

1. Applicant's Name: [REDACTED]**a. Application Date:** 13 October 2023**b. Date Received:** 23 October 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.

b. The applicant seeks relief contending, their discharge was inequitable, based on one isolated incident that they did not commit and was never convicted of in 42 months of service with no other adverse action. In a self-authored statement, the applicant has never been in legal trouble and while in the Army, they had minor indiscipline for having late and overall was a good Soldier. The applicant asks is it fair to take away not only their Honorable discharge, but their G.I. Bill, and their right to sell leave? The applicant rehabilitated such as Prime for Life classes, self-enrolled in SUDCC (Substance Use Abuse Disorder Clinical Care) and remained out of trouble since their incident. The General (Under Honorable Conditions) discharge having been rushed to the very last day of their contract was trivial to the applicant.

(1) People deserve second chances as not everyone will do right with them, but everyone makes mistakes. What happened was out of character for the applicant and everyone in their platoon can vouch for them and can attest that the applicant is a good person and Soldier. The applicant is a loving parent, had a 576 PT score, had a 3.51 GPA with 66 of their 120 credits completed in their bachelor's program, and additionally was placed on the Dean's list. They had planned to serve in the Reserve following active duty. In or out of the Army, the applicant states this is an incident which will never happen again their lifetime.

(2) The applicant contends nobody was hurt, no property was damaged, they reported themselves to SUDCC and did all they could to pay for what occurred. Giving the applicant anything less than an Honorable shows that the Soldiers are not cared about and it appears Soldiers cannot make a mistake and learn from it. While the applicant was in service, their spouse cheated on them and gave birth to another person's child, which was very hard to deal with. Moreover, their Infantry unit was a toxic and mentally exhausting company to be a part of; the applicant turned to drinking much more than ever. They have done all they can to fix it and deserve to retain their Honorable discharge. They are requesting the right to finish their degree and sell their leave days as they were out-processed.

c. Board Type and Decision: In a records review conducted on 22 October 2025, and by a 3-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service outweighed the one-time, non-aggravated DUI. 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, and the reentry code to RE-3.

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 14-12 / JKQ / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 6 April 2023

c. Separation Facts:

(1) Date of Notification of Intent to Separate: Undated

(2) Basis for Separation: driving under the influence (DUI)

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

(4) Legal Consultation Date: Waived on 30 March 2023; requested counsel on 5 April 2023

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 5 April 2023 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 21 October 2019 / 3 years, 24 weeks

b. Age at Enlistment / Education / GT Score: 24 / 1-year College / 104

c. Highest Grade Achieved / MOS / Total Service: E-4 (SPC) / 19D10 R4 Calvary Scout / 3 years, 5 months, 16 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: AAM, AGCM, NDSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 21 October 2019, the applicant enlisted in the Regular Army (RA) for 3 years and 24 weeks as a PFC (E-3). The Enlisted Record Brief provides on 1 October 2021, they promoted to SPC (E-4).

(2) A Criminal Investigation Division (CID) Report, dated 4 February 2023 at 0250 hours, provides an investigation revealed that DASG observed a truck, owned, and operated by the applicant, attempting to enter the installation. DASG detected signs of impairment to include slurred speech, odor of an alcoholic beverage emitting from their person, water eyes, and poor coordination; they requested law enforcement. Base Police arrived and confirmed signs of impairment. The applicant voluntarily performed SFST (Standardized Field Sobriety Testing), which showed signs of impairment, and the applicant declined to provide a breath sample for a

preliminary breath test. They were apprehended and transported to the PMO (Provost Marshall Office) for processing where the applicant was advised of their rights, which they invoked. The applicant was advised of Washington State Implied Consent and they refused to provide a breath sample. A search warrant for the applicant's blood was obtained and the applicant was taken to the hospital where two tubes of their blood were secured and annotated on a DA Form 4137 (Evidence Property Custody Document). There are no results of this document or the blood toxicology report in the record.

(3) On 16 February 2023, the applicant received a GOMOR (General Officer Memorandum of Reprimand), for DUI, on 4 February, while attempting to enter the installation at Liberty Gate, security guards observed signs of impairment, including slurred speech, watery eyes, and an odor of intoxicants emitting from their person. The applicant agreed to perform SFST, which indicated impairment and they were apprehended and taken to the Provost Marshal's Office, where the applicant refused to submit a lawfully requested breathalyzer test. The applicant provided a rebuttal, summarized below; however, with the recommendations from their chain of command, the approval authority imposed the GOMOR under the provisions of AR 600-37 and directed permanent filing in the OMPF (Official Military Personnel File).

(a) In a self-authored statement, the applicant provides they attempted to enter the gate and was unlawfully detained by DASG (Department of the Army Security Guard). The applicant claimed their innocence as the basis of the accusation was built on an unstable foundation. When the applicant drove up to the gate, they received dirty looks from DASG. As usual when pulling up to the gate, the applicant simply said, "good evening" and scanned their CAC. Prior to this, they rummaged through their gym bag to find their truck keys to open their tail bed, kept locked prevent break-ins of their vehicle, opened, and closed their tail bed, and returned back to the truck to proceed onto base.

(b) The applicant states they had not been drinking that night, only said three words ("Good evening" and "No") to the gate guards, and found it impossible, along with their lawyer, to conclude the applicant was slurring their words. When the applicant arrived at the gate, they were smoking a cigarette. They found it impossible to believe that DASG smelled alcohol considering the fact that the applicant was not drinking, and the odor of cigarettes are very strong to add to it. Whether their eyes were "watery" or not, they were unsure. However, it was very early in the morning, and they were tired. Also, the applicant had very bad allergies, which can be confirmed by their prescription allergy medication for Fluticasone Propionate and their frequent visits to the Madigan ENT (Ear, Nose, Throat) clinic.

(c) In recounting the day, the applicant provides after work, they took a nap for a few hours at home, woke up and completed homework and began two projects due the following Monday. Every Friday night from 2300-0100 hours, the applicant played pickup basketball with friends and also, spent time in the sauna and jacuzzi. With two close friends in their platoon departing the next Monday from expiration term of service (ETS), the applicant picked up food, near the police station, and went on base to share burritos and say their last goodbyes. Had the applicant been drinking and driving (considering the hours) they would have likely been pulled over and arrested by the Police or Highway Patrol. The applicant's assumption was DASG stereotyped them by listening to rap music, smoking a cigarette, and the time the applicant pulled up to the gate and used the most common accusations for driving under the influence to call the JBLM MP's and ruined their Army career. This was not DASG protecting the base, it was a classic tale of authority figures abusing their power.

(d) The applicant DID NOT voluntarily take SFST, they were told they had to. They did not know this was optional and it was never told to the applicant that they were. Had they known this was optional, they would have refused. They do not enjoy being a problem,

accordingly, they cooperated to the best of their abilities. The applicant was not surprised to hear the tests showed "signs of impairment" to the MP's as they had not eaten a meal since around 1800 hours. When they woke up from their nap, the applicant had a full arm and core workout, played intense basketball for two hours, spent time in the sauna and jacuzzi before they left, and was simply tired from the lack of sleep. Needless to say, the applicant was exhausted. They refused to take a breathalyzer because it is not required in that state and because of last summer's news of inaccurate breathalyzer tests in K_ County, the applicant did not want to take a chance of being falsely convicted of something that they did not do. They were well within their rights to refuse, and the applicant was unlawfully searched and seized.

(e) The applicant's entire truck was searched and no alcohol or anything to do with alcohol was found. They are a 27-year-old person with no criminal record. They are a spouse and a parent, a student halfway done with their Bachelor's of English, with no history of any alcohol or drug issues. They have not been in any trouble for the nearly 3.5 years the applicant has been in the Army and this is the treatment they received. What kind of sense would it make for them to risk all of this and other people's lives by drinking and driving? That would take a special type of idiot. They were 22 days away from taking terminal leave and have had that revoked now due to the process of administrative action/separation and their military career was reduced to nothing over false accusations.

(f) Additionally, they were counseled by their Platoon Sergeant (SFC), which listed three accusations completely different than the three on their GOMOR. The fabricated lies of DASG took a toll on their career, their life, and their family's life. What happened to the United States of America being a "free country" with the right to due process? The applicant was denied life and liberty and has been denied equal protection by this country's laws. They were saddened and distraught by this situation and it is a shame that law enforcement (and DASG) continue to abuse their power. The applicant felt this would fall on deaf ears and felt the FACTS presented would not be considered. They were guilty until proven innocent and it was a shame because the applicant was an innocent person that was unlawfully searched and seized with no concrete reason to believe they were drinking and driving. There was no real basis to believe the applicant was drinking and driving and no way to prove that they were until the applicant's blood results come back from the State Toxicology Lab, which will confirm their innocence.

(4) Between 14 February – 24 March 2023, the applicant completed their separation exams at Madigan Army Medical Center, Joint Base Lewis-McChord, WA, providing on their assessment, their overall health was better since their last physical; they have been treated for a rash and back pain; did not seek medical care for anxiety, depression, and knee pain; they are taking Flonase; and will seek disability with Veterans Affairs (VA).

