

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 5 April 2022
- b. **Date Received:** 5 April 2022
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. Applicant's Requests and Issues: The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable along with a reentry (RE) code, separation program designator (SPD) code, and a narrative reason change.

The applicant seeks relief contending, in effect, the applicant was assaulted by several noncommissioned officers. The applicant requested to be reassigned to another unit after the assault. The applicant contends the applicant took unprescribed medication to focus and deal with the stress of being deployed. The applicant accepted punishment for taking the medication. The applicant contends after returning from Iraq the applicant needed help but was informed of being separated due to a failed urinalysis, which happen a year earlier. The applicant contends the applicant's service obligation was almost over when the separation action occurred.

b. Board Type and Decision: In a records review conducted on 12 April 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD diagnosis mitigating the basis of separation given the nexus between trauma and substance abuse. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, Chapter 15 the narrative reason for separation to Secretarial Authority, with a corresponding separation code of JFF. Based on the applicant's PTSD diagnosis the board determined the reentry code was proper and equitable and voted not to change it.

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 (Drug Abuse) / AR 635-200 / Chapter 14-12c(2) / JKK / RE-4 / General, Under Honorable Conditions

b. Date of Discharge: 21 January 2011

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 22 November 2010

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant tested positive for the use of D-Amphetamine on 18 August 2009.

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

(4) **Legal Consultation Date:** 24 November 2010

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

(6) **Separation Decision Date / Characterization:** NIF / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 15 January 2008 / 3 years, 18 weeks

b. **Age at Enlistment / Education / GT Score:** 21 / HS Graduate / 103

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 13B10, Cannon Crewmember / 3 years, 7 days

d. **Prior Service / Characterizations:** None

e. **Overseas Service / Combat Service:** SWA / Iraq (7 May 2009 – 12 April 2010)

f. **Awards and Decorations:** MUC, NDSM, GWOTSM, ICM-CS, ASR, OSR

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:**

(1) FG Article 15, 29 July 2010, reflects the applicant wrongfully used D-Amphetamine between on or about 15 August 2009 and 18 August 2009. The punishment consisted of reduction to private/E-2; forfeiture of \$500 pay for one month; extra duty for 30 days; reduction and restriction, suspended, to be automatically remitted if not vacated before 25 January 2011.

(2) The applicant's AMHRR contains an electronic copy of the DD Form 2624, which reflects the applicant tested positive for Amphetamine. The specimen was collected on 18 August 2009.

(3) The applicant contains Memorandum for Medical Review, subject: Medical Review [Applicant], reflects the applicant received a positive urinalysis for Amphetamine on 18 August 2009. The results were received on 4 May 2010.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Behavioral Health Evaluation, 23 August 2010, reflects the applicant had the mental capacity to understand and participate in administrative proceedings and was mentally responsible for the events which led to the evaluation. The applicant was diagnosed with anxiety disorder by HX and Chronic PTSD by HX.

5. APPLICANT-PROVIDED EVIDENCE: On-Line Application, DD Form 214, email correspondence.

6. POST SERVICE ACCOMPLISHMENTS: The applicant states the applicant is enrolled in college.

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution

shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), dated 25 September 2019, sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel.

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

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

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

(4) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12c, states a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

(7) Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

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 "JKK" as

the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c(2), misconduct (drug abuse).

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:

RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

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

The applicant requests an upgrade to honorable along with a RE code, SPD code and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, paragraph 14-12c(2), by reason of Misconduct (Drug Abuse), with a characterization of service of General (Under Honorable Conditions) and RE code of "4."

The applicant requests the narrative reason for the discharge be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c(2), 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 (Drug Abuse)," and the separation code is "JKK." 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 listed in tables 2-2 or 2-2 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant requests the SPD and RE codes be changed. Separation codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 to track types of separations the SPD code specified by Army Regulations for a discharge under Chapter 14-12c(2), is "JKK." Army Regulation 635-5, Separation Documents, governs the preparation of the DD Form 214 and

dictates the entry of the 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, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other SPD code to be entered under this regulation. 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.

The applicant contends, in effect, the applicant was assaulted by several noncommissioned officers and requested to be reassigned after the assault. The applicant did not submit any evidence to support this contention.

The applicant contends, in effect, the applicant took unprescribed medication to focus and deal with the stress of being deployed and accepted punishment for taking the medication and contends the applicant was promoted after the punishment. There is no evidence showing the applicant was promoted after taking the unprescribed medication.

The applicant contends, in effect, the applicant needed help after returning from Iraq. The applicant's AMHRR contains documentation which supports a diagnosis of anxiety disorder by HX and Chronic PTSD by HX. The record shows the applicant underwent a behavioral health evaluation on 23 August 2010, which reflects the applicant had the mental capacity to understand and participate in administrative proceedings and was mentally responsible for the events which led to the evaluation.

The applicant contends, in effect, the applicant was separated due to a failed urinalysis, which happen a year earlier, because the applicant refused to reenlist. The evidence reflects the applicant tested positive for Amphetamine and the specimen was collected on 18 August 2009. The results were received on 4 May 2010. The applicant acknowledged notification of intent to separate due to misconduct (drug abuse) on 22 November 2010. The applicant was separated on 21 January 2011.

The applicant contends, in effect, the applicant's service obligation was almost over when the separation action occurred. The evidence shows the applicant enlisted for a term of 3 years and 18 weeks and completed 3 years and 7 days.

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 diagnosis: The applicant held an in-service diagnosis of PTSD and is service connected for the same.

(2) Did the condition exist or experience occur during military service? **Yes.** PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that given the nexus between trauma and substance use, the basis for separation is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's PTSD outweighed the drug abuse basis for separation for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant contends the applicant was assaulted by several noncommissioned officers. The Board considered this contention and found it valid and voted to grant relief in the form of an upgrade in characterization to Honorable and narrative reason to Secretarial Authority.

(2) The applicant contends the applicant took unprescribed medication to focus and deal with the stress of being deployed and accepted punishment for taking the medication and contends the applicant was promoted after the punishment. The Board considered this contention and found the misconduct mitigated based on the applicant's PTSD diagnosis.

(3) The applicant contends the applicant needed help after returning from Iraq. The Board considered this contention and found it valid and voted to grant relief in the form of an upgrade in characterization to Honorable and narrative reason to Secretarial Authority.

(4) The applicant contends the applicant was separated due to a failed urinalysis, which happen a year earlier, because the applicant refused to reenlist. The board determined the applicant's basis of separation was mitigated based on the applicant's medical diagnosis and voted to grant relief.

(5) The applicant contends the applicant's service obligation was almost over when the separation action occurred. The Board considered the applicant's length of service when considering the applicant's file and voted to grant relief.

c. The Board determined the discharge is inequitable based on the applicant's PTSD diagnosis mitigating the basis of separation given the nexus between trauma and substance abuse. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, Chapter 15 the narrative reason for separation to Secretarial Authority, with a corresponding separation code of JFF. Based on the applicant's PTSD diagnosis the board determined the reentry code was proper and equitable and voted not to change it.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD outweighed the applicant's misconduct of drug abuse and positive test for D-Amphetamine. Thus, the prior characterization is no longer appropriate.

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(2) The Board voted to change the reason for discharge to Secretarial Authority under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JFF.

(3) The RE code will not change, as the Board determined the current code was proper and equitable based on the applicant's PTSD diagnosis.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD Code to:** Secretarial Authority / JFF
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** AR 635-200

Authenticating Official:

6/2/2024



Le
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