

1. Applicant's Name:

- a. **Application Date:** 17 August 2021
- b. **Date Received:** 23 August 2021
- c. **Counsel:** None

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 general honorable conditions. The applicant requests an upgrade to honorable.

(2) The applicant seeks relief stating they would like to utilize the benefits of an honorable discharge. They believe they could further their contribution to society by receiving more education and their service to the nation deserves to be recognized with an upgrade to their discharge.

(3) When they returned from their assignment in Korea they fell into depression and received help by attending an inpatient rehabilitation program. They wanted to end the madness in their head so they told their Substance Use Disorder Clinical Care (SUDCC) counselor that they were drinking and it was the biggest mistake they have ever made. They hope their service is worthy of an upgrade. They have been in no trouble since their discharge and all they want to do is continue on in life.

b. Board Type and Decision: In a records review conducted on 27 September 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 / General (Under Honorable Conditions)

b. Date of Discharge: 13 November 2019

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 23 October 2019

(2) **Basis for Separation:** The applicant self-enrolled into SUDCC on 20 February 2019. Completed treatment; however, they have consumed alcohol according to their self-report. Their continued use of alcohol while actively enrolled in SUDCC treatment indicated diminished potential for continued military service.

(3) **Recommended Characterization:** Honorable

(4) **Legal Consultation Date:** 23 October 2019

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

(6) Separation Decision Date / Characterization: 24 October 2019 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 14 February 2017 / 3 years, 21 weeks

b. Age at Enlistment / Education / GT Score: 19 / HS Graduate / 108

c. Highest Grade Achieved / MOS / Total Service: E-4 / 13F1O, Fire Support Specialist / 2 years, 9 months

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea / None

f. Awards and Decorations: AAM, NDSM, KDSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A Behavioral Health Discharge Summary dated 25 March 2019, reflects the applicant was admitted to Substance Abuse from 25 February 2019 to 25 March 2019 under the care for evaluation and management for Methylenedioxymethamphetamine (MDMA) Use Disorder, Marijuana Use Disorder, Cocaine Use Disorder, and Alcohol Use Disorder.

(2) Three DA Forms 4856 (Developmental Counseling Form) dated 26 April 2019, 14 May 2019, 15 May 2019, reflects the applicant received counseling for three occurrences of failure to report. The applicant agreed with the information and signed the forms.

(3) A DA Form 3822 (Report of Mental Status Evaluation) dated 4 June 2019, reflects the applicant's behavioral health disorder present resulting in duty limitations that may impact deployability.

(a) Details of the evaluation states the applicant does not meet criteria for Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury or Sexual Trauma based on provided Behavioral Health Data Portal and self-report. The applicant does meet criteria for Substance Abuse as indicated on Behavioral Health Data Portal and recurring alcohol related incidents.

(b) Section IV (Diagnosis) reflects Behavioral Health Diagnoses of Alcohol Use Disorder, Cannabis Use Disorder, and Other Stimulant Disorder.

(c) Section VI (Recommendations and Comments for Commander) the Behavioral Health Provider states the applicant is under mandatory care for SUDCC. SUDCC treatment provider is recommending administrative separation in accordance with Army Regulation 635-200, chapter 9. The applicant has failed, through inability or refusal to participate in, cooperate in, or successfully complete mandatory substance abuse treatment. Applicant has completed inpatient treatment however they have continued to consume alcohol according to self-report of the applicant. Their continued use of alcohol while actively enrolled in SUDCC treatment indicates diminished potential for continued military service. It is the considered opinion of the SUDCC staff in consultation with the Command, the applicant be separated from military service.

as a Rehabilitation Failure expeditiously. They may be eligible for substance abuse treatment with the Department of Veterans Affairs (VA) after being discharged from the U.S. Army.

(4) A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)) dated 7 June 2019, reflects the applicant received nonjudicial punishment for on or about 26 April 2019 and 9 May 2019, without authority, failed to go at the time prescribed to their appointed place of duty in violation of Article 86 (Absence Without Leave), UCMJ. Their punishment consisted of a reduction in rank/grade from specialist/E-4 to private first class/E-3, and extra duty for 7 days. The applicant elected not to appeal.

(5) A memorandum, Headquarters and Headquarters Battery, 1st Battalion, 41st Field Artillery Regiment, subject: Separation under Army Regulation 635-200, Chapter 9, Alcohol or Other Abuse Rehabilitation Failure, [Applicant], dated 23 October 2019, 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.