(a) On 6 March 2023, the applicant completed a mental status evaluation (MSE) at Embedded Behavioral Health Clinic, Joint Base Lewis-McChord, WA, which did not indicate a BH diagnosis. The applicant did not currently have a behavioral health condition that would cause the applicant to fail medical retention standards in accordance with AR 4-501. The medical record does not contain substantial evidence that the applicant met criteria for a condition requiring referral to IDES. They were assessed for administrative separation for a chapter 14-12C IAW AR 635-200 and cleared for action.

(b) A Command Referral for a Substance Use Disorder (SUD) Evaluation, dated 13 March 2023, indicates they were referred due to a DUI and had no record of civilian arrests or convictions. Their performance and behavior were considered "fair" and "good".

(c) Their medical history, block 29 lists the following explanations of “yes” answers:

- 11d, g: ear issues; hearing loss (left)
- 12a, b, c: torn labrum, surgery (right) – April 2022; arthritis in shoulder (right); chronic lower back pain
- 13e: hernia, surgery March 2021 (umbilical)
- 14c: Yes
- 17a, d, e: stress and anxiety; stress has them having trouble falling asleep; visited Embedded Behavioral Health to seek help for a hard time in their life
- 21a: multiple surgeries at Madigan
- 22: wisdom teeth, hernia, and shoulder surgery
- 27: VA appointments, they have not received a rating yet

(d) Their medical history, block 30a, provides the examiner’s notes:

- 11d/g: history of chronic middle ear infection and left conductive hearing. Myringotomy and tympanostomy tube placement on 28 April 2022
- 12a, b: fractured orbital from baseball before Army; right shoulder pain; onset August 2021 with bench-pressing; underwent trial of rest, NSAIDs, physical therapy, and corticosteroid injections; underwent right shoulder arthroscopy with superior labral debridement and right shoulder open subpectoral biceps tenodesis at Madigan on 28 April 2022
- 12c: low back pain; onset in late September 2022 and squatting; managed by chiropractic therapy; reevaluated by PCM on 21 March 2023 and referred to physical therapy; XR showed straightening of normal lumbar lordosis which may be secondary to muscle spasm
- 13e: umbilical hernia repair 15 March 2021 – performed at Madigan bilateral mastectomy 10 December 2021 due to gynecomastia
- 17c, d, e: EBH visit for stress, anxiety; endorses poor sleep; SUDCC eval 28 February 2023 for DUI off-post; diagnosed with alcohol dependence
- 21/22: see 11/12/13
- 27: Noted

(e) Their medical examination qualified them for service and separation. The provider summarized their diagnoses as: left middle ear effusion; history of right shoulder surgery; low back pain; history of umbilical repaired and bilateral mastectomy; and alcohol dependence. Their recommendations specifies to follow up with their primary care manager as needed.

(5) Although undated, the company commander notified the applicant of their intent to initiate separation proceedings under the provisions of AR 635-200, Chapter 14-12c, Misconduct (Serious Offense), due to the applicant having refused to provide a breathe sample after being detained for driving while under the influence. Their company commander recommended a General (Under Honorable Conditions), in which the battalion commander concurred with.

(6) On 27 March 2023, the applicant acknowledged receipt of their separation notice. The election of rights provides conflicting information as the applicant requested counsel then signed to waive counsel; defense counsel did not acknowledge either election.

(7) On 5 April 2023, the separation approval authority approved the discharge, with a General (Under Honorable Conditions). On 6 April 2023, their separation orders were issued. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was

discharged accordingly the same day, with 3 years, 6 months, and 20 days of total service. The applicant provided their electronic signature and the member has completed their first full term of service.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Two Dean's List Letters; Prime for Life Certificate; Two Character Letters provide the following:

a. On 11 October 2023, SPC provides the applicant quickly became their best friend in the platoon, as the applicant had a sense of humor and knew how to boost the morale when times were tough. They are a great parent and has a bright future ahead. They were not the kind of person to drink and drive, as the applicant on several occasions offered to be the designated driver for other Soldiers. SPC heard leadership had it out for the applicant and from the toxicity of the unit, this was not hard to believe because their platoon could not have cared less about their Soldiers.

b. On 13 October 2023, SGT contends, the applicant was team leader for the majority of the time while stationed together. They were well-rounded and stood out for their physical ability. Whether it was a run, a competition, or lifting weights, the applicant was always pushing their body to the limit. One platoon competition, the applicant ran a majority of the course with a water can and only passed it to a battle buddy only when they could no longer carry it. This is the kind of person is, to sacrifice for the greater good of the team no matter how painful it may be. They were 18 days away from their terminal leave and SGT cannot believe that the applicant would be one to partake in risky behavior before they left the Army or ever for that matter.

