

**1. Applicant's Name:**

- a. **Application Date:** 6 December 2020
- b. **Date Received:** 11 March 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.

The applicant seeks relief contending, in effect, the discharge was inequitable because it was based on an isolated event in 48 months of exemplary service with no adverse action. The isolated incident was related to behavioral health issues. The applicant was not allowed to complete therapy for the issues prior to the discharge. During and immediately after inpatient hospitalization the applicant was subjected to legal proceedings before completing any behavioral health or substance abuse programs. The applicant is unable to use any education benefits despite serving honorably for over 4 years.

b. **Board Type and Decision:** In a records review conducted on 13 January 2023, and by a 4-1 vote, the Board denied the request upon finding the separation was both proper and equitable.

*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, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 14 September 2020

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 22 July 2020

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant failed to obey a lawful order on two separate occasions by storing a privately owned firearm and ammunition in the barracks and being incapacitated for the proper performance of duty due to previous overindulgence in intoxicating liquor or drugs.

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

(4) **Legal Consultation Date:** NIF

(5) **Administrative Separation Board:** NA

(6) **Separation Decision Date / Characterization:** 13 August 2020 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 20 December 2018 / 3 years
- b. **Age at Enlistment / Education / GT Score:** 24 / HS Graduate / 130
- c. **Highest Grade Achieved / MOS / Total Service:** E-5 / 68R20, Veterinary Food Inspector / 4 years, 7 months, 26 days
- d. **Prior Service / Characterizations:** RA, 19 January 2016 – 19 December 2018 / HD
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** AAM-3, AGCM, NDSM, AFSM, NCOPDR, ASR
- g. **Performance Ratings:** NIF
- h. **Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 1 May 2020, reflects the applicant failed to obey a lawful order on two separate occasions by storing a privately owned firearm and ammunition in the barracks and being incapacitated for the proper performance of duty due to previous overindulgence in intoxicating liquor or drugs. The punishment consisted of reduction to specialist/E-4; forfeiture of \$1,317 pay for 2 months, suspended, to be automatically remitted if not vacated on or before 1 August 2020; restriction for 60 days; and an oral reprimand.
- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):**

**(1) Applicant Provided:** The applicant provides medical records pertaining to the applicant's medical health issues.

**(2) AMHRR Listed:** Report of Mental Status Evaluation (MSE), 7 April 2020, reflects the applicant could understand and participate in administrative proceedings and could appreciate the difference between right and wrong. The applicant was diagnosed with Alcohol Use Disorder, moderate to severe, R/O Personality Disorder NOS with Cluster B traits.

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293, DD Form 214, ERB, Character References-5, medical records (347 total pages)

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the 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 635-200 provides the basic authority for the separation of enlisted personnel.

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

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

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

(4) Chapter 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.

(5) Paragraph 14-3 prescribes 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.

(6) 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.

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

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

The applicant contends the discharge was inequitable because it was based on an isolated event in 48 months of exemplary service with no adverse action which was related to behavioral health issues and the applicant was not allowed to complete therapy for the issues prior to the discharge. During and immediately after inpatient hospitalization the applicant was subjected to legal proceedings before completing any behavioral health or substance abuse programs.

The applicant states the applicant is unable to use any education benefits despite serving honorably for over 4 years. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does 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.

**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: Personality Disorder, Alcohol Dependence, Gender Dysphoria.

**(2)** Did the condition exist, or experience occur, during military service? **Yes.** Personality Disorder, Alcohol Dependence, Gender Dysphoria.

**(3)** Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that although a Personality Disorder provides context but does not render an individual unable to know social rules and norms, make conscious decisions, and understand consequences. Therefore, there is no direct mitigation of possession of a firearm and ammunition in the Barracks and being drunk on duty.

**(4)** Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the applicant's Personality Disorder, Alcohol Dependence, and Gender Dysphoria did not outweigh the basis of separation unlawful possession of a firearm and ammunition in the Barracks and being drunk on duty.

**b.** Response to Contention(s): The applicant contends the discharge was inequitable because it was based on an isolated event in 48 months of exemplary service with no adverse action which was related to behavioral health issues and the applicant was not allowed to complete therapy for the issues prior to the discharge. During and immediately after inpatient hospitalization the applicant was subjected to legal proceedings before completing any behavioral health or substance abuse programs. The Board considered this condition but found that the applicant's Personality Disorder, Alcohol Dependence, and Gender Dysphoria did not outweigh the basis of separation unlawful possession of a firearm and ammunition in the Barracks and being drunk on duty. The Board recommended the applicant request a personal appearance to explain how their potentially-mitigating diagnoses contributed to the alcohol misconduct.

**c.** 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.

**d.** Rationale for Decision:

**(1)** The Board voted not to change the applicant's characterization of service because, despite applying liberal consideration to all evidence before the Board, the applicant's Personality Disorder, Alcohol Dependence, and Gender Dysphoria did not outweigh the misconduct of possession of firearms and ammunition in the barracks and drunk on duty. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full

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administrative due process. Therefore, the applicant's General (Under Honorable Conditions) discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

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

1/31/2025

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  
UOTHHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs