

1. Applicant's Name: [REDACTED]

a. **Application Date:** 16 November 2023

b. **Date Received:** 20 November 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 Uncharacterized. The applicant requests an upgrade to Honorable and to change their reentry code.

b. **Counsel states.** The applicant seeks relief contending, during the time before joining the Army they were surrounded by a family that used drugs, was abusive to them, and grew up in an area full of addiction. They joined to get away from that life, which they did for a short period of time without problems, however, after they went home for holiday leave, the applicant went back to the same household, with the same influences, which caused them to use drugs again.

(1) After their investigation, they should have been referred to ASAP but was not. This caused SSG to try and assist them with getting the help they needed, to not use, and become a functioning Soldier. As SSG states in their letter attached, no assistance was given to the applicant, and during that time, SSG was the only one to try and to get them the help the applicant was requesting from leadership, however, since they were still in TRADOC, the commander decided not to send the applicant to rehabilitation.

(2) Due to previous home situations, they were unable to seek help even if they wanted it at that time and they decided to inflict self-harm, which caused their leadership to finally send them to a therapist; it still was not treatment for their drug use, only for that specific situation they harmed themselves for. The Army Regulation 600-85, they were supposed to be referred to ASAP and a representative from there would refer the applicant to stay in the Army or be discharged, however, they were not given that opportunity, which could have led them to receiving a different RE-Code or to have not been separated at all.

(3) Before getting discharged, they were recommended by their company, battalion, and brigade commanders, for a General (Under Honorable Conditions) characterization of service, as it is stated on all three documents. But for some reason the applicant's service was classified as entry level status (ELS), even though they served 13 months of active duty, not less than 180 days. After being discharged from the military, they continued to act out in the same way they had been. In January 2022, they found the rooms of Narcotics Anonymous (NA) and became clean and sober, for the past two years.

(4) Their life dramatically as they have since, worked the 12 Steps Program of NA. They have started working at working at Spectrum Mobile, started Flight School to become a pilot, and have become a productive member of society. They believe their discharge should be upgraded because they really just want a second chance to serve as a civilian or if given the opportunity, to serve our country again any way they can. Before they joined the military, it was their dream to be a Soldier, through JROTC in

high school and family members in the military, it was all they wanted. They made mistakes that caused them to get kicked out right after they passed basic training, which is the thing they regret the most in life today. The applicant was young, immature, and naive too when they first joined. Now they can proudly say through life coaching, therapy, and recovering through NA, they can be the mature, functioning adult, they should have been, when they joined.

c. Board Type and Decision: In a telephonic personal appearance hearing conducted on 17 June 2024, and by a 5-0 vote, the Board determined that the character of service the applicant received upon separation was proper and equitable, but the Reentry code was inequitable, so a change to the reentry (RE) code is granted. The RE code will change to RE-3.

Please see Section 10 of this document for more detail regarding the Board's decision.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Drug Abuse) / AR 635-200, Chapter 14-12c (2) / JKK / RE-4 / Uncharacterized

b. Date of Discharge: 5 October 2021

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 20 September 2021

(2) Basis for Separation: false official statement; wrongful distribution and possession of oxycodone; wrongful use of alprazolam (Xanax); Dextroamphetamine (Adderall); psilocybin; cocaine; oxymorphone; oxycodone

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

(4) Legal Consultation Date: On 20 September 2021, the applicant waived their right to counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 24 September 2021 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 15 September 2020 / 3 years, 26 weeks

b. Age at Enlistment / Education / GT Score: 18 / GED / 101

c. Highest Grade Achieved / MOS / Total Service: E-3 / None / 1 year, 21 days [although, not reflected correctly on the DD Form 214]

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: The commander's report notes their award of NDSM; however, it is not listed on the DD Form 214.

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 15 September 2020, the applicant enlisted in the Regular Army for 3 years and 26 weeks as a PFC. The Enlisted Record Brief provides on 12 January, 17 June, and 4 August 2021, the applicant was flagged, Suspend Favorable Personnel Actions (FLAG), law enforcement investigation (MA), adverse action (AA), and field-initiated involuntary separation (BA).

(2) On 21 January 2021, the Manager, Army Substance Abuse Program (ASAP), Fort Benning, GA, provides notification to the command of the applicant's positive test results for wrongful use of oxycodone and oxymorphone; the commander was required to initiate mandatory actions IAW AR 600-85, requiring Soldiers identified as drug users be referred to attend Prime for Life (PFC) course; and screened by the Substance Abuse Disorder Clinical Care (SUDCC) within five days for evaluation and treatment/education.

(3) On 20 September 2021, the company commander notified the applicant of their intent to initiate separation proceedings under the provisions of AR 635-200, Chapter 14-12c (2), Misconduct (Drug Abuse), for false official statement on 7 January 2021; wrongful distribution and possession of oxycodone on or about 18 December 2020 – 7 January 2021; wrongful use of alprazolam (Xanax) on 21 December 2020; Dextroamphetamine (Adderall) on 22 December 2020; psilocybin, cocaine, oxymorphone and oxycodone on or about 31 December 2020 – 7 January 2021; the commander recommended a General (Under Honorable Conditions) characterization of service. The applicant acknowledged having received their separation notice, waived their rights to consult with legal, and elected not to submit a statement on their behalf. The same day, the battalion commander concurred.

(4) On 24 September 2021, the separation approval authority approved the applicant's discharge, with a General (Under Honorable Conditions) characterization of service.

(5) On 29 September 2021, their separation orders were issued. A DD Form 214 reflects the applicant was discharged on 5 October 2021, with an Uncharacterized characterization and 21 days of service listed in block 12c (Net Active Service This Period), although there appears to be an administrative error. They have not completed their first full term of service and was unable to provide an electronic signature.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 (Application for the Review of Discharge); Self-Authored Statements-2; Five Character Letters provide the following:

a. A Certified Holistic Health and Wellness Coach contends the applicant has displayed remarkable resilience and dedication in their rehabilitation from drug use, after their time in the military. They believe the applicant deserves an upgrade in their discharge status and this change could significantly enhance their future prospects, such as the applicant's opportunities to work in government roles, as well as become a pilot would open up a future for them that currently would be curtailed. As a friend of their family, they have had the privilege of knowing the applicant during their rehabilitation process, and they are deeply impressed by their commitment to personal growth and positive change. Despite the challenges faced, they consistently demonstrated a strong desire to overcome their addiction and to become a responsible and productive member of society.

(1) Since their time after discharge, the applicant has shown a remarkable transformation in their character and conduct. They have maintained their sobriety, attended weekly (sometimes twice weekly) Narcotic Anonymous support meetings, engaged actively in counseling, and has been actively involved in community service. Moreover, they have expressed a strong interest in pursuing a career in the government, has taken significant steps toward achieving this goal, and upgrading their discharge status would provide them with new opportunities, like enabling them to apply for government positions that are often restricted to individuals with an honorable discharge.

(2) Additionally, the applicant has a deep-seated dream of becoming a pilot. This aspiration aligns with their newfound commitment to responsibility and discipline. With the upgraded discharge, the applicant would be eligible to pursue the necessary training and licensing to fulfill this ambition, contributing positively to the aviation industry and fulfilling their personal goals. In conclusion, they firmly believe the applicant's rehabilitation journey and their demonstrated commitment to personal growth and responsibility make them a deserving candidate for an upgrade. This change will allow them to contribute positively to our society.

b. On 2 May 2023, SSG provides they served as one of the applicant's Drill Sergeants (2019 – 2021), while they were in basic training. The applicant is an incredibly bright and resilient young person, SSG hoped to support their claim of deserving an upgraded discharge characterization. Prior to meeting the applicant, they had been a Drill Sergeant for nearly two full cycles of trainees and had experience helping several individuals who desired to recover. The difference between them and the applicant, is the applicant's ability to problem solve and find rehabilitative resources on their own, when the Army failed to help them.

(1) The leadership in their troop, to include their CO, 1SG, and the other Drill Sergeants, targeted and blocked the applicant's efforts to get support in finding a rehabilitative program and counseling, each time met with harsh critique and being told they were a waste of time and money, which SSG personally witnessed on several occasions. The applicant had very limited access to the internet and outside resources due to their status as a trainee, however, used their time (15 minutes on some Sundays) to find outside programs to aid them in overcoming their addiction. Around this time, the applicant reached out to SSG, for their help, to initially ask more authorized phone time on Sundays. Since the applicant was in a "non-trainer status" (a service member pending medical or disciplinary discharge, who is no longer training),

they were not given the same privileges as those in a training status. Non-trainers, especially the applicant, were treated very badly, solely for their non-training status. The other Drill Sergeants and the command team in B TRP encouraged other trainees to look down upon non-trainers, fostering an environment that allowed for this malicious treatment to thrive, while degrading any trainees on medical profile or pending discharge. This gross maltreatment and derelicts of duty were later reported and founded by the Army's Investigation General (IG) department. SSG has a memorandum for record, documenting these incidents if that is needed, to support these claims.

