

1. Applicant's Name:

- a. **Application Date:** 11 August 2022
- b. **Date Received:** 18 August 2022
- 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 under other than honorable conditions. The applicant requests an upgrade to honorable, changes to the SPD and RE codes, and narrative reason, and restoration of rank to specialist.

b. The applicant seeks relief contending, in effect, the applicant's discharge does not match the applicant's honorable service record nor was the applicant's combat related-PTSD considered when determining the applicant's discharge. The applicant was diagnosed with severe PTSD prior to the applicant's discharge and despite the applicant's 10 and a half years of exemplary service, to include two tours in support of Operation Iraqi Freedom the unit opted to discharge the applicant with an other than honorable discharge based on a single isolated incident that stemmed from PTSD symptoms and poor coping behaviors. The applicant was not given a reasonable opportunity to rehabilitate or receive proper treatment for the applicant's service-related mental health disorder.

(1) On 5 November 2011, the applicant drank in excess which was not out of the norm for the applicant during this period in the applicant's life as the applicant used alcohol to cope with the applicant's mental health struggles. The applicant also used alcohol as a way to help sleep because if the applicant drank enough the applicant would not have nightmares. On this night, the applicant drank the applicant into a black out and struck the applicant's spouse with a candlestick. The applicant then went into the bathroom, vomited all over the floor and toilet, and followed that by passing out on the couch. The Colorado Springs Police department came to the scene and decided not to pursue charges. They had decided to leave judgment to the Peterson Air Force Base Military Police and ultimately the unit. The applicant does not remember any of the events from this night, only the aftermath. The applicant wants to make it clear that this level of violent behavior had never happened before that night or since. As a result of the applicant's misconduct, the applicant received an Article 15 which included reduction in rank from sergeant to specialist. However, 2 weeks prior to the discharge, the applicant was informed that the applicant's rank was being reduced to private because it was not possible to process the discharge without doing so.

(2) The applicant requests that the Board consider the Hagel Memorandum which states the Board "liberally consider" the applicant's PTSD diagnoses and give "special consideration" to the Veterans Administration's determinations.

(3) The applicant had never been in any significant trouble while in the Army, to include, never receiving any disciplinary action or UCMJ proceedings of any sort. The applicant received numerous awards, medals and distinguishments such as the Army Commendation and Achievement Medals, Army Good Conduct Medals, and was considered a model Soldier.

(4) The applicant is in need of an expedited decision due to an upgrade would allow for the applicant's daughter to pursue an education at Oregon State University with no out of pocket costs for tuition or housing.

(5) Oregon State Police Letter, 28 July 2022, states the applicant has no criminal history record within the state of Oregon.

c. Board Type and Decision: In a records review conducted on 7 February 2025, 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: Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-4 / Under Other Than Honorable Conditions

b. Date of Discharge: 12 July 2012

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: 18 November 2009 / 4 years

b. Age at Enlistment / Education / GT Score: 28 / High School Graduate / NIF

c. Highest Grade Achieved / MOS / Total Service: E-5 / 91D20, Power-Generation Equipment Repairer / 10 years, 6 months, and 3 days

d. Prior Service / Characterizations: RA, 12 February 2002 - 4 November 2011 / HD

e. Overseas Service / Combat Service: SWA / Iraq (30 October 2003 - 30 October 2004; and 26 June 2006 - 18 September 2007)

f. Awards and Decorations: Iraq-2CS, ARCOM-2, AAM, AGCM-3, NSDM, GWOTEM, GWOTSM, NCOPDR, ASR, OSR-2, CAB

g. Performance Ratings: 1 November 2008 - 31 May 2009 / Fully Capable
1 June 2009 - 31 May 2010 / Fully Capable
1 June 2010 - 31 May 2011 / Fully Capable
1 June 2011 - 26 January 2012 / Marginal

h. Disciplinary Action(s) / Evidentiary Record:

(1) Noncommissioned Officer Evaluation Report for period covering 1 June 2011 - 26 January 2012, shows the applicant received a relief for cause with a marginal rating from the rater. The battalion commander states the reason for the relief for cause was the applicant demonstrated unprofessional conduct on or about 5 November 2011, when the applicant unlawfully struck K__ M__ in the face with a metal candlestick holder. This action was a violation of Article 128. The senior rater recommended the applicant be removed from service.

(2) Orders 187-0007, 5 July 2012, shows the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 12 July 2012 from the Regular Army.

(3) The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant had completed the first full term of service. The applicant was discharged on 12 July 2012 under the authority of AR 635-200, paragraph 14-12c, with a narrative reason of Misconduct (Serious Offense). The DD Form 214 was authenticated with the applicant's electronic signature.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided:

(a) The applicant submitted 379 pages of civilian and military medical records (includes three letters from the applicant's previous and current Licensed Professional Counselors).

(b) Department of Veterans Affairs (VA) Disability Rating Decision, 22 October 2013, shows the applicant was rated 70 percent disabled (includes 50 percent for PTSD (also claimed as depression and adjustment disorder)). The applicant's service was characterized as honorable for VA purposes.

(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; Self-Authored Expedited Decision Request letter; Self-Authored Letter; civilian and military medical records; three therapist letters; VA Rating Decision; VA Summary of Benefits; and six character letters.

6. POST SERVICE ACCOMPLISHMENTS: The applicant quit drinking alcohol and became active in the community. The applicant has coached youth sports and volunteered for the Alzheimer's Association and church outreach programs.

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. Title 10, U.S. Code, Sections 1177 (Members Diagnosed with or Reasonably Asserting Post-Traumatic Stress Disorder or Traumatic Brain Injury: Medical Examination Require Before Administrative Separation) states under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure that a member of the armed forces under the jurisdiction of the Secretary who has been deployed overseas in support of a contingency operations, or sexually assaulted, during the previous 24 months, and who is diagnosed by a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric

advance practice registered nurse as experiencing PTSD or TBI or who otherwise reasonably alleges, based on the service of the member while deployed, or based on such sexual assault, the influence of such a condition, receives a medical examination to evaluate a diagnosis of PTSD or TBI. A member shall not be administratively separated under conditions other than honorable, including an administrative separation in lieu of court-martial, until the results of the medical examination have been reviewed by appropriate authorities responsible for evaluating, reviewing, and approving the separation case, as determined by the Secretary concerned.

d. 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.

e. Army Regulation 635-8 (Separation Processing and Documents) and Army Regulation 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) The administrative board procedures (see chapter 2, section II) will be used.

(a) When the reason for separation requires the administrative board procedure, the commander will notify the Soldier in writing that their separation has been recommended per AR 635-200.

- commander will cite the specific allegations on which the proposed action is based
- commander will include the specific provisions of this regulation authorizing separation
- commander will advise 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
- Soldier will be advised of the least favorable characterization of service or description of separation they could receive
- Soldier will be advised of the type of discharge and the characterization 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

(b) The separation authority is not bound by the recommendations of the initiating or intermediate commander(s). However, the separation authority will not authorize the issuance of a type of discharge or character of service less favorable than that recommended by the board.

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

- confer with consulting counsel
- Soldiers may also consult with a civilian counsel at their own expense
- to obtain copies of documents that will be sent to the separation authority supporting the proposed separation

- for a separation under chapter 14 of this regulation, based on a positive urinalysis, the Soldier will be provided, upon request, a copy of the supporting laboratory documents (as prescribed in AR 600–85)
- to a hearing before an administrative separation board
- to present written statements instead of board proceedings
- to request appointment of a military counsel for representation
- to retain civilian counsel at no expense to the Government
- to waive the above rights in writing, this includes the right to submit a conditional waiver of the right to have a case heard before an administrative separation board
- to withdraw a waiver of the rights

(d) The Soldier will be given a reasonable time (not less than 3 duty days) to consult with counsel before waiving the rights.

(e) A soldier under military control will be notified in writing of the convening date of the board at least 15 days before the hearing. The proceedings of the board will be summarized as fairly and accurately as possible. They will contain a verbatim record of the findings and recommendations.

(f) The board will determine whether each allegation in the notice of proposed separation is supported by a preponderance of the evidence. The board will then determine per chapter 1, section II, whether the findings warrant separation. The completed report of proceedings will be forwarded to the separation authority.

(2) Paragraph 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(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) 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.

(6) 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.

(7) 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.

(8) Paragraph 14-4 states when a Soldier is to be discharged under other than honorable conditions, the separation authority will direct an immediate reduction to the lowest enlisted grade per AR 600-8-19 (Enlisted Promotions and Reductions).

(9) 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.

(10) 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.

g. 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 "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, changes to the SPD and RE codes, and narrative reason, and restoration of rank to specialist. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR is void of the specific facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214, which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged on 12 July 2012 under the provisions of AR 635-200, Chapter 14, paragraph 14-12c, by reason of Misconduct (Serious Offense), with a characterization of service of under other than honorable conditions.

c. The applicant requests a change to the narrative reason for the discharge. 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.

d. The applicant requests a change to the SPD code. 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. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 (SPD Codes) to track types of separations the SPD code specified by Army Regulations for a discharge under Chapter 14, paragraph 14-12c, is "JKQ."

e. The applicant requests a RE code change. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "4." An RE code of "4" cannot be waived, and the applicant is no longer eligible for reenlistment.

f. The applicant contends, in effect, the applicant's discharge does not match the applicant's honorable service record nor was the applicant's combat related-PTSD considered when determining the applicant's discharge. The applicant was diagnosed with severe PTSD prior to the applicant's discharge and despite the applicant's 10 and a half years of exemplary service, to include two tours in support of Operation Iraqi Freedom the unit opted to discharge the applicant with another than honorable discharge based on a single isolated incident that stemmed from PTSD symptoms and poor coping behaviors. The applicant was not given a reasonable opportunity to rehabilitate or receive proper treatment for the applicant's service-related mental health disorder.

(1) VA Disability Rating Decision, 22 October 2013, shows the applicant was rated 70 percent disabled (includes 50 percent for PTSD (also claimed as depression and adjustment disorder)).

(2) Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

g. The applicant contends the VA has determined the applicant's service was honorable. The applicant provided a VA letter, 22 October 2013, which reflects the VA determined the period of service from 2 February 2002 to 12 December 2012 as honorable. The criteria used by the VA in determining whether a former servicemember is eligible for benefits are different than used by the Army when determining a member's discharge.

h. The applicant contends, in effect, an upgrade of the discharge would allow for the applicant's daughter to use the applicant's education benefits. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

i. The applicant contends good service, including two combat tours, and receipt of numerous awards, medals, and distinguishments. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

j. The applicant contends, the applicant quit drinking alcohol and became active in the community. The applicant has coached youth sports and volunteered for the Alzheimer's Association and church outreach programs. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. 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.

k. The applicant requests restoration of rank to specialist because the applicant received two reductions for the same offense in order to process the discharge. The applicant's requested change to the DD Form 214 does not fall within this board's purview. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

l. The third party statements provided with the application reflects:

(1) The applicant's therapists recommends that the applicant receive an upgrade to the discharge. The applicant has been a consistent, persistent, and hardworking participant in therapy. The applicant has always displayed a high degree of integrity, responsibility, and character growth since becoming a client. The applicant's resilience and growth can be seen in the applicant's improved relationship with the applicant's spouse and children.

(2) The applicant's spouse states the applicant and spouse have successfully remained married for over 24 years, however, an unfortunate event that happened over 10 years continues to affect the applicant's family. The last 10 years have brought so much growth for the applicant as not only a leader to others, but a leader of the applicant's home. The applicant planned to transfer the Post 9/11 GI Bill to the applicant's daughter and without an upgrade the applicant will not be able to complete the transfer, demolishing the applicant's daughter hopes at a 4-year university and eventual grad school without debt.

m. 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: Adjustment DO with mixed emotional features, PTSD (50% SC). [Note- Diagnosis of Bereavement without complications is subsumed under diagnosis of Adjustment DO with mixed emotional features.].

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that applicant was diagnosed with Adjustment DO with mixed emotional features and PTSD by the Army and service-connected for PTSD by the VA. Both establish nexus with military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there are no mitigating BH conditions. While the applicant has been diagnosed with Adjustment DO with mixed emotional features and PTSD, these conditions do not mitigate the misconduct as they do not affect one's ability to distinguish right from wrong and act in accordance with the right. Of note, PTSD-associated flashbacks can rarely lead to spontaneous, short-lived, random acts of simple assault. However, in the applicant's case, there is no evidence that his misconduct was due to a contemporaneous combat-related flashback experiences or that the applicant's choice of victim was random.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the board's application of liberal consideration, the board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's conditions outweighed the basis for applicant's separation for domestic violence and assault.

b. Response to Contention(s):

(1) The applicant contends, in effect, the applicant's discharge does not match the applicant's honorable service record nor was the applicant's combat related-PTSD considered when determining the applicant's discharge. The applicant was diagnosed with severe PTSD prior to the applicant's discharge and despite the applicant's 10 and a half years of exemplary service, to include two tours in support of Operation Iraqi Freedom the unit opted to discharge the applicant with an other than honorable discharge based on a single isolated incident that stemmed from PTSD symptoms and poor coping behaviors. The applicant was not given a reasonable opportunity to rehabilitate or receive proper treatment for the applicant's service-related mental health disorder.

The board liberally considered the applicant's behavioral health conditions but determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder and Adjustment Disorder outweighed the applicant's offenses of domestic violence and assault. The board found that the applicant's medically unmitigated offenses of domestic

violence and assault were of a severity to warrant separation and to serve as the basis for characterization IAW AR 635-200, para. 3-5c.

(2) The applicant contends the VA has determined the applicant's service was honorable. The applicant provided a VA letter, 22 October 2013, which reflects the VA determined the period of service from 2 February 2002 to 12 December 2012 as honorable. The board considered the applicant's contention but determined that a change is not warranted because of the seriousness of the misconduct (domestic violence and assault). Also, the ADRB is not bound by the U.S. Department of Veterans Affairs (VA) decisions.

(3) The applicant contends, in effect, an upgrade of the discharge would allow for the applicant's daughter to use the applicant's education benefits. The board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare, or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(4) The applicant contends he quit drinking alcohol and became active in the community. The applicant has coached youth sports and volunteered for the Alzheimer's Association and church outreach programs. The board considered this contention and acknowledged the applicant's efforts however, the applicant's post-service accomplishments do not outweigh the applicant's misconduct based on the seriousness of the applicant's offenses (domestic violence and assault).

(5) The applicant requests restoration of rank to specialist because the applicant received two reductions for the same offense in order to process the discharge. The board determined that the applicant's requested change to the DD Form 214 does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 149 regarding this matter. A DD Form 149 may be obtained from a Veterans' Service Organization.

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 contentions 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 Adjustment DO diagnoses did not excuse or mitigate the offenses of domestic violence and assault. 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.

(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:

2/25/2025

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