

1. Applicant's Name:

a. **Application Date:** 15 September 2021

b. **Date Received:** 21 September 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, their discharge was unjust, the product of counterproductive and toxic leadership, as well as the result of their undiagnosed PTSD (Post Traumatic Stress Disorder). Their discharge was improper, as their separation listed an incident that happened after their separation notice. The applicant was expected to know everything without training or guidance. Progression was ALL the applicant's responsibility. They had to initiate training in order to learn their job and never had someone there with them to push them, train them, or guide them in their professional or personal life. They had no mentor or trustworthy support and received no constructive criticism, which set them up for failure from the start. They were only reprimanded, counseled, and physically punished when they could not get things right, which is how the applicant hurt their back and now receives a service connection for.

(1) The leadership's responsibilities listed, "Supervisor will ensure that the Soldier receives proper training in all areas of job performance and that the training is properly documented. Supervisor will provide additional training should it be required...and provide an environment to learn and grow." Leadership had not taken any steps to train them in any aspects and the applicant had to solely rely on themselves. There was no time cut out of the workday to train the applicant because leadership put equipment and readiness level over the readiness of the Soldiers. The environment was toxic and not a healthy learning space or comfortable work environment. There was no proactive training and they had to learn by reading the aircraft manual. They barely knew how to navigate the logbook and manual, and all they were vaguely told was ask questions before doing something wrong and causing harm to the aircraft or personnel. They were never shown how to do things first.

(2) Later, when the applicant was involved in an alcohol incident, they were counseled and given a MPO, was not sent to ASAP (Army Substance Abuse Program), which could have benefited them. They did not know about the program, much less the Army at all, and was just counseled about the incident, and sent back to work. According to ASAP's website, the program increases individual fitness and overall readiness, and implements alcohol reduction and prevention strategies, that respond to potential problems, before readiness, productivity, or careers are jeopardized. They were not cared for to blossom and progress as a young Soldier. Under accountability, they were to ensure their ALSE (Aviation Life Support Equipment) gear was serviceable and had a current inspection; however, they did not know what that meant as they had never seen unserviceable equipment. They were a brand new Soldier and was thrown into and treated as an adult. They were only 18 years old and had no sense of direction, whatsoever. Leadership never took reliable and proactive steps to make sure their Soldiers were squared away.

(3) Their leadership gave them conflicting directions on making appointments and eventually the applicant became afraid to make appointments, especially for mental health. During their mental health appointment for their separation, the applicant could not tell the psychologist how they really felt. At the time, they had constant migraines and nightmares, could not sleep, or eat well, and had developed an alcohol and tobacco problem. They were declining in most aspects of their life and was stressed daily going to work. They had anxiety and no outlet or support then and was discouraged to take advantage of the services provided to them.

(4) Physical training (PT) was on their own and they were told if they failed to make the standard, they would not be allowed to work out alone. There was no help from the start but they were expected to pass. Progression was all on them, in every aspect, but they were told a supervisor would ensure proper training. Their plan of action, which "must be specific enough to modify or maintain the subordinate's behavior and include a specified timeline, for implementation and assessment" is as follows: "SM will not allow themselves to fall below the standards expressed in this counseling." This was not a specific plan of action.

(5) The applicant attended Survive, Evade, Resist, Escape (S.E.R.E.) School, Level C; at Fort Rucker, AL for three weeks. During this time, the applicant suffered a lot of stress, strain, and traumatic experiences, which changed who the applicant was until this day. They suffer from PTSD, anxiety, and depression which was triggered from this school and they were undiagnosed and unrecognized because the applicant was uncomfortable talking about it and was not sure what they were going through. Currently, they are service connected for PTSD, with alcohol abuse disorder and diagnosed with anxiety and depression from their primary care physician at their local VA. They started drinking heavily on the weekends and using nicotine every day, until it became a problem. Their command, leadership, and even peers, did not think to check on their wellbeing. They were not referred to mental health by anyone in their command and held the trauma in. Before the Army, the applicant had never drunk or used nicotine in any form; however, it was their crutch to mask their pain and suffering. The applicant had grown up with a strong belief to never use either substance but ultimately, they use both to this day.

