

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant's Requests and Issues: The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade honorable.

The applicant seeks relief, contending, in effect, suffering from post-traumatic stress disorder (PTSD) and marriage issues made the applicant believe their misconduct should be mitigated. The applicant was an excellent Soldier during the initial portion of their enlistment and requests consideration of their prior good service; additionally, due to the enclosed memorandum they received from the separation authority, the applicant believed they would receive a general discharge.

b. Board Type and Decision: In a records review conducted on 13 March 2025, and by a 4-1 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder outweighing the separating offenses of FTR, Failure to Obey a Lawful Order, and Adultery. 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. Accordingly, the narrative reason for separation changed to Misconduct (Minor Infractions) with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

*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 / Under Other Than Honorable Conditions

b. Date of Discharge: 1 February 2012

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 4 January 2012

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant received a Summary Court-Martial for violation of several offenses under the Manual for Courts Martial which included Failure to report to accountability formation, failure to report to physical training, failure to obey direct order, and adultery.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: 31 October 2011

(5) Administrative Separation Board: On 31 October 2011, the applicant unconditionally waived consideration of the case before an administrative separation board as part of an Offer to Plead Guilty in a Summary Court-Martial proceedings.

(6) Separation Decision Date / Characterization: 24 January 2012 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 13 August 2007 / 6 years

b. Age at Enlistment / Education / GT Score: 19 / GED / 96

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B1O, Infantryman / 5 years, 8 months, 29 days

d. Prior Service / Characterizations: RA, 9 March 2006 – 15 July 2007 / HD
RA, 16 July 2007 – 12 August 2007 / HD

e. Overseas Service / Combat Service: SWA / Iraq (24 October 2007 – 10 December 2008)

f. Awards and Decorations: ARCOM, AAM, AGCM, NDSM, GWOTSM, ICM-CS, ASR, OSR, CIB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: CG Article 15, 4 May 2011, for failing to go at the time prescribed to their appointed place of duty on two occasions (between 5 April and 21 April 2011). The punishment consisted of extra duty for 7 days.

FG Article 15, 2 August 2011, for failing to go at the time prescribed to their appointed place of duty on two occasions (between 14 July and 18 July 2011). The punishment consisted of a reduction to E-3, forfeiture of \$455 pay (suspended), and extra duty and restriction for 14 days.

Report of Result of Trial reflects the applicant was tried in a Summary Court-Martial on 16 November 2011.

Charge I Article 90 UCMJ:

Specification 1: On or about 13 September 2011, disobeyed a lawful order. Plea Guilty; Finding: Guilty.

Specification 2: On or about 19 September 2011, disobeyed a lawful order. Plea Guilty; Finding: Guilty.

Specification 3: On or about 20 September 2011, disobeyed a lawful order. Plea Guilty; Finding: Guilty.

Specification 4: On or about 27 September 2011, disobeyed a lawful order. Plea Guilty; Finding: Guilty.

Specification 5: On or about 24 September 2011, disobeyed a lawful order. Plea Guilty; Finding: Guilty.

Charge II: Article 91 UCMJ, The Specification: On or about 17 August 2011, disobeyed a lawful order. Plea Guilty; Finding Guilty.

Charge III: Article 86 UCMJ:

Specification 1: On or about 14 July 2011, without authority, fail to go at the time prescribed to their appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 2: On or about 18 July 2011, without authority, fail to go at the time prescribed to their appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 3: On or about 17 August 2011, without authority, fail to go at the time prescribed to their appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 4: On or about 7 September 2011, without authority, fail to go at the time prescribed to their appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 5: On or about 12 September 2011, without authority, fail to go at the time prescribed to their appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 6: On or about 13 September 2011, without authority, fail to go at the time prescribed to their appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 7: On or about 19 September 2011, without authority, fail to go at the time prescribed to their appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 8: On or about 30 September 2011, without authority, fail to go at the time prescribed to their appointed place of duty. Plea: Guilty; Finding: Guilty.

Charge IV: Article 134 UCMJ:

Specification 1: On or about 15 July 2011, wrongfully have sexual intercourse with S. L., a married person not their spouse. Plea: Guilty; Finding: Guilty.

Specification 2: On or about 22 July 2011, wrongfully have sexual intercourse with S. L., a married person not their spouse. Plea: Guilty; Finding: Guilty.

Specification 3: On or about 29 July 2011, wrongfully have sexual intercourse with S. L., a married person not their spouse. Plea: Guilty; Finding: Guilty.

Sentence: Forfeiture \$978 pay; restriction for 30 days and reduction to E-1.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: 53 days:

NIF, 11 December 2010 – 29 December 2010 / NIF

CMA, 11 October 2011 – 15 November 2011 / Released from Confinement

j. Behavioral Health Condition(s):

(1) Applicant provided: Multidisciplinary Discharge note, 11 October 2011, reflects the applicant was diagnosed with adjustment disorder with mixed disturbance of emotion and conduct; History of ADHD, History of PTSD.

(2) AMHRR Listed: Report of Mental Status Evaluation, 7 December 2011, reflects the evaluation included a diagnosis of bipolar disorder, mixed, in partial remission on medication.

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; self-authored letter; photo; marriage license; two Personnel Action forms; Army Achievement Medal Certificate; two Recommendations for Award; Certificate of Training; Permanent Orders CIB; ARCOM Certificate; Post Deployment Health Assessment; Orders 92-581, two memorandums from Major General M. F., Certificate of Achievement; Numerous Developmental Counseling Forms; Record of Proceedings under Article 15, UCMJ; medical records; Separation packet.

6. POST SERVICE ACCOMPLISHMENTS: None were 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) Paragraph 3-7c states 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.

(5) 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.

(6) 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.

(7) 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 Multidisciplinary discharge note, 11 October 2011, reflecting the applicant was diagnosed with adjustment disorder with mixed disturbance of emotion and conduct; History of ADHD, and a History of PTSD. The AMHRR includes a Report of Mental Status Evaluation, 7 December 2011, reflecting a diagnosis of bipolar disorder, mixed, in partial remission on medication. The separation authority considered the mental status evaluation.

The applicant contends marriage issues affected their performance. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, leading to the separation action under review.

The applicant contends receiving two memorandums from Major General R. B. explaining if they plead guilty in the pretrial, they would receive a general discharge. The applicant did not submit evidence other than their statement to support the contention. The Pretrial Agreement (Offer to Plead Guilty), 31 October 2011, reflects the applicant offered to plead guilty to the charges and the specifications and acknowledged an under other than honorable discharge would be received. The offer was accepted on 9 November 2011. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

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, Bipolar Disorder, PTSD, TBI, Major Depressive Disorder, and Anxiety.

(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, Bipolar Disorder, PTSD, TBI, Major Depressive Disorder, Anxiety, and the VA has service connected the PTSD and Bipolar Disorder.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board determined, based in part on the Board Medical Advisor's opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD, Major Depressive Disorder, Bipolar Disorder, and avoidance, the FTRs are mitigated. PTSD has a nexus with difficulty with authority, so failure to obey a direct order is mitigated. The active duty medical record reveals that the applicant was experiencing mania associated with Bipolar Disorder at the time of the adultery. Given the nexus between mania, impulsivity, impaired judgement, and hypersexuality, the applicant's Bipolar Disorder mitigates the adultery given direct evidence that he was manic at the time.

(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 Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder outweighed the applicant's offenses of FTR, Failure to Obey a Lawful Order, and Adultery.

b. Response to Contention(s):

(1) The applicant contends suffering from PTSD. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder outweighed the applicant's offenses of FTR, Failure to Obey a Lawful Order, and Adultery. Therefore, a discharge upgrade is warranted.

(2) The applicant contends marriage issues affected their performance. The Board considered this contention during proceedings, but ultimately did not address the contention in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder outweighing the FTR, Failure to Obey a Lawful Order, and Adultery offenses.

(3) The applicant contends receiving two memorandums from Major General R. B. explaining if they plead guilty in the pretrial, they would receive a general discharge. The Board considered this contention during proceedings, but ultimately did not address the contention in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder outweighing the FTR, Failure to Obey a Lawful Order, and Adultery offenses.

(4) The applicant contends good service, including a combat tour. The Board considered this contention during proceedings, but ultimately did not address the contention in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder outweighing the FTR, Failure to Obey a Lawful Order, and Adultery offenses.

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c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder outweighing the applicant's offenses of FTR, Failure to Obey a Lawful Order, and Adultery. 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. Accordingly, the narrative reason for separation changed to Misconduct (Minor Infractions) with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable 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 Post Traumatic Stress Disorder, Major Depressive Disorder, and Bipolar Disorder outweighed the applicant's offenses of FTR, Failure to Obey a Lawful Order, and Adultery. 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.

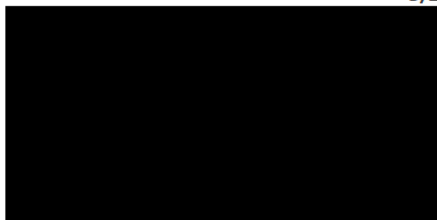
(3) The RE code will not change based on the BH diagnoses and service connection. The current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

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

Authenticating Official:

5/22/2025



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