

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**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.

The applicant seeks relief contending, in effect, suffering from post-traumatic stress disorder (PTSD). The applicant was coping with their PTSD and medical appointments when ticketed for speeding. The applicant is sorry for this error in judgment. The Medical Evaluation Board (MEB) rated the applicant at 50 percent for PTSD.

b. Board Type and Decision: In a records review conducted on 13 March 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on partial medical mitigation of the applicant's misconduct and the applicant's length and quality of service, to include combat service, mitigating the remaining offenses. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

*Please see **Board Discussion and Determination** section for more details regarding the Board's decision. Board member names available upon request*

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 9 June 2010

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 12 April 2010

(2) Basis for Separation: Item's one through six of the commander's initiation memorandum is not available for review. However, the Commander's Report reflects the reason for separation on 13 March 2009, the applicant failed to report to 0600 accountability formation located at the HHT, 2/11 motor pool:

On 26 April 2009, the applicant was arrested by the Barstow police for failure to appear in court for an outstanding traffic Violation.

On 27 April 2009, the applicant failed to report to 0900 CQ duty located at the HHT, 2/11-barracks.

On 20 May 2009, the applicant left HHT, 2/11 without authority.

On 22 May 2009, the applicant disrespected SSG C. G., by arguing and raising their voice:

On 1 June 2009, the applicant failed to pay their debts to Security Financial.

On 25 August 2009, the applicant was ticketed for driving under a suspended license and talking on a cell phone.

On 10 February 2010, the applicant failed to obey a lawful written order by driving in a restricted area during physical training hours.

On 17 February 2010, the applicant failed to obey a lawful order given by SPC D. to man the motor pool cage.

(3) Recommended Characterization: NIF

(4) Legal Consultation Date: Items one through five of the Election of Rights Memorandum is not available for review. However, the applicant and defense counsel signed the memorandum effective 13 April 2010.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 1 June 2010 / General (Under Honorable Conditions) / The separation authority found the applicant's medical condition was not the direct or substantial contributing cause of their misconduct and there were no circumstances of the applicant's case which warranted disability processing. Therefore, disposition through the physical disability system was not appropriate.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 28 June 2007 / NIF

b. Age at Enlistment / Education / GT Score: 21 / High School Graduate / 84

c. Highest Grade Achieved / MOS / Total Service: E-4 / 88M10, Motor Transport Operator / 4 years, 6 months, 12 days

d. Prior Service / Characterizations: RA, 28 November 2005 – 27 June 2007 / HD

e. Overseas Service / Combat Service: SWA / Iraq (30 October 2006 – 13 January 2008)

f. Awards and Decorations: ICM-2CS, ARCOM, AGCM, NDSM, ASR, OSR, CAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Military Police Report, undated, reflects the applicant was charged with unlicensed driver; violation of speed law; expired registration.

Serious Incident Report, 26 April 2009, reflects the applicant was arrested for failure to appear.

CG Article 15, 8 June 2009, for on or about 13 March 2009, failed to go to their appointed place of duty. On or about 20 May 2009, without authority, go from their appointed place of duty. The

punishment consisted of a reduction to E-3, forfeiture of \$434 (suspended), and extra duty and restriction for 7 days.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Physical Evaluation Board (PEB) Proceedings, 17 February 2010, reflects a diagnosis of post-traumatic stress disorder.

(2) AMHRR Listed: PEB as described in previous paragraph 4j(1).

Chronological Record of Medical Care, 20 November 2009, reflects a diagnosis of post-traumatic stress disorder and depression.

Medical Evaluation Board Proceedings, 24 November 2009, reflect the applicant received a diagnosis of post-traumatic stress disorder.

The ARBA's medical advisor reviewed DoD and VA medical records, including documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge; Medical Evaluation Board Narrative Summary; Physical Evaluation Board (PEB) Proceedings.

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

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) 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) provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states 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.

(3) Paragraph 3-7b states 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.

(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.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

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: 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.

8. SUMMARY OF FACT(S): The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

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.

The applicant contends suffering from PTSD. The applicant provided a Physical Evaluation Board (PEB) Proceedings, 17 February 2010, reflecting a diagnosis of post-traumatic stress disorder. The AMHRR includes the PEB and a Medical Evaluation Board Proceedings, 24 November 2009, reflecting the applicant received a diagnosis of post-traumatic stress disorder. Also, a Chronological Record of Medical Care, 20 November 2009, reflecting a diagnosis of post-traumatic stress disorder and depression. The separation authority considered all medical documents.

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 reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder, PTSD, and Major Depressive Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found that the applicant was diagnosed in service with an Adjustment Disorder, PTSD, and Major Depressive Disorder and the VA has service connected the PTSD.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions partially mitigate the discharge. Given the nexus between PTSD and difficulty with authority, the disrespect and failing to obey a lawful order offenses from May 2009 and February 2010 are mitigated. However, the following misconduct is not mitigated by any of the applicants BH conditions: being arrested by the Barstow police for failure to appear in court for an outstanding traffic Violation, failing to pay debts to Security Financial, being ticketed for driving under a suspended license and talking on a cell phone, and failing to obey a lawful written order by driving in a restricted area during physical training hours. Neither an Adjustment Disorder, PTSD, or MDD have a natural sequela with this misconduct given that none of these conditions interfere with the ability to distinguish between right and wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Post Traumatic Stress Disorder, and Major Depressive Disorder outweighed the applicant's medically unmitigated offenses of failure to appear in court, failing to repay debts, driving on a suspended license, using a cell phone while driving, and failing to obey a lawful order.

b. Response to Contention(s): The applicant contends suffering from PTSD. The Board liberally considered this contention and determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Post Traumatic Stress Disorder, and Major Depressive Disorder outweighed the applicant's medically unmitigated offenses of failure to appear in court, failing to repay debts, driving on a suspended license, using a cell phone while driving, and failing to obey a lawful order. However, the Board found that the applicant's record of service outweighed these medically unmitigated offenses. Therefore, a discharge upgrade is warranted.

c. The Board determined that the characterization of service was inequitable based on partial medical mitigation of the applicant's misconduct and the applicant's length and quality of service, to include combat service, mitigating the remaining offenses. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder mitigated the most serious of the applicant's offenses. The Board found that the applicant's record of service outweighed the

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applicant's multiple driving-related misconduct. Thus, the prior characterization is no longer appropriate.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code as there was in fact a pattern of misconduct. This reason for discharge is proper and equitable and best captures the nature and circumstances of the breadth of misconduct.

(3) The RE code will not change given the BH conditions and service connection. 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:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

Authenticating Official:

3/19/2025

**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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs