

**1. Applicant's Name:** [REDACTED]

- a. **Application Date:** 9 April 2023
- b. **Date Received:** 9 April 2023
- 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, and a narrative reason change.

The applicant states in effect, they believe their service was exemplary prior to the COVID-19 pandemic. They were one of the highest performers in their unit in terms of their MOS related work, fitness level and their general conduct as a soldier. During the lock down period in 2020, they lost control of their drinking. What they enjoyed about serving in the Army was the structure and constant engagement with soldiers. They lost the cornerstone of their life and was left at home with no direction or purpose. Drinking ultimately led them to receive a general discharge. They believe their character changed after the chapter was initially submitted April 2021, they stopped drinking and got back to their routine as a soldier. It was a surprise to them and their company leadership that the chapter paperwork was signed September 2021. A less than honorable characterization does not describe the vast majority of their time serving in the Army, had they been allowed to continue their service and reenlist they believe they would have made significant contributions; they believe their service should be characterized as honorable.

They were discharged due to two alcohol related incidents in a 12 month period, like many soldiers they did not handle the COVID-19 pandemic well and during that time they leaned on alcohol as a crutch. Their first alcohol related incident occurred May 2020; the unit chaplain found them under the influence of alcohol after doing a wellness check around the barracks. They were referred to behavioral health and it was initially decided that treatment was unnecessary. After continuing to struggle in the telework environment from the barracks they started the Army Intensive Out-Patient Program in August 2020 by all accounts they were making progress. In April 2021 while their spouse was overseas, they were under the influence of alcohol while teleworking from home. The process was initiated to separate them from the Army under Chapter 8 of the UCMJ. No action was taken between April and October of 2021, they received the Army Good Conduct Medal in September which they thought was a sign of good standing with their unit commander. They were surprised to receive the news that the decision had been made to move forward with the separation action.

The counseling they received from the Army forced them to confront their problem with alcohol, they can proudly say they have been sobered since April 2021. They decided to seek exemption from the COVID-19 vaccine on the basis of religious convictions. The week their exemption request was passed from the acting Command Sergeant Major to the Brigade Commanders desk a chapter packet that was created in April 2021 and had not been submitted past the company level, was signed that same week in September 2021. They believe their command was more than willing to give them a second chance for their alcohol related behavior but when compounded by their vaccination decision they chose the path of least resistance to release them from the service.

**b. Board Type and Decision:** In a records review conducted on 14 June 2024, the board considered the applicant's request, supporting documents, evidence in the records, the Board's Medical Advisor (BMA) opine and published Department of Defense guidance for liberal consideration of discharge, upgrade requests, and by a 5-0 vote, the board members determined that the discharge is inequitable. Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN.

*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:** Alcohol Rehabilitation Failure / AR 635-200, Chapter 9 / JPD / RE- 4 / Under Honorable Conditions (General).

**b. Date of Discharge:** 1 November 2021

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 16 September 2021

**(2) Basis for Separation:** The applicant failed to comply with a Substance Use Disorder Clinical Care (SUDCC) treatment plan, and on 12 April 2021 they were deemed a SUDCC program failure.

**(3) Recommended Characterization:** Honorable

**(4) Legal Consultation Date:** Waived consultation 16 September 2021.

**(5) Administrative Separation Board:** N/A

**(6) Separation Decision Date / Characterization:** 29 September 2021 / General, under honorable conditions.

### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 26 February 2018 / 4 years, 21 weeks.

**b. Age at Enlistment / Education / GT Score:** 25 / bachelor's degree / 145

**c. Highest Grade Achieved / MOS / Total Service:** E-4 (Specialist) / 42A10 Human Resources Specialist / 3 years, 8 months, 6 days.

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

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** AAM-2, AGCM, NDSM, GWTSM, ASR, COA-2

**g. Performance Ratings:** N/A

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

(1) An Enlistment/ Reenlistment Document provides the applicant enlisted in the United States Army at the rank of specialist (E-4) for a period of 4 years and 21 weeks on 15 February 2018.

(2) A Report of Mental Status Evaluation document dated 12 April 2021, provides the applicant was command referred on 14 April 2020 due to excessive alcohol use (underage) and were enrolled on 2 June 2020. The applicant meet criteria for CH 9; treatment failure due to failing to substantially comply with treatment plan by their continuous use of alcohol.

- SUDCC provider recommended separation
- Continued to be AWOL at place of duty and found at home intoxicated while on duty.

(3) A Report of Medical Examination document dated 20 June 2021, provides the applicant received a separation medical examination.

(4) Developmental Counseling Form dated 23 June 2021 provides the applicant was counseled; they were flagged for involuntary separation due to being a SUDCC failure.

(5) On 16 September 2021 the applicant's immediate commander notified them of their intent to separate them for Alcohol or other Drug Abuse Rehabilitation Failure. The commander recommended an Honorable characterization of service. The applicant acknowledged the commander's notification and basis for separation, they waived consulting with counsel and completed their election of rights indicating they understood the prejudices that may occur in receiving a characterization of service of less than honorable.

(6) On 29 September 2021 the appropriate authority approved the separation after careful consideration of all matters and directed a general, under honorable conditions characterization of service.

(7) A Certificate of Release or Discharge from Active-Duty document (DD Form 214) provides on 1 November 2021 the applicant was discharged from the army.

- Authority: 635-200
- Narrative Reason: Alcohol Rehabilitation Failure
- Service Characterization: Under Honorable Conditions (General)
- Remarks: Member has not completed first term of service
- Net Service: 3 years, 8 months, and 6 days

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

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

(1) **Applicant provided:** Alcohol abuse.

(2) **AMHRR Listed:** Alcohol Use Disorder, Severe.

**5. APPLICANT-PROVIDED EVIDENCE:** An online DD Form 293 (Discharge Review) application, a DD Form 293 (Discharge Review) application, self-authored statement, ERB, DD Form 214, Army Good Conduct Medal, two employment pay slips from Ace Hardware, a Colorado

Technical University screen capture that provides the applicants enrollment in school, their complete separation packet and four character letter/ letters of recommendation that describes the applicants work ethic, professionalism, and performance as in individual and soldier.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has been sobered since April 2021 they are currently employed and enrolled in college at Colorado Technical University, pursuing an Associate of Science in Accounting degree they have a 4.0 GPA and are expected to graduate August 2023.

**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 provides the authorized types of characterization of service or description of separation.

**(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)** Except as otherwise indicated in this regulation, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and, therefore, should be separated. In this regard, commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings for the following reasons:

- Involuntary separation due to parenthood
- Personality disorder
- Other designated physical or mental conditions
- Entry-level performance and conduct
- Unsatisfactory performance
- Minor disciplinary infractions or a pattern of misconduct
- Failure to meet body fat standards

**(5)** Chapter 9 provides the authority and outlines the procedures for discharging Soldiers for alcohol or other drug abuse rehabilitation failure. Discharge is based upon alcohol

or other drug abuse such as illegal, wrongful, or improper use of any controlled substance, alcohol, or other drugs when the soldier is enrolled in Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) or when the commander determines that further rehabilitation efforts are not practical, rendering the soldier a rehabilitation failure. This determination will be made in consultation with the rehabilitation team. When the commander determines that a soldier who has never been enrolled in ADAPCP lacks the potential for further useful service, the soldier will be screened per AR 600–85. If found non-dependent, the soldier will not be rehabilitated but will be considered for separation under other appropriate provisions of this regulation. Separations for alcohol abuse rehabilitation failure will be reported separately from separations for drug abuse rehabilitation failure. If separation is based on both, the primary basis will be used for reporting purposes.

**(6)** Paragraph 9-2 prescribes the basis for separation. A Soldier who is enrolled in the ADAPCP for alcohol/drug abuse may be separated because of their inability or refusal to participate in, cooperate in, or successfully complete such a program in one of the following circumstances:

- There is a lack of potential for continued Army service and rehabilitation efforts are no longer practical
- Long term rehabilitation is necessary, and the soldier is transferred to a civilian medical facility for rehabilitation

**(7)** Paragraph 9-4, the service of Soldiers discharged under this section will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required.

**(8)** Paragraph 9-5, The commanders are authorized to take final action on cases processed under this chapter. The separation authority will approve separation in cases processed without an administrative board if the documentation in the file indicates; required rehabilitative efforts have been made, further rehabilitative efforts are not practical, rendering the soldier a rehabilitation failure and the soldier's potential for fully effective service is substantially reduced by alcohol/drug abuse.

**(9)** 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 600-85 (Army Substance Abuse Program (ASAP)) governs the program and identifies Army policy on alcohol and other drug abuse, and responsibilities. The ASAP is a command program that emphasizes readiness and personal responsibility. It provides the ultimate decision regarding separation or retention of abusers is the responsibility of the Soldier's chain of command. Abuse of alcohol or the use of illicit drugs by military personnel is inconsistent with Army values and the standards of performance, discipline, and readiness necessary to accomplish the Army's missions. Individuals who do not self-refer for treatment and are subsequently identified as positive for controlled substances for which they do not have a valid prescription may be considered in violation of the UCMJ for drug misuse/abuse.

f. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JPD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, Alcohol Rehabilitation Failure.

g. 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 waivable and nonwaivable 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 waivable. Eligibility: Ineligible unless a waiver is granted.
- RE-4 Applies to: Person separated from last period of service with a nonwaivable 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. The applicant's DD Form 214 provides that the applicant received a General (under honorable conditions) characterization of service, which is normally considered appropriate for a Soldier discharged for Alcohol Rehabilitation Failure.

b. Based on the available evidence, the applicant was command referred to SUDCC and were enrolled in a mandatory Substance Use Disorder treatment and failed to substantially comply with their treatment plan. They continued their use of alcohol; AWOL from their place of duty and found intoxicated while on duty. The applicant was subsequently processed for administrative separation after being deemed a SUDCC program failure.

c. The applicant was notified of the intent to separate them for rehabilitation failure. They acknowledged they understood the basis for separation under the provisions AR 635-200, CH 9. Rehabilitation attempts were made according to regulation.

d. Chapter 9 establishes policy and prescribes procedures for members being separated for alcohol or other drug abuse rehabilitation failure. The service of Soldiers discharged under this section will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required. The separation authority will approve separation in cases processed without an administrative board if the documentation in the file indicates required rehabilitative efforts have been made, further

rehabilitative efforts are not practical, rendering the soldier a rehabilitation failure, and the soldier's potential for fully effective service is substantially reduced by alcohol/drug abuse.

e. 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:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Anxiety Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the diagnosis of Anxiety DO was made while applicant was on active duty.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has a mitigating BH condition, Anxiety Disorder. As there is an association between Anxiety DO and self-medication with alcohol, there is a nexus between his diagnosis of Anxiety DO, his development of alcohol dependence and his alcohol rehabilitation failure.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the applicant's statement, their record of service and the reason for their separation. Based-on preponderance of the evidence and medical mitigate behavioral health diagnosis (Anxiety DO) outweighed the discharge for Alcohol Rehabilitation Failure – basis of separation.

b. Response to Contention(s): None.

c. The board considered the applicant's request, supporting documents, evidence in the records, the BMA's opine and published Department of Defense guidance for liberal consideration of discharge upgrade requests and determined the discharge is inequitable. Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions) and no change to the reenry code.

d. Rationale for Decision:

(1) The board voted to change the applicant's characterization of service to Honorable because, the applicant's Anxiety DO outweigh the applicant discharge (Alcohol Rehabilitation Failure). Thus, the prior characterization is no longer appropriate.

(2) The board to change the applicant's reason for discharge to Misconduct (Minor Infractions) under the same pretenses, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.



**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20230004502**

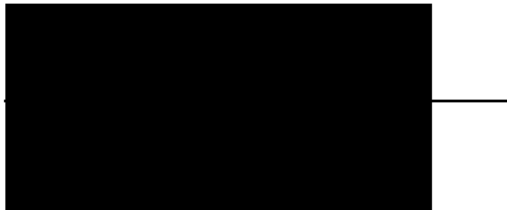
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD code to: Misconduct (Minor Infractions)/JKN
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200, paragraph 14-12a

**Authenticating Official:**

8/7/2024



**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