

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

- a. **Application Date:** 27 October 2020
- b. **Date Received:** 9 November 2020
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:****a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is General (Under Honorable Conditions). The applicant requests a change to honorable.

(2) The applicant seeks relief stating their discharge was inequitable because it was based on one isolated incident in their 32 months of service with no other adverse action. They strongly believe they were punished twice for the same action. They received nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice (UCMJ), and shortly after completing their punishment they were told they were getting discharged from the Army. They were called a liar, even though they had proof of their whereabouts and proof that their flight did in fact get cancelled. They were never given the right guidance nor support from their leadership. They were constantly being bullied by their peers and leadership.

(3) Receiving an Honorable discharge is most important to them because they would be able to use their education benefit to continue on with their career goals.

**b. Board Type and Decision:** In a records review conducted on April 12, 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD diagnosis. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The board determined the current reentry code was proper and equitable based on the applicant's medical diagnosis and voted not to change it.

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct, (Serious Offense) / Army Regulation 635-200, Paragraph 14-12C / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 19 May 2020

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 19 March 2020

(2) **Basis for Separation:** absent without leave from their place of duty for several days and made a series of false official statements to noncommissioned officers (NCOs).

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

(4) **Legal Consultation Date:** NIF

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

**(6) Separation Decision Date / Characterization:** 20 April 2020 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 17 October 2017 / 3 years, 24 weeks

**b. Age at Enlistment / Education / GT Score:** 20 / HS Graduate / 92

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92Y1O, Unit Supply Specialist / 2 years, 7 months, 3 days

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

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

**f. Awards and Decorations:** AAM, NDSM, KDSM, ASR, OSR, MOVSM

**g. Performance Ratings:** NA

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

**(1)** Three DA Forms 4856 (Developmental Counseling Form) dated 12 September 2019 through 16 January 2020, reflects the applicant received event-oriented counseling for various acts of misconduct to include lying to a senior NCO, inappropriate racial comment, failure to report, false official statement, dereliction of duty, and violation of Leave and Pass Policies.

**(2)** A DA Form 2627 (Record of Proceedings under Article 15, UCMJ) dated 24 February 2020, reflects the applicant received nonjudicial punishment for –

**(a)** On or about 18 December 2019, with intent to deceive, made to a senior NCO an official statement, to wit: their accrued leave was 25 days or words to that effect, which statement was totally false, and was then known by them to be false.

**(b)** On or about 18 December 2019, with intent to deceive, made to a senior NCO an official statement, to wit: they would just take the leave they already had approved from 2 January 2020 to 13 January 2020 or words to that effect, which statement was totally false, and was then known by them to be false.

**(c)** On or about 23 December 2019, without authority, absent themselves from their place of duty at which they were required to be, to wit: work call at 0830 hours, and did remain so absent until on or about 15 January 2020.

**(d)** On or about 12 January 2020, with intent to deceive, made to an NCO an official statement, to wit: their flight, Air Canada flight number AC063, had been cancelled or words to that effect, which statement was totally false, and was then known by them to be false.

**(e)** The applicant elected not to appeal. Their punishment consisted of a reduction in rank/grade from specialist/E-4 to private first class/E-3, forfeiture of \$1,085.00 pay, and extra duty and restriction for 45 days.

(3) A DD Form 2808 (Report of Medical Examination), 31 March 2020, reflects the applicant is qualified for service with no physical profile limitations.

(4) A memorandum, Headquarters Support Company, Headquarters and Headquarters Battalion, subject: Separation under Army Regulation 635-200, Chapter 14, Paragraph 12c, Commission of a Serious Offense, dated 19 March 2020, notified the applicant of initiating actions to separate them for Commission of a Serious Offense, absent without leave from their place of duty for several days and made a series of false statements to NCOs. On the same day the applicant acknowledged receipt of notification for separation.

(5) A memorandum, Headquarters Support Company, Headquarters and Headquarters Battalion, subject: Separation under Army Regulation 635-200, Chapter 14, Paragraph 12c, Commission of a Serious Offense, [Applicant], dated 10 April 2020, the applicant's company commander submitted the request to separate the applicant prior to their expiration term of service. The company commander states it is not feasible or appropriate to accomplish other disposition because the applicant has failed rehabilitative attempts and is unfit for duty. The separation does not involve a medical condition that is related to a sexual assault, to include Post Traumatic Stress Disorder (PTSD) and separation is in the best interest of the Army.