(6) The applicant addresses other event-oriented counseling, providing their perspective for the MPO, attempting to bring unauthorized personnel on base. They were immature and needed to be developed in their job, but instead they were alone working with weak, uninvolved, and toxic leadership. No one taught them how to service their uniforms, to pay off their government credit card, or to PT effectively. Meanwhile their mental and physical health declined and was pushed aside, and no one sent the applicant for the help in which they desperately needed. They understand and regret their decisions every day; however, they disagree with the decision to discharge them with the characterization they received, as the lack of support, made it difficult to act and think appropriately. Further information is provided in their statement.

c. Board Type and Decision: In a records review conducted on 20 November 2024, and by a 5-0 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: Pattern of Misconduct / AR 635-200, Chapter 14-12B / JKA / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 14 January 2016

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 18 September 2015

(2) Basis for Separation: attempting to bring unauthorized personnel onto a secured military post, disrespectful towards a noncommissioned officer (NCO), lying to an NCO, failing to maintain barracks room to standard, and substandard duty performance

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

(4) Legal Consultation Date: 23 September 2015

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 5 November 2015 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 2 July 2013 / 4 years

b. Age at Enlistment / Education / GT Score: 18 / High School Diploma / 110

c. Highest Grade Achieved / MOS / Total Service: E-4 (SPC) / 15S10 OH-58D Helicopter Repairer / 2 years, 6 months, 13 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: NDSM, GWOTSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 2 July 2013, the applicant enlisted in the Regular Army for 4 years as a private second class, PV2 (E-2). The Enlisted Record Brief provides on 2 July 2014, they promoted to private first class, PFC (E-3); and on 1 February 2015, they promoted specialist, SPC (E-4). On 15 July 2015, they were flagged, Suspend Favorable Personnel Actions (FLAG), for field-initiated involuntary separation (BA).

(2) Between 10 March – 11 May 2015, the applicant received nine counseling for various event-oriented acts of misconduct, such as insubordinate behavior, lying to NCO (noncommissioned officer), damaged gear, SHARP (Sexual Harassment/Assault Response and Prevention) violation, which included a MPO (military protective order) to keep away from PV2;

and substandard performance between the months of February and April.

(3) On 12 May 2015, the applicant completed a command-directed mental status evaluation (MSE) at Embedded Behavioral Health, Blanchfield Army Community Hospital, Fort Campbell, KY, providing the applicant was not diagnosed with a substance abuse disorder, although, they had been drinking heavily on the weekends. They were found fit for full duty, with no obvious cognition impairments; cooperative behavior; normal perceptions; with occasional impulsivity; and not considered dangerous. They could appreciate the difference between right and wrong; met medical retention requirements IAW AR 40-501 and was recommended to have kept their follow-up appointment with Regiment Psychology (21 May 2015).

(4) Between 16 June – 13 July 2015, the applicant received four counseling for multiple event-oriented indiscipline, such as missed government credit card payment, failed APFT (Army Physical Fitness Test), unclean barracks room, and removal from performing aircraft maintenance. Further, they were notified of their substandard performance for the month of May.

(5) On 16 and 31 July 2015, the applicant completed their medical history and medical examination (MHE) for separation at FSO, Regimental Aid Station, Fort Campbell, KY, indicating the provider qualified them for service and separation with no diagnoses or recommendations.

(6) On 9 September 2015, the applicant was counseled for attempting to bring unauthorized personnel onto a secured military post through the “authorized personnel” gate, on the night of 7 September. On 18 September 2015, the company commander notified the applicant of their intent to initiate separation proceedings under the provisions of AR 635-200, Chapter 14-12B, Pattern of Misconduct, for attempting to bring unauthorized personnel onto a secure military post, disrespect towards a NCO (noncommissioned officer), lying to an NCO, failing to maintain their barracks room to standard, and substandard performance of duty. They recommended an General (Under Honorable Conditions) characterization of service. The applicant acknowledged receipt of their separation notice.

(7) Their election of rights, dated 23 September 2015, provides the applicant elected to consult with defense counsel and declined to submit statements on their behalf. Defense counsel briefed the applicant on the possible effects of their separation and the rights available to them. On 8 October 2015, the battalion commander concurred with the company commander’s recommendation.

(8) On 5 November 2015, the separation approval authority approved the discharge, with a General (Under Honorable Conditions) characterization of service. On 20 November 2015, their separation orders were issued. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged, with 2 years, 6 months, and 13 days of total service. The applicant provided their electronic signature and has not completed their first term of service.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided:

(a) A VA Rating Decision, dated 18 June 2021, provides, in effect, the applicant’s evaluation of their PTSD, with Alcohol Use Disorder, Severe, and Major Depressive Disorder

(MDD), Recurrent, Severe based on: Anxiety, chronic sleep impairment, depressed mood, difficulty in adapting to a work-like settings, stressful circumstances, and establishing and maintaining effective work and social relationships, impaired judgement, panic attacks, and suspiciousness, was increased to 70% service-connected disability rating.