6. POST SERVICE ACCOMPLISHMENTS: The applicant was in school and had completed half of their bachelor's degree and remained on the Dean's List for two semesters. They have completed Prime for Life and SUDCC treatment.

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 (Active Duty Enlisted Administrative Separations), set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14-12c, Misconduct (Serious Offense).

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. 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.

(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. 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.

(2) 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.

(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.

h. Manual for Courts-Martial (2019 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good orders and discipline in the Armed Forces. Article 113 (drunken or reckless operation of a vehicle) states in the subparagraph, the maximum punishment consists of a bad conduct discharge, forfeiture of all

pay and allowances, and confinement for six months.

i. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered, medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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 Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The available evidence provides the applicant enlisted in the RA, promoted to SPC, and served for 3 years, 3 months, and 13 days prior to the misconduct which led to their discharge. They received a GOMOR for DUI, with an unknown BAC, as they refused to provide a breath sample after having been detained. They submitted matters on their behalf in a rebuttal and with command recommendation, the approval authority directed permanent filing in the AMHRR. Separation proceedings were initiated under the provisions of AR 635-200, Chapter 14, Misconduct (Serious Offense), with a General (Under Honorable Conditions) characterization of service. The election of rights provides conflicting information as the applicant requested counsel then signed to waive counsel; defense counsel did not acknowledge either election. The applicant provided a statement on their behalf.

(1) A MSE indicated no diagnoses; the applicant was enrolled in SUDCC (level 1) treatment, nearly a month prior to having been separated. Their MHE medically qualified the applicant for service; the provider notes the applicant was diagnosed with alcohol dependence and recommended them to follow up with their PCM as needed.

(2) The applicant served their 3 year-24 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. 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: Alcohol Use Disorder; Partner-Relational Problems

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found in-service BH treatment related to marital problems and ASAP referral for a DUI.

(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 provides a compelling account of the events leading up to the misconduct and records showed stressors related to ETSing, there was insufficient evidence of any service-related traumatic experiences or extenuating circumstances that would mitigate the applicant's alcohol use, refusal to take a breathalyzer, and DUI.

(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 held a mitigating condition which could outweigh the misconduct.

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant seeks relief contending, their discharge was inequitable, based on one isolated incident that they did not commit and was never convicted of in 42 months of service with no other adverse action.

The Board determined that this contention was valid and voted to upgrade the characterization of service due to the applicant's length and quality of service outweighed the one-time, non-aggravated DUI.

(2) The applicant what happened was out of character for the applicant and everyone in their platoon can vouch for them and can attest that the applicant is a good person and Soldier. The applicant is a loving parent, had a 576 PT score, had a 3.51 GPA with 66 of their 120 credits completed in their bachelor's program, was placed on the Dean's list, their spouse cheated on them and gave birth to another person's child, still had a sense of humor and knew how to boost the morale when times were tough.

The Board determined that this contention was valid and voted to upgrade the characterization of service due to the applicant's length and quality of service outweighed the one-time, non-aggravated DUI.

(3) The applicant contends nobody was hurt, no property was damaged, they reported themselves to SUDCC and did all they could to pay for what occurred. Their Infantry unit was a toxic and mentally exhausting company to be a part of; the applicant turned to drinking much more than ever.

The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on length and quality of service outweighed the one-time, non-aggravated DUI basis for separation, however the Army has many legitimate avenues available to service members requesting assistance with unit issues, and there is no evidence in the official records nor provided by the applicant that such assistance was pursued. The Board concluded that the applicant's DUI was not an acceptable response and this contention was inconsequential to the Board proceedings.

d. The Board determined the discharge is inequitable based on the applicant's length and quality of service outweighed the one-time, non-aggravated DUI. 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, and the reentry code to RE-3.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's length and quality of service outweighed the one-time, non-aggravated DUI. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

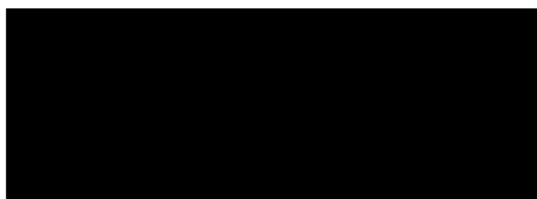
(3) The Board voted to change the RE code to RE-3.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD Code to:** Misconduct (Minor Infractions)/JKN
- d. **Change RE Code to:** RE-3
- e. **Change Authority to:** AR 635-200, paragraph 14-12a

Authenticating Official:

11/12/2025



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