(6) A memorandum, Headquarters, U.S. Army Garrison Humphreys, subject: Separation under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, dated 20 April 2020, the separation authority, after careful consideration of all matters, directed the applicant be separated from the Army prior to their expiration of current term of service and their service be characterized as General (Under Honorable Conditions). After reviewing the rehabilitative transfer requirement the commander determined the requirements do not apply to this action.

(7) On 19 May 2020, the applicant was discharged accordingly, the DD Form 214 (Certificate of Release or Discharge from Active Duty) provides the applicant completed 2 year, 7 months, and 3 days of net active service this period and did not complete their first full term of service obligation of 3 years and 24 weeks.

(8) An Enlisted Record Brief dated 20 May 2020, reflects the applicant was promoted to the rank/grade of specialist/E-4 on 1 May 2019 and was reduced to private first class/E-3 on 28 February 2020.

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

j. **Behavioral Health Condition(s):** None

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Associate of Arts Certificate
- two 3rd Party Character Statements
- Text Messages
- Air Canada Ticket

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

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

a. Title 10, U.S. Code, Section 1553, (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, Title 10 U.S. Code, Section 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 (DoD) 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) 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; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

**d.** Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 19 December 2016, 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)** A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

**(4)** Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. 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. Paragraph 14-12c (Commission of a Service Offense), stated 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 (Secretarial Plenary Authority), currently in effect, 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, paragraph 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 DoD Instruction 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

(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 waivable. Eligibility: Ineligible unless a waiver is granted.

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

g. Manual for Courts-Martial, United States, (2019 Edition) 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 order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the Article 107 (False Official Statement).

## 8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. A review of the applicant's Army Military Human Resource Record (AMHRR) reflects the applicant received nonjudicial punishment for violation of Article 86 (Absent Without Leave) and Article 107 (False Official Statement) and was involuntarily separated from the Army. The DD Form 214 provides the applicant was discharged with a character of service of General (Under Honorable Conditions), for misconduct, (serious offense). They completed 2 years, 7 months, and 3 days of net active service this period; however, they did not complete their 3 year, 24-week contractual enlistment 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 DoD guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

#### 9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnosis: the applicant held an in-service diagnosis of PTSD secondary to childhood sexual abuse. The applicant is service connected for PTSD due to abuse aggravated by service.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant held an in-service diagnosis of PTSD secondary to childhood sexual abuse.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that while it appears less likely than not the misconduct was influenced by PTSD due to childhood abuse, there is a possibility the nexus between trauma and avoidance/difficulty with authority played a role.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's PTSD outweighed the AWOL and making a series of false official statements basis for separation for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant contends their discharge was inequitable because it was based on one isolated incident in their 32 months of service with no other adverse action. The Board considered this contention and considered it valid and determined relief was warranted.

(2) The applicant contends they strongly believe they were punished twice for the same action. They received nonjudicial punishment under the provisions of Article 15, UCMJ, and shortly after completing their duties they were told they were getting discharged from the Army. The Board considered this contention and based on the applicant's medical diagnosis mitigating the misconduct, the Board voted to grant relief.

(3) The applicant contends they were never given the right guidance nor support from their leadership. They were constantly being bullied by their peers and leadership. The Board considered this contention and while they found no evidence of capricious acts by the chain of command, based on the applicant's medical diagnosis mitigating the misconduct, the Board voted to grant relief.

(4) The applicant contends receiving an honorable discharge is most important to them because they would be able to use their education benefit to continue on with their career goals. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans,

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do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

c. The Board determined the discharge is inequitable based on the applicant's PTSD diagnosis. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The board determined the current reentry code was proper and equitable based on the applicant's medical diagnosis and voted not to change it.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD outweighed the applicant's misconduct of AWOL and making a series of false official statements. 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 RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

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

**Authenticating Official:**

6/3/2024



**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