(2) The extra time was for the applicant to virtually participate in Narcotics Anonymous meetings and attend virtual mental health counseling sessions, having figured this out on their own, with no help from leadership, as their first line, commander, and 1SG, refused to provide resources to the applicant. The applicant was only afforded ~15 minutes of the 60 minute sessions, due to the phone restrictions for non-trainers and was paying about \$300 each time, for both outside counseling sessions. The applicant being forced to pay out of pocket was concerning, for not getting to fully utilize services they paid for and because this was free for service members. This also reflects how badly the applicant wanted help, having found resources both on and off post that they would be authorized to attend, in which would be paid for by the Army, SSG asked their CO if they would call and get more information, in which they initially agreed to; after following up with them, the CO said they never called because the applicant was a "lost cause" and did not want to "waste" the Army's money. SSG tried to enlist help from both the 1SG and Senior Drill Sergeant, who told them the same thing. Then they brought it to their Squadron Command Sergeant Major (CSM) and told them if they did not get any help in figuring this out on behalf of the applicant, they were going to go to IG for assistance. They reported this encounter along with several other concerns to IG and even though the complaints were founded, they do not believe the applicant received the help they deserved before they were released from duty.

(3) The applicant was stuck with no resources or support during the 13 months they were at Fort Benning. They brought their concerns of returning to a bad homelife to the command team several times and was failed by being told to figure it out on their own. Luckily, on behalf of future trainees who may have similar circumstances like the applicants', every leader from squadron level down, who was in a position of trust and involvement during that time, was removed from their responsibilities at the conclusion of the IG investigation. SSG thought it necessary to include all of this to show how the applicant did everything they could to get help, even when they were left to figure it out on their own. And though the applicant deserved so much better, the applicant has overcome these adversities and is 14+ months sober and enrolled in college, having put so much time and effort into their reform and rehabilitation. They are one of the smartest people they have ever had the pleasure of meeting, their potential is unmatched, and they deserve a second chance. Changing their discharge would allow for the applicant to thrive and grow in the opportunities, that surely are being limited by their current discharge characterization.

c. On 10 May 2023, their sponsor provides they have known the applicant for over a year [at the time], after a few months, became their sponsor after having met in person in multiple cities. The applicant has expressed their desire to change by staying clean and participating in Recovery, by learning tools from attending NA meetings, affiliating with other clean people, talking, and taking direction from their sponsor, and working the 12-steps; they are continuing on the road to becoming an acceptable, responsible, and

productive member of society.

d. On 31 October 2023, a former corporal, U.S. Army, who works with the applicant, having met in their training class, provides the applicant was always among the first to volunteer for any special projects given by the instructor or used their work as an example for the class. Their volunteering multiple times over time, demonstrated their eagerness to support the team and demonstrated a high level of confidence in their own skills and abilities. The applicant's performance metrics has always been well above average, having their name recognized more than once a quarterly achievement award and landing their name on the "wall of excellence" for top performers. The applicant was chosen to be a training mentor to assist new hires on job training and produced training aids, which are used by teams all over the center, to adopt the techniques and processes of the applicant to improve their metrics. Speaking to the applicant's leadership, determination, and character, they refer to the applicant as a valuable asset.

e. The applicant provided their Federal Aviation Administration Student Pilot Certificate valid from 7 September – 6 November 2023.

f. On 3 November 2023, the Vice President of Customer Care provides the applicant has been a model and consistent employee, who has worked hard to showcase their overall skillset and present themselves as a subject matter expert within this field of work. Their call recordings are often used for new hires to teach them the right way to execute call interactions, by having their overall demeanor, consistent attendance, and daily willingness to assist and support fellow employees is something they have come to depend on. The applicant often participates in focus groups to provide feedback and examples when looking for ways to improve their policies and procedures. Even though they will lose the applicant as an employee, they truly respect the applicant's efforts for reinstatement.

g. On 21 November 2023, the applicant provided a final report for drug testing a random hair sample (HAIRSTAT10, Hair10), collected on 20 November, at United States Drug Testing Laboratories, which was negative for amphetamines, barbiturates, benzodiazepines, cocaine, methadone, opiates, PCP, oxycodone, propoxyphene, and cannabinoids.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is clean and sober as of January 2022, after receiving counseling from Narcotics Anonymous, with the help of their sponsor and the completion of their 12 steps. They work at Spectrum Mobile, started flight school to become a pilot, and have become a productive member of society.