(b) On 7 September 2021, a Licensed Marriage and Family Therapist provides the applicant has been in therapy since June 10, 2021, diagnosed with PTSD, and has since been receiving weekly psychotherapy sessions. A review of their medical, social, and psychiatric history has been completed and a biopsychosocial assessment was conducted. It is highly likely that the applicant's PTSD is a direct result of their prison of war training (2015), during their service in the years of 2013 – 2016. There were no other known risk factors that may have precipitated their diagnosis. In the applicant's case, PTSD has manifested itself in the follow ways: recurrent distressing dreams associated with the traumatic event, intense psychological distress at exposure to external cues that resemble the traumatic event, marked physiological reactions to internal cues that resemble the traumatic event, efforts to avoid distressing memories, thoughts, or feeling associated with the traumatic event, persistent and exaggerated negative beliefs about oneself and others, persistent negative emotional state, irritable behavior, hyper vigilance, problems with concentration, and sleep disturbance. Their symptoms have been present since the traumatic event and likely resulted in the pattern of minor infractions that resulted in their discharge.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Medical Records; Partial Separation Package; Licensed Marriage and Family Therapist Letter; Veteran Affairs Decision Rating; Four Character Letters

a. On 8 March 2015, the applicant was awarded a completion certificate for the Survival, Evasion, Resistance, and Escape (Level C) Full Spectrum training, which was a three week course in Fort Rucker, AL.

b. The applicant's parent contends, the applicant showed interest in the military and joined JROTC in high school to learn about military life and confirmed their desire to join the Army. They volunteered at their local recruiters during their high school tenure and over the summer. The applicant never partied with their friends, drank or smoked cigarettes and was a responsible young person, helping around their home, and helping to take care of their younger sibling. After high school, they worked several jobs during their delayed entry program and from there they joined the service.

c. On 8 November 2018, the applicant's former Operations Manager contends, they worked at the Fuels Corp from April 2017 – March 2018, and became one of the manager's core employees. They worked hard, completing tasks without being directed, and was one of a few employees tasked with challenging missions and always completed them correctly the first time. They were willing to work extra hours and shifts, with little notice, and when called upon, which was very appreciated by their team. Their customer service was outstanding and customers came in specifically on the applicant's shift, as they enjoyed interacting with them. The applicant was an outstanding team member and was offered a Shift Lead position; however, their primary focus then, was to focus on their classes. The team was sad to see them leave but understood the applicant wanted to put their credentials to work.

d. On 21 August 2020, the applicant's manager contends, they have had the pleasure to supervise the applicant for one year in the Outpatient Primary Care Clinic Lab and have found that they are genuinely interested in helping others and exudes professionalism, which

positively affects their patients, as they have a strong sense of dedication and responsibility to their patients. They can work independently and is able to follow through to ensure their work has been completed. The applicant is flexible and willing to work wherever they are needed. They always have shown compassion, is very dedicated asset, and has stepped up as a leader and has the respect of their team.

e. On 19 July 2021, their stepparent (retired Navy Chief) contends, in publication ADP 6-22 Army Leadership and the Profession, “establishes and describes the foundation of Army leadership, outlines the echelons of leadership (direct, organizational, and strategic), and describes the attributes and core leader competencies expected of all leaders across all levels and cohorts”. Chapter Eight specially talks about Counterproductive Leadership which the Chief opined the applicant encountered throughout most of their interaction with leadership, which ultimately failed them.

(1) From 3 November 2014 – 18 September 2015, the applicant received 24 counseling chits, which most were negative to include a MPO and a mental status evaluation (12 May 2015), which stated the applicant was drinking heavily on the weekend but failed to diagnose them with a substance use disorder, even though they were underage. Army Regulation 600-85 (The Army Substance Abuse Program), pertinent part, states “any underage Soldier using alcohol beverages will be referred to the SUDCC (Substance Use Disorder Clinical Care) for screening within five working days, except when such use is permitted; however, it was only documented on a counseling but neither medical nor their leadership directed the applicant accordingly.