(6) On 23 October 2023, the applicant completed their election of rights signing they had been advised by consulting counsel of the basis for the contemplated action to separate them under Army Regulation 635-200, chapter 9, and its effects, of the rights available to them, and the effects of any action taken by them in waiving their rights. They elected not to submit statements on their own behalf and waived consulting counsel. The applicant understood they may expect to encounter substantial prejudice in civilian life if a general (under honorable conditions) discharge is issued to them and they may be ineligible for many or all benefits as a veteran under both Federal and State laws.

(7) A memorandum, Headquarters and Headquarters Battery, 1st Battalion, 41st Field Artillery Regiment, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Chapter 9, Alcohol or Other Drug Abuse Rehabilitation Failure, [Applicant], dated 23 October 2019, 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 for the description of rehabilitation attempts, the applicant was provided adequate time and resources to correct their deficiencies but failed to overcome. It is not feasible or appropriate to accomplish other disposition as disposition by any other means is not in the best interest of the unit, the Soldier, or the U.S. Army. The separation is in the best interest of the Army.

(8) A memorandum, Headquarters, 1st Battalion, 41st Field Artillery Regiment, 1st Armored Brigade Combat Team, subject: Separation under Army Regulation 635-200, Chapter 9, Alcohol or Other Drug Abuse Rehabilitation Failure, [Applicant], dated 24 October 2019, the separation authority having reviewed the separation packet of the applicant, directed the applicant be separated from the Army prior to the expiration of their current term of service and their service be characterized as general (under honorable conditions). After reviewing the rehabilitative transfer requirement, determined the requirements are waived, as the transfer will serve no useful purpose or product a quality Soldier.

(9) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 13 November 2019, with 2 years and 9 months of net active service this period. The DD Form 214 shows in –

- item 18 (Remarks) in part – MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE

- item 24 (Character of Service) – General (Under Honorable Conditions)
- 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):

(7) Applicant provided: None

(8) AMHRR Listed: Behavioral Health Patient Discharge Summary and Report of Mental Status Evaluation.

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- 3rd Party Statement

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), 19 December 2016, 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.

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.

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 diagnoses/experiences: Anxiety Disorder (DO), unspecified; Depressive Disorder, unspecified. Note-Other specified depressive episodes; Other specified anxiety disorders are subsumed under Depressive Disorder and Anxiety Disorder, respectively.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the diagnosis of Anxiety DO and Depressive Disorder were made during active military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined there are no mitigating behavioral health conditions. The applicant had a long history of polysubstance abuse/dependence prior to entering which continued after the applicant entered the Army. While the applicant was diagnosed with Anxiety Disorder and Depressive DO while on active duty, there is no evidence in the medical records that these conditions caused or contributed to the applicant's substance abuse.

(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 condition did not outweigh the basis of separation.

c. Response to Contention(s):

(1) The applicant contends they would like to utilize the benefits of an honorable discharge. They believe they could further their contribution to society by receiving more education. 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.

(2) The applicant contends their service to the nation deserves to be recognized with an upgrade to their discharge. The Board considered this contention and the applicant's service to the nation but determined that these factors did not outweigh the applicant's misconduct of alcohol rehabilitation failure.

(3) The applicant contends when they returned from their assignment in Korea they fell into depression and received help by attending an inpatient rehabilitation program. They wanted to end the madness in their head, so they told their SUDCC counselor that they were drinking, and it was the biggest mistake they have ever made. The Board considered this contention and the applicant's contention they fell into depression and received help by attending an inpatient rehabilitation program, however the Board determined these factors did not outweigh the applicant's misconduct of alcohol rehabilitation failure.

(4) The applicant contends they hope their service is worthy of an upgrade. They have been in no trouble since their discharge and all they want to do is continue on in life. The Board considered this contention and the applicant's assertion that the applicant has not been in trouble since their discharge but determined that these factors did not outweigh the applicant's misconduct of alcohol rehabilitation failure.

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 because, despite applying liberal consideration of all the evidence before the Board, the applicant's Anxiety DO and Depressive Disorder did not excuse or mitigate the offenses of alcohol rehabilitation failure. The Board also found additional misconduct in the file that included counseling statements for failure to report. The Board considered the applicant's contention regarding service to the nation and found that the totality of the applicant's record does not warrant a discharge upgrade. 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 administrative due process. Therefore, the applicant's General 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210017602

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:

9/30/2024

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