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) 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) 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. 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. 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.

(5) 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 14-12c (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:

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

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

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

g. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)), provided a comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers for ASAP services. The ASAP is a command program that emphasizes readiness and personal responsibility. 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 mission.

(1) Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement.

(2) ASAP participation is mandatory for all Soldiers who are command referred. Failure to attend a mandatory counseling session may constitute a violation of Article 86 (Absence Without Leave) of the UCMJ.

(3) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(4) All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

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 to change their reentry code. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. A review of the available evidence provides the applicant enlisted in the RA for 3 years as a PFC and served for 3 months, and 26 days, prior to their misconduct. They were flagged for law enforcement investigation and adverse action, for making a false official statement; wrongful distribution and possession of oxycodone; wrongful use of alprazolam (Xanax); Dextroamphetamine (Adderall); psilocybin; cocaine; oxymorphone; oxycodone. They were involuntarily separated under the provisions of AR 635-200, Chapter 14-12c (2), Misconduct (Drug Abuse) and recommended for a General (Under Honorable Conditions) characterization of service. The applicant waived their right to consult with defense counsel and elected not to submit matters on their behalf.

(1) There is no evidence in the record of the applicant completing a medical and/or mental examination, prior to their separation.

(2) They served for 1 year and 21 days of their 3 year, 26 week contractual obligation.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

d. 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. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE: In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

a. **The applicant submitted the following additional document(s):** None

b. **The applicant presented the following additional contention(s):** None

c. **Counsel / Witness(es) / Observer(s):** None

10. 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: Adjustment Disorder

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

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's documented Adjustment Disorder was secondary to the investigation and separation. Although he asserted additional diagnoses, records were not provided and available documentation does not support the conditions. Overall, there is no indication a psychiatric condition contributed to the basis for separation. Rather, the records align with the applicant's discussion of using in context of his environment. Accordingly, there is no mitigation.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the documented Adjustment Disorder secondary to the investigation and separation did not outweigh the basis of separation.

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) Through counsel, the applicant contends, during the time before joining the Army they were surrounded by a family that used drugs, was abusive to them, and grew up in an area full of addiction. They joined to get away from that life, which they did for a short period of time without problems, however, after they went home for holiday leave, the applicant went back to the same household, with the same influences, which caused them to use drugs again.

The Board acknowledged this contention during proceedings.

(2) The applicant, through counsel contends, they should have been referred to ASAP but was not. This caused SSG to try and assist them with getting the help they needed, to not use, and become a functioning Soldier. As SSG states in their letter attached, no assistance was given to the applicant, and during that time, SSG was the only one to try and to get them the help the applicant was requesting from leadership, however, since they were still in TRADOC, the commander decided not to send the applicant to rehabilitation.

The Board acknowledged this contention and determined through evidentiary records that the applicant was flagged, Suspend Favorable Personnel Actions (FLAG), law enforcement investigation (MA), adverse action (AA), and field-initiated involuntary separation (BA). On 21JAN21, the Manager, Army Substance Abuse Program (ASAP), Fort Benning, GA, provides notification to the command of the applicant's positive test results for wrongful use of oxycodone and oxymorphone; the commander was required to initiate mandatory actions IAW AR 600-85, requiring Soldiers identified as drug users be referred to attend Prime for Life (PFC) course; and screened by the Substance Abuse Disorder Clinical Care (SUDCC) within five days for evaluation and treatment/education. On 20 September 2021, the company commander notified the applicant of their intent to initiate separation proceedings under the provisions of AR 635-200, Chapter 14-12c (2), Misconduct (Drug Abuse), for false official statement on 7

January 2021; wrongful distribution and possession of oxycodone on or about 18 December 2020 – 7 January 2021; wrongful use of alprazolam (Xanax) on 21 December 2020; Dextroamphetamine (Adderall) on 22 December 2020; psilocybin, cocaine, oxymorphone and oxycodone on or about 31 December 2020 – 7 January 2021; the commander recommended a General (Under Honorable Conditions) characterization of service. The applicant acknowledged having received their separation notice, waived their rights to consult with legal, and elected not to submit a statement on their behalf.

