

1. Applicant's Name:

- a. **Application Date:** 11 August 2021
- b. **Date Received:** 15 November 2021
- c. **Counsel:**

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 through counsel requests an upgrade to honorable and a narrative reason change to Convenience of the Government. In the alternative, the applicant requests a separate DD Form 214 that reflects honorable service from September 2013 to March 2017.

b. The applicant through counsel seeks relief contending, in effect, the applicant's general under honorable conditions discharge from the Army is inequitable for several reasons.

(1) The applicant's command consistently considered the applicant a strong performer and hard worker as a Chaplain's assistant at three different duty stations. The applicant's supervisors recognized the applicant's exceptional leadership and performance with several awards and medals. The applicant's positive recognition, awards, and performance reviews (see Exhibits C-E, K, M, and N) are inconsistent with the general discharge.

(2) The applicant served honorably and exceptionally for more than 5 years until the two blemishes on their record that reflects unsuccessful attempts to self-medicate and cope with severe mental illness. The applicant's service was seriously impacted by events experienced during service in Korea (see Exhibit B - Applicant's Declaration) and through domestic violence. Upon returning home from Korea, the applicant started to self-medicate by drinking heavily. These incidents mitigate any misconduct. The applicant takes medication to address their mental health symptoms and is seen by a VA psychologist (see Exhibit B - Applicant's Declaration).

c. **Board Type and Decision:** In a records review conducted on 17 May 2024, 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, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 21 September 2020

c. **Separation Facts:**

- (1) Date of Notification of Intent to Separate:** NIF
- (2) Basis for Separation:** NIF
- (3) Recommended Characterization:** NIF
- (4) Legal Consultation Date:** NIF
- (5) Administrative Separation Board:** NIF
- (6) Separation Decision Date / Characterization:** NIF

4. SERVICE DETAILS:

- a. Date / Period of Enlistment:** 17 March 2017 / 4 years
- b. Age at Enlistment / Education / GT Score:** 23 / Some college / 100
- c. Highest Grade Achieved / MOS / Total Service:** E-5 / 56M20, Chaplain Assistant / 6 years, 11 months, and 28 days
- d. Prior Service / Characterizations:** RA, 24 September 2013 - 16 March 2017 / HD
- e. Overseas Service / Combat Service:** Korea / None
- f. Awards and Decorations:** ARCOM, AAM-3, AGCM, NDSM, GWOTSM, KDSM, NCOPDR, ASR
- g. Performance Ratings:** None due to applicant was an E-5 for 1 month.
- h. Disciplinary Action(s) / Evidentiary Record:**
 - (1)** On 17 June 2019, the applicant was flagged for alcohol abuse adverse action (VA) effective 9 June 2019.
 - (2)** Law Enforcement Report - Initial/Collateral, 20 June 2019, shows an investigation established the applicant committed the offense of Operating a Vehicle Under the Influence of an Intoxicant.
 - (3)** General Officer Memorandum of Reprimand (GOMOR), 11 July 2019, shows the applicant was operating a vehicle while under the influence of alcohol on 9 June 2019 in Honolulu, HI. A preliminary alcohol screening test resulted in a breath alcohol content of .130, well above the HI state limit of .08.
 - (4)** On 4 April 2020, the applicant was flagged for alcohol abuse adverse action (VA) effective 4 April 2020.
 - (5)** On 5 April 2020, the applicant was counseled for a pending flag for Driving Under the Influence (Alcohol) HI State Court Action.
 - (6)** On 17 April 2020, the applicant was counseled for violation of a General Order Relating to Governor Ige's Third Supplementary Proclamation (Stay Home Proclamation), 27 March 2020.

(7) On 20 April 2020, the applicant was flagged for adverse action (AA) effective 4 April 2020.

(8) GOMOR, 21 April 2020, shows the applicant was operating a vehicle while under the influence of alcohol and violated a General Order Relating to Governor Ige's Third Supplementary Proclamation (Stay Home Proclamation) on 3 April 2020. An intoxilyzer test resulted in a breath alcohol content of .171, well above the HI state limit of .08.

(9) FG Article 15, 1 May 2020, for disobeying a unlawful order, General Order Relating to Governor Ige's Third Supplementary Proclamation (Stay Home Proclamation), by wrongfully leaving their house for a social gathering, not a necessity and for wrongfully attending the social gathering on or about 3 April 2020. The punishment consisted of a reduction from E-5 to E-4; forfeiture of \$1,000.00 pay; extra duty for 45 days (suspended); restriction for 45 days; and an oral reprimand.

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

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

(1) **Applicant provided:**

(a) Exhibit J - Social Work Note, 24 April 2019, showing the applicant and spouse had an argument which ended in the applicant having some bruises on their arms, however both of them were not fearful and this was the first time they got physical.

(b) Exhibit G - Army Substance Use Intake Note, 16 April 2020, showing the applicant was diagnosed with alcohol dependence, uncomplicated.

(c) Exhibit P - Psychiatric Therapy Individual Session, 13 August 2020, showing the applicant was diagnosed with problems of adjustment to life cycle transitions.

(d) Exhibit F - Disability Benefits Questionnaire, 5 January 2021, showing the applicant was diagnosed with adjustment disorder with mixed anxiety and depression, chronic.

(e) Exhibit O - VA Disability Rating Decision, 5 May 2021, reflecting the applicant was rated 70 percent disabled for unspecified anxiety and depressive disorder (also claimed as PTSD) effective 22 September 2020.

(2) **AMHRR Listed:** None

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1)) above.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293; Legal Brief with all listed enclosures A through Q (includes Enlisted Record Brief, medical records, self-authored declaration, VA Ratings Decision, military awards)

6. POST SERVICE ACCOMPLISHMENTS: The applicant completed an Associate's Degree (see Exhibit Q) and is pursuing a Bachelor's degree in entrepreneurship.

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), 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 635-5 (Separation Documents), effective 1 October 1979, ended the requirement to prepare a DD Form 214 for enlisted members discharged for the purpose of immediate reenlistment.

e. Army Regulation 635-8 (Separation Processing and Documents) and AR 600-8-104 (Army Military Human Resources Records Management) both require supporting documents for an approved separation action to be maintained in the affected Soldier's official military personnel file.

f. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(1) Paragraph 1-32, Medical examinations and mental status evaluations conducted by a psychologist, or master-level, licensed clinical social worker, are required for Soldiers being processed for separation under chapters 13 or 14 (section III).

(2) Paragraph 2-2 (Notice), stated commanders were to notify the soldier in writing of the following:

(a) Provide the basis of the proposed separation, including the circumstances upon which the action was based, and a reference to the applicable regulatory separation provision.

(b) The Soldier will be advised of the following rights:

- whether the proposed separation could result in discharge, release from active duty to a Reserve Component, or release from custody and control of the Army
- the least favorable characterization of service or description of separation they could receive
- the type of discharge and character of service recommended by the initiating commander and that the intermediate commander(s) may recommend a less favorable type of discharge and characterization of service than that recommended by the initiating commander

(c) Further advise the Soldier of the following rights:

- consult with military or civilian counsel at their own expense
- submit statements in their own behalf
- obtain copies of documents that will be sent to the separation authority supporting the proposed separation
- to a hearing before an administrative separation board under section III of this chapter if they had 6 or more years of total active and Reserve service on the date of initiation of recommendation for separation
- waive their rights

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) Paragraph 14-12c prescribes 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.

g. Army Regulation 635-5-1 (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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

h. 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.

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 and a narrative reason change to Convenience of the Government. In the alternative, the applicant requests a separate DD Form 214 that reflects honorable service from September 2013 to March 2017. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's records show they enlisted in the Regular Army on 24 September 2013 and reenlisted on 17 March 2017. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was discharged on 21 September 2020, with a general (under honorable conditions) characterization of service. The applicant's DD Form 214 also shows in block 18 (Remarks) the applicant's continuous period of honorable active service (24 September 2013 - 16 March 2017) and their immediate reenlistment period (16 March 2017 - 21 September 2020), as required by Army regulations.

c. Army Regulation 635-5 (Separation Documents), effective 1 October 1979, ended the requirement to prepare a DD Form 214 for enlisted members discharged for the purpose of immediate reenlistment.

d. The applicant through counsel requests the narrative reason for the discharge to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8 (Separation Processing and Documents), governs the preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (SPD Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

e. The applicant through counsel contends, in effect, the applicant's command consistently considered the applicant a strong performer and hard worker as a Chaplain's assistant at three different duty stations. The applicant's supervisors recognized the applicant's exceptional leadership and performance with several awards and medals. The applicant's positive recognition, awards, and performance reviews (see Exhibits C-E, K, M, and N) are inconsistent with the general discharge. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

f. The applicant through counsel contends, in effect, the applicant served honorably and exceptionally for more than 5 years until the two blemishes on their record that reflects unsuccessful attempts to self-medicate and cope with severe mental illness. The applicant's service was seriously impacted by events experienced during service in Korea (see Exhibit B - Applicant's Declaration) and through domestic violence. Upon returning home from Korea, the applicant started to self-medicate by drinking heavily. These incidents mitigate any misconduct. The applicant takes medication to address their mental health symptoms and seen by a VA psychologist (see Exhibit B - Applicant's Declaration).

(1) The applicant provided:

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(2) The applicant's AMHRR is void of a mental status evaluation.

g. The applicant through counsel contends, in effect, the applicant completed an Associate's Degree and is pursuing a Bachelor's degree in entrepreneurship. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. However, there is no law or regulation which provides an unfavorable discharge may be upgraded based solely on the passage of time or good conduct in civilian life subsequent to leaving the service. Outstanding post-service conduct, to the extent such matters provide a basis for a more thorough understanding of the applicant's performance and conduct during the period of service under review, is considered during Board proceedings. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

h. 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: Service Connected for Mood Disorder, but recently C&P reduced to Adjustment Disorder with pending change. The applicant experienced Intimate Partner Violence.

(2) Did the condition exist or experience occur during military service? **Yes.** Intimate Partner Violence with anxiety and panic.

(3) Does the condition or experience actually excuse or mitigate the discharge? **NO.**

(4) Does the condition or experience outweigh the discharge? **NO**

b. Response to Contention(s):

(1) The applicant through counsel contends, in effect, the applicant's command consistently considered the applicant a strong performer and hard worker as a Chaplain's assistant at three different duty stations. The applicant's supervisors recognized the applicant's exceptional leadership and performance with several awards and medals. The

applicant's positive recognition, awards, and performance reviews (see Exhibits C-E, K, M, and N) are inconsistent with the general discharge. The Board considered this contention and determined that although the Medical Advisor applied liberal consideration and determined the basis of separation is mitigated, the board determined that the totality of the applicant's misconduct of bidirectional Intimate Partner Violence, assault of another Soldier, multiple Driving Under the Influence infractions, and a violation of stay-at-home order offenses outweighed the mitigation. Therefore, no change is warranted.

(2) The applicant through counsel contends, in effect, the applicant served honorably and exceptionally for more than 5 years until the two blemishes on their record that reflects unsuccessful attempts to self-medicate and cope with severe mental illness. The applicant's service was seriously impacted by events experienced during service in Korea (see Exhibit B - Applicant's Declaration) and through domestic violence. Upon returning home from Korea, the applicant started to self-medicate by drinking heavily. These incidents mitigate any misconduct. The applicant takes medication to address their mental health symptoms and seen by a VA psychologist (see Exhibit B - Applicant's Declaration). The Board considered this contention and determined that although the Medical Advisor applied liberal consideration and determined the basis of separation is mitigated, the board determined that the totality of the applicant's misconduct of bidirectional Intimate Partner Violence, assault of another Soldier, multiple Driving Under the Influence infractions, and a violation of stay-at-home order offenses outweighed the mitigation. Therefore, no change is warranted.

(3) The applicant through counsel contends, in effect, the applicant completed an Associate's Degree and is pursuing a Bachelor's degree in entrepreneurship. The Board considered this contention and determined that although the Medical Advisor applied liberal consideration and determined the basis of separation is mitigated, the board determined that the totality of the applicant's misconduct of bidirectional Intimate Partner Violence, assault of another Soldier, multiple Driving Under the Influence infractions, and a violation of stay-at-home order offenses outweighed the mitigation. Therefore, no change is warranted.

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 and although the Medical Advisor determined the basis of separation is mitigated, the board determined the applicant's Intimate Partner Violence with anxiety and panic did not excuse or mitigate the misconduct of bidirectional Intimate Partner Violence, assault of another Soldier, multiple Driving Under the Influence infractions, and a violation of stay-at-home order offenses. The Board also considered the applicant's contention regarding the applicant's command consistently considered the applicant a strong performer and hard worker and found that 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

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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 pretexts, and 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:

2/28/2025

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