(2) The counseling did not identify anything positive to motivate the applicant or address the issues they may have been dealing with. The command was not intrusive and placed all of the onus on the applicant to correct their own deficiencies. There was no command involvement to properly correct those deficiencies such as, taking their phone away during working hours, conducting uniform inspections, weekly barracks room inspections, mandatory study sessions, command PT, mustering at specific time and locations, deadlines in completing tasks, etc. On one occasion when the applicant was late, they were made to carry and drag a 250 pound dummy a quarter of a mile in each direction, on the flight line, which resulted in the applicant hurting their back and remains an issue to this day. This punishment was not related to their offense and perhaps, instead the applicant should have mustered 30 minutes prior to work to correct that deficiency. Their actual punishment was a form of hazing and humiliation.

(3) To the Chief it seemed that there was no positive reinforcement or mentorship to get the applicant back on the right track, but a witch hunt to form a paper trail in order to separate them and not have to deal with them anymore. They struggled with having been chastised from their family and friends to finish out their commitment. This was especially hard on their parents as both also served in the military and were disappointed in hearing of their separation. Years later, when the applicant approached them (their stepparent) about their discharge, made them ashamed after having reviewed their separation documents for having judged the applicant so harshly.

(4) Today the applicant has achieved so much despite all the negativity they endured over the years. They have worked hard to pay for their own certification as a Phlebotomist and eventually secured a position within the VA and has worked their way up to their current position, as an Audio Health Technician. They are additionally attending community college, working towards becoming a Registered Nurse to further help their fellow veterans. The applicant's actions while in the Army were a direct result of their maturity level at a young age and the lack of development. It is their hope this along with the documents the applicant has provided, will be enough for an upgrade to Honorable discharge.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has received treatment and has overcome their substance abuse, completed a phlebotomy course, and landed a job in healthcare and promoted to a phlebotomy job with the VA and love interacting and connecting with the veterans that they encounter. According to their stepparent (Chief, USN retired), they were attending community college, working towards becoming a Registered Nurse.

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 (Active Duty Enlisted Administrative Separations), 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) 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) Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to Soldiers. It is essential that Soldiers who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. Except as otherwise indicated, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and ensure it occurs prior to initiating separation proceedings for reason to include Minor Disciplinary Infractions or a Pattern of Misconduct.

(5) Chapter 14 established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. A pattern of misconduct consisting of one of the following – discreditable involvement with civil or military authorities, or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army. 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.

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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14-12B, Pattern of Misconduct.

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 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.

g. Manual for Courts-Martial (2012 Edition), United States, states 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 orders and discipline in the Armed Forces.

(1) Article 91 (disrespect toward noncommissioned officer) states in the subparagraph, the maximum punishment consists of forfeiture of two-thirds pay and allowances for three months, and confinement for three months.

(2) Article 92 (dereliction in performance of duties) states in the subparagraph the maximum punishment consists of two-thirds pay and allowances for three months, and confinement for three months.

a. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered, medically unfitting

for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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 Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

(1) The available evidence provides the applicant enlisted in the RA, promoted to SPC, and served for 2 years prior to having been flagged for involuntary separation. The applicant received 14 event-oriented counseling for various acts of misconduct. Separation proceedings were initiated for the applicant having attempted to bring unauthorized personnel onto a secured military post; for disrespect towards an NCO and lying to an NCO; for failing to maintain their barracks room to standard; and for substandard duty performance, under the provisions of AR 635-200, Chapter 14-12B, Pattern of Misconduct, with a General (Under Honorable Conditions) characterization of service. They elected to consult with legal and elected not to submit a statement on their behalf. Defense counsel endorsed their election, acknowledging that the applicant was counseled on the possible effects of their separation and the rights available to them.

(2) Their medical and mental status evaluations qualified them for duty and separation. The applicant receives a 70% service-connected disability rating through the VA for PTSD, based on Anxiety, chronic sleep impairment, difficulty adapting to work and establishing effective work and social relationships, mild memory loss, and occupational and social impairment with reduced reliability and productivity, to name a few. They served 2 years, 6 months, and 13 days of their 4-year contractual obligation.

b. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. 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.

c. 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: PTSD, MDD. [Note-ADHD is a condition that existed prior to service.]

