically controlled a vehicle while drunk. Punishment consisted of forfeiture of \$758 pay for two months, extra duty and company restriction for 45 days.

(3) A memorandum, Army Support Activity, Joint Base Elmendorf-Richardson, Alaska subject: Summary of rehabilitation efforts dated 31 July 2013 provides the applicant was command referred to Army Substance Abuse Program (ASAP) on 22 February 2013 after a positive breathalyzer test while on duty. They were successfully released from ASAP on 15 May 2013, on 19 July 2013 they were arrested for DUI, and they were declared a rehabilitative failure after having an alcohol related incident within twelve months of successfully completing ASAP.

(4) On 20 August 2013 the applicant's immediate commander notified them of their intent to separate them for Alcohol or Drug Abuse Rehabilitation Failure, they 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.

(5) On 22 August 2013 the command endorsed and concurred with commander's discharge recommendation, and on 3 September 2013 the appropriate authority approved the separation and directed a General (under honorable conditions) characterization of service.

(6) On 13 September 2013 the applicant received a General Officer Memorandum of Reprimand for driving under the influence of alcohol.

(7) A Certificate of Release or Discharge from Active-Duty document (DD Form 214) provides on 4 October 2013 the applicant was discharged from the army, they completed 1 year, 5 months, and 4 days of their contractual obligation.

i. **Lost Time / Mode of Return:** None.

j. **Behavioral Health Condition(s):**

(1) **Applicant provided:** PTSD and MST; They did not submit documents to support their diagnoses.

(2) **AMHRR Listed:** Anxiety and depression

5. APPLICANT-PROVIDED EVIDENCE: A DD Form 293 (Discharge Review) application and written statement in support of their petition.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has successfully completed a treatment program.

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 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:

- 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 9 provides the authority and outlines the procedures for discharging Soldiers for alcohol or other drug abuse rehabilitation failure. Discharge is based upon alcohol or other drug abuse such as illegal, wrongful, or improper use of any controlled substance, alcohol, or other drugs when the soldier is enrolled in Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) or when the commander determines that further rehabilitation efforts are not practical, rendering the soldier a rehabilitation failure. This determination will be made in consultation with the rehabilitation team. When the commander determines that a soldier who has never been enrolled in ADAPCP lacks the potential for further useful service, the soldier will be screened per AR 600-85. If found non-dependent, the soldier will not be rehabilitated but will be considered for separation under other appropriate provisions of this regulation. Separations for alcohol abuse rehabilitation failure will be reported separately from separations for drug abuse rehabilitation failure. If separation is based on both, the primary basis will be used for reporting purposes.

(6) Paragraph 9-2 prescribes the basis for separation. A Soldier who is enrolled in the ADAPCP for alcohol/drug abuse may be separated because of their inability or refusal to participate in, cooperate in, or successfully complete such a program in one of the following circumstances:

- There is a lack of potential for continued Army service and rehabilitation efforts are no longer practical

- Long term rehabilitation is necessary, and the soldier is transferred to a civilian medical facility for rehabilitation

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. Individuals who do not self-refer for treatment and are subsequently identified as positive for controlled substances for which they do not have a valid prescription may be considered in violation of the UCMJ for drug misuse/abuse.

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 "JPC" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, Drug Rehabilitation Failure.

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 Form 214 provides the applicant received a General (under honorable conditions) characterization of service, which is normally considered appropriate for a soldier discharged for drug rehabilitation failure.

b. Based on the available evidence, the applicant enlisted in the army at the age of 20, with a four year active duty obligation. Ten months into their contractual obligation they were enrolled in the Army Substance Abuse Program due after they were under the influence of alcohol while on duty. They completed the program as a rehabilitation success on 15 May 2013. Two months after successfully completing the program, they were referred to ASAP after an on-post DUI. The applicant was processed for administrative separation after being designated a rehabilitative failure.

c. A review of the record provides the administrative process was properly followed according to regulation. The applicant was notified of the intent to separate them for rehabilitation failure. They acknowledged they understood the basis for separation under the provisions AR 635-200, CH 9. They consulted with counsel and did not submit a statement on their behalf. Rehabilitation attempts were made; the applicant successfully completed the Army Substance Abuse Program from 5 March 2013 – 15 May 2013 and within twelve months of successfully completing the program they had an alcohol related incident which declared them to be a rehabilitation failure.

d. Chapter 9 establishes policy and prescribes procedures for members being separated for alcohol or other drug abuse rehabilitation failure. 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. The separation authority will approve separation in cases processed without an administrative board if the documentation in the file indicates required rehabilitative efforts have been made, further rehabilitative efforts are not practical, rendering the soldier a rehabilitation failure, and the soldier's potential for fully effective service is substantially reduced by alcohol/drug abuse.

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: Alcohol Abuse; Adjustment DO with disturbance of emotions and conduct; Occupational Problem. VA medical records indicate the applicant is 100% service connected for PTSD. Applicant has also reported a history of Military Sexual Trauma (MST) to the VA.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection establishes applicant's PTSD began during active service. His history of MST is also related to military 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 a mitigating Behavioral Health condition, PTSD due to MST. As there is an association between PTSD, MST and use of alcohol as self-medication, there is a nexus between applicant's diagnoses of PTSD, MST and applicant's alcohol rehabilitation failure and failure to obey an order.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's PTSD due to MST outweighed the Alcohol Rehabilitation Failure and DUI basis for separation.

b. Response to Contention(s):

(1) The applicant contends trying to better oneself since leaving the military and being in a treatment program where the applicant has been successful with treatment. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade granted based on the applicant's PTSD due to MST, fully outweighing the applicant's Alcohol Rehabilitation Failure and DUI basis for separation.

(2) The applicant contends an upgrade would allow the applicant to take advantage of the VA education benefits so the applicant may pursue career goals as a counselor to help other veterans.

The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

c. The Board determined the discharge is inequitable based on the applicant's PTSD due to MST mitigating the applicant's Alcohol Rehabilitation Failure and DUI basis for separation. 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, paragraph 14-12a. Accordingly, the narrative reason for separation was changed to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD due to MST mitigated the applicant's misconduct of Alcohol Rehabilitation Failure and DUI. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same rationale, therefore the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

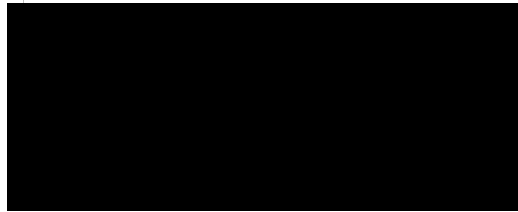
(3) The RE code will not change due to the applicant's BH diagnoses warranting consideration prior to reentry of military service.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214:** Yes
- b. Change Characterization to:** Honorable
- c. Change Reason / SPD Code to:** Misconduct (Minor Infractions)/JKN
- d. Change RE Code to:** No Change
- e. Change Authority to:** AR 635-200, paragraph 14-12a

Authenticating Official:

1/23/2025



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