(3) The applicant, through counsel contends, due to previous home situations, they were unable to seek help even if they wanted it at that time and they decided to inflict self-harm, which caused their leadership to finally send them to a therapist; it still was not treatment for their drug use, only for that specific situation they harmed themselves for. The Army Regulation 600-85, they were supposed to be referred to ASAP and a representative from there would refer the applicant to stay in the Army or be discharged, however, they were not given that opportunity, which could have led them to receiving a different RE-Code or to have not been separated at all.

The Board acknowledged and considered this contention during proceedings.

(4) Through counsel, the applicant contends, before getting discharged, they were recommended by their company, battalion, and brigade commanders, for a General (Under Honorable Conditions) characterization of service, as it is stated on all three documents. But for some reason the applicant's service was classified as entry level status (ELS), even though they served 13 months of active duty, not less than 180 days. After being discharged from the military, they continued to act out in the same way they had been. In January 2022, they found the rooms of Narcotics Anonymous (NA) and became clean and sober, for the past two years.

The Board considered this contention and determined in accordance with AR 635-200 that, based on the applicant's official record, applicant was separated while in an entry level status, was not awarded a MOS and an UNC is the proper characterization of service except when the DCS, G-1 determines that an HD is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

(5) The applicant, through counsel contends, their life dramatically, as they have since, found a sponsor and worked the 12 Steps Program of NA. They have started working at Spectrum Mobile, started Flight School to become a pilot, and have become a productive member of society. They believe their discharge should be upgraded because they really just want a second chance to serve as a civilian or if given the opportunity, to serve our country again any way they can. Before they joined the military, it was their dream to be a Solider, through JROTC in high school and family members in the military, it was all they wanted. They made mistakes that caused them to get kicked out right after they passed basic training, which is the thing they regret the most in life today. The applicant was young, immature, and naive too when they first joined. Now they can proudly say through life coaching, therapy, and recovering through NA, they can be the mature, functioning adult, they should have been, when they joined.

The Board acknowledged this contention during proceedings.

(6) A Certified Holistic Health and Wellness Coach contends the applicant has displayed remarkable resilience and dedication in their rehabilitation from drug use, after their time in the military. They believe the applicant deserves an upgrade in their

discharge status and this change could significantly enhance their future prospects, such as the applicant's opportunities to work in government roles, as well as become a pilot would open up a future for them that currently would be curtailed. As a friend of their family, they have had the privilege of knowing the applicant during their rehabilitation process, and they are deeply impressed by their commitment to personal growth and positive change. Despite the challenges faced, they consistently demonstrated a strong desire to overcome their addiction and to become a responsible and productive member of society.

The Board considered this contention as well as the totality of the applicant's records and determined that an upgrade to the characterization of service is not warranted.

(7) SSG (their Drill Sergeant) contends the applicant is an incredibly bright and resilient young person, SSG hoped to support their claim of deserving an upgraded discharge characterization. Prior to meeting the applicant, they had been a Drill Sergeant for nearly two full cycles of trainees and had experience helping several individuals who desired to recover. The difference between them and the applicant, is the applicant's ability to problem solve and find rehabilitative resources on their own, when the Army failed to help them.

The Board considered this contention as well as the totality of the applicant's records and determined that an upgrade to the characterization of service is not warranted as the applicant was separated while in an Entry level status.

(a) The leadership in their troop, to include their CO, 1SG, and the other Drill Sergeants, targeted and blocked the applicant's efforts to get support in finding a rehabilitative program and counseling, each time met with harsh critique and being told they were a waste of time and money, which SSG personally witnessed on several occasions. The applicant had very limited access to the internet and outside resources due to their status as a trainee, however, used their time (15 minutes on some Sundays) to find outside programs to aid them in overcoming their addiction. Around this time, the applicant reached out to SSG, for their help, to initially ask more authorized phone time on Sundays. Since the applicant was in a "non-trainer status" (a service member pending medical or disciplinary discharge, who is no longer training), they were not given the same privileges as those in a training status. Non-trainers, especially the applicant, were treated very badly, solely for their non-training status. The other Drill Sergeants and the command team in B TRP encouraged other trainees to look down upon non-trainers, fostering an environment that allowed for this malicious treatment to thrive, while degrading any trainees on medical profile or pending discharge. This gross maltreatment and derelicts of duty were later reported and founded by the Army's Investigation General (IG) department. SSG has a memorandum for record, documenting these incidents if that is needed, to support these claims.

The Board considered this contention and determined in accordance with AR 635-200 that, based on the applicant's official record, applicant was separated while in an entry level status, was not awarded a MOS and an UNC is the proper characterization of service except when the DCS, G-1 determines that an HD is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

(b) The extra time was for the applicant to virtually participate in Narcotics Anonymous meetings and attend virtual mental health counseling sessions, having figured this out on their own, with no help from leadership, as their first line, commander, and 1SG, refused to provide resources to the applicant. The applicant was

only afforded ~15 minutes of the 60 minute sessions, due to the phone restrictions for non-trainers and was paying about \$300 each time, for both outside counseling sessions. The applicant being forced to pay out of pocket was concerning, for not getting to fully utilize services they paid for and because this was free for service members. This also reflects how badly the applicant wanted help, having found resources both on and off post that they would be authorized to attend, in which would be paid for by the Army, SSG asked their CO if they would call and get more information, in which they initially agreed to; after following up with them, the CO said they never called because the applicant was a "lost cause" and did not want to "waste" the Army's money. SSG tried to enlist help from both the 1SG and Senior Drill Sergeant, who told them the same thing. Then they brought it to their Squadron Command Sergeant Major (CSM) and told them if they did not get any help in figuring this out on behalf of the applicant, they were going to go to IG for assistance. They reported this encounter along with several other concerns to IG and even though the complaints were founded, they do not believe the applicant received the help they deserved before they were released from duty.

The Board considered this contention and determined in accordance with AR 635-200 that, based on the applicant's official record, applicant was separated while in an entry level status, was not awarded a MOS and an UNC is the proper characterization of service except when the DCS, G-1 determines that an HD is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

(c) The applicant was stuck with no resources or support during the 13 months they were at Fort Benning. They brought their concerns of returning to a bad homelife to the command team several times and was failed by being told to figure it out on their own. Luckily, on behalf of future trainees who may have similar circumstances like the applicants', every leader from squadron level down, who was in a position of trust and involvement during that time, was removed from their responsibilities at the conclusion of the IG investigation. SSG thought it necessary to include all of this to show how the applicant did everything they could to get help, even when they were left to figure it out on their own. And though the applicant deserved so much better, the applicant has overcome these adversities and is 14+ months sober and enrolled in college, having put so much time and effort into their reform and rehabilitation. They are one of the smartest people they have ever had the pleasure of meeting, their potential is unmatched, and they deserve a second chance. Changing their discharge would allow for the applicant to thrive and grow in the opportunities, that surely are being limited by their current discharge characterization.

The Board considered this contention and determined in accordance with AR 635-200 that, based on the applicant's official record, applicant was separated while in an entry level status, was not awarded a MOS and an UNC is the proper characterization of service except when the DCS, G-1 determines that an HD is warranted based on unusual circumstances involving personal conduct and performance of duty, which is not applicable in this case. Therefore, no change is warranted.

(8) The applicant's sponsor, leadership, and colleague contend the applicant is continuing on the road to becoming an acceptable, responsible, and productive member of society; has worked hard to showcase their overall skillset and present themselves as a subject matter expert within their field of work; and their leadership, determination, and character makes them a valuable asset.

The Board acknowledged this contention.

a. The Board determined that the character of service the applicant received upon separation was proper and equitable, but the Reentry code was inequitable and a change to the reentry (RE) code is granted. The RE code will change to RE-3.

b. 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 documented Adjustment Disorder was secondary to the investigation and separation and did not excuse or mitigate the offenses of drug abuse. The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board didn't find sufficient evidence of in-service mitigating factors and concurred with the conclusion of the medical advising official that the applicant's Adjustment Disorder was secondary to the investigation and separation. The Board concurred that the applicant didn't receive adequate help to deal with misconduct. The applicant was diligent in receiving treatment at his expense. The applicant's post service is working on college and his pilot's license. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was equitable but the RE code was inequitable and voted to update to RE Code 3.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, as the reason the applicant was discharged was both proper and equitable.

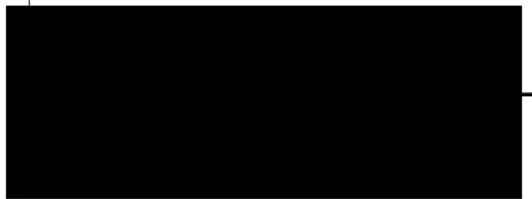
(3) The RE code will change to RE-3.

2. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes**
- b. Change Characterization to: No change**
- c. Change Reason / SPD code to: No change**
- d. Change RE Code to: RE-3**
- e. Change Authority to: AR 635-200**

Authenticating Official:

11/12/2024



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