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that service connection establishes the nexus between applicant's diagnoses of PTSD and MDD with military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has two diagnoses, PTSD and MDD, which mitigate some of the misconduct. As there is an association between PTSD, MDD, problems with authority figures, and impaired concentration and memory, there is a nexus between applicant's diagnosis of PTSD, MDD, applicant's disrespectfulness towards his NCO, failure to maintain his barracks room to standard and substandard duty performance. PTSD and MDD do not mitigate bringing unauthorized personnel onto a secured military post, lying to an NCO, engaging in a SHARP violation including a Military Protection Order (MPO) to stay away from PV2, and missing government credit card payments as neither condition affects one's ability to distinguish right from wrong and act in accordance with the right. PTSD and MDD also do not mitigate failing an APFT as PTSD and MDD do not usually affect one's ability to perform physically.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's PTSD and MDD outweighed the basis for the applicant's separation – attempting to bring unauthorized personnel onto a secured military post, lying to an NCO, and engaging in a SHARP violation including a MPO to stay away from PV2.

b. Response to Contention(s):

(1) The applicant contends, having been in therapy since June 10, 2021, diagnosed with PTSD, and has since been receiving weekly psychotherapy sessions. It is highly likely that the applicant's PTSD is a direct result of their prisoner of war training (2015), during their service in the years of 2013 – 2016. Their symptoms have been present since the traumatic event and likely resulted in the pattern of minor infractions that resulted in their discharge. The Board liberally considered this contention, along with the totality of the applicant's record and the applicant's PTSD diagnosis. However, the totality of the applicant's record and the applicant's PTSD does not outweigh or mitigate the applicant's misconduct of attempting to bring unauthorized personnel onto a secured military post, lying to an NCO, and engaging in a SHARP violation including a MPO to stay away from PV2. Due to the seriousness of this misconduct the Board determined the discharge is proper and equitable and does not warrant an upgrade.

(2) The applicant contends From 3 November 2014 – 18 September 2015, the applicant received 24 counseling chits, which most were negative to include a MPO and a mental status evaluation (12 May 2015), which stated the applicant was drinking heavily on the weekend but failed to diagnose them with a substance use disorder, even though they were underage. Army Regulation 600-85 (The Army Substance Abuse Program), pertinent part, states "any underage Soldier using alcohol beverages will be referred to the SUDCC (Substance Use Disorder Clinical Care) for screening within five working days, except when such use is permitted; however, medical nor their leadership directed the applicant accordingly, and only documented the incident. The Board considered this contention and determined the applicant's alcohol use or an alcohol use disorder diagnosis does not mitigate or outweigh the applicant's misconduct as it is not a potentially mitigating BH condition. Therefore, the Board determined the discharge is proper and equitable.

(3) The counseling did not identify anything positive to motivate the applicant or address the issues they may have been dealing with. The command was not intrusive and placed all of the onus on the applicant to correct their own deficiencies. There was no command involvement to properly correct those deficiencies such as, taking their phone away during working hours, conducting uniform inspections, weekly barracks room inspections, mandatory study sessions, command PT, mustering at specific time and locations, deadlines in completing tasks, etc. On one occasion when the applicant was late, they were made to carry and drag a 250 pound dummy a quarter of a mile in each direction, on the flight line, which resulted in the applicant hurting their back and remains an issue to this day. This punishment was not related to their offense and perhaps, instead the applicant should have mustered 30 minutes prior to work to correct the deficiency. Their actual punishment was a form of hazing and humiliation. The Board considered this contention and determined the applicant's counseling show an event that initiated the counseling, a plan of action and an assessment of the plan completed by the counselor. There is insufficient evidence to support the contention that the applicant experienced hazing or inappropriate punishments due to misconduct. The Board determined the discharge is proper and equitable.

(4) Today the applicant has achieved so much despite all the negativity they endured over the years. They have worked hard to pay for their own certification as a Phlebotomist and eventually secured a position within the VA and has worked their way up to their current position, as an Audio Health Technician. Additionally, they are attending community college, working towards becoming a Registered Nurse to further help their fellow veterans. The applicant's actions while in the Army were a direct result of their maturity level at a young age and the lack of development. It is their hope this along with the documents the applicant has provided, will be enough for an upgrade to Honorable discharge.

The Board considered this contention and acknowledged the applicant's positive endeavors post service. However, the Board determined that the applicant's post-service accomplishments do not outweigh the misconduct based on the seriousness of the applicant's offenses of attempting to bring unauthorized personnel onto a secured military post, lying to an NCO, and engaging in a SHARP violation including a MPO to stay away from PV2.

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 of all the evidence before the Board, the applicant's PTSD and MDD did not excuse or mitigate the offenses of attempting to bring unauthorized personnel onto a secured military post, lying to an NCO, and engaging in a SHARP violation including a MPO to stay away from PV2. The Board also considered the applicant's contention regarding hazing as a form of punishment 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 (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.

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(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:

11/20/2024

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