

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 under other than honorable conditions. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, promotion ahead of their peers and having a promising career before deployment to Iraq. The applicant contends being diagnosed with PTSD, insomnia, and having serious untreated injuries, which led to placement on suicide watch after returning from Iraq. The applicant also contends they were jailed and refused medical treatment after returning from AWOL. Additionally, the applicant contends being placed under duress to accept a Chapter 10 discharge with a general (under honorable conditions) characterization.

b. Board Type and Decision: In a records review conducted on 4 March 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, disobeying a lawful order in the context of leaving the company area to go AWOL, use of spice, and possession of spice-associated paraphernalia. 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. 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 detail regarding the Board's decision.*

(Board member names available upon request)

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 15 August 2012**c. Separation Facts:**

(1) Date and Charges Preferred (DD Form 458, Charge Sheet): On 26 July 2012, the applicant was charged with:

Charge I: Violating Article 86, UCMJ, for being AWOL from 4 June 2012 until 11 June 2012;

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Charge II: Violating Article 90, UCMJ, for having received a legal command from their superior commissioned officer then known by the accused to be their superior to not leave their company area. Did willfully disobey the same;

Additional Charge: Violating Article 92, UCMJ, by wrongfully possessing paraphernalia associated with "Spice," a synthetic psychoactive substance, to wit and wrongfully using some quantity of Spice; containing a synthetic cannabinoid.

(2) Legal Consultation Date: 27 July 2012

(3) Basis for Separation: Pursuant to the applicant's request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

(4) Recommended Characterization: Under Other Than Honorable Conditions

(5) Separation Decision Date / Characterization: 1 August 2012 / Other Than Honorable Conditions Discharge

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 3 November 2009 / 6 years

b. Age at Enlistment / Education / GT Score: 20 / High School Graduate / 83

c. Highest Grade Achieved / MOS / Total Service: E-4 / 91B10 R4, Wheeled Vehicle Mechanic / 4 years, 4 months, 8 days

d. Prior Service / Characterizations: RA, 1 April 2008 – 2 November 2009 / HD

e. Overseas Service / Combat Service: Korea, SWA / Iraq (22 July 2009 – 1 July 2010)

f. Awards and Decorations: AGCM, NDSM, GWOTSM, KD SM, ICM-CS, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Two Personnel Action forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 4 June 2012;
From AWOL Present for Duty (PDY), effective 11 June 2012;

Memorandum, release of prisoner, 3 August 2012, release authorization for release of applicant for the purpose of expiration of sentence.

i. Lost Time / Mode of Return: 4 June 2012 – 10 June 2012 / Released from Confinement

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty.

6. POST SERVICE ACCOMPLISHMENTS: None submitted in support of 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 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt.

(5) Paragraph 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40-501, chapter 8

(6) Paragraph 10-8a stipulates a discharge under other than honorable conditions normally is appropriate for a Soldier who is discharged in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. (See chap 3, sec II.)

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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

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-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.

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 evidence in the applicant's Army Military Human Resource Record (AMHRR) confirms the applicant was charged with the commission of an offense punishable under the UCMJ with a punitive discharge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The general (under honorable conditions) discharge received by the applicant was normal and appropriate under the regulatory guidance.

The applicant contends promotion ahead of their peers and having a promising career before deployment to Iraq. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends being diagnosed with PTSD, insomnia, and having serious untreated injuries, which led to placement on suicide watch after returning from Iraq. The applicant also contends they were jailed and refused medical treatment after returning from AWOL. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from any medical condition. The applicant's AMHRR includes no documentation of PTSD diagnosis. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends being placed under duress to accept a Chapter 10 discharge with a general (under honorable conditions) characterization. Evidence in the AMHRR reflects, the applicant signed a memorandum on 27 July 2012, voluntarily requesting discharge in lieu of trial by court-martial. In this memorandum the applicant attests to making the request of their own free will and had not been subjected to coercion whatsoever. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

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: PTSD, Anxiety Disorder NOS subsumed by PTSD, MDD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found the applicant is 100 percent SC for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD and avoidant behavior, problems with authority figures, and the use of substances to self-medicate, the applicant's offenses of AWOL, disobeying a lawful order in the context of leaving the company area to go AWOL, use of spice, and possession of spice associated paraphernalia, are mitigated..

(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 outweighed the applicant's offenses of AWOL, disobeying a lawful order in the context of leaving the company area to go AWOL, use of spice, and possession of spice-associated paraphernalia.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD, insomnia, and having serious untreated injuries, leading to placement on suicide watch after returning from Iraq. The applicant also contends they were jailed and refused medical treatment after returning from AWOL. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's offenses of AWOL, disobeying a lawful order in the context of leaving the company area to go AWOL, use of spice, and possession of spice-associated paraphernalia.

(2) The applicant contends promotion ahead of their peers and having a promising career before deployment to Iraq. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's misconduct.

(3) The applicant contends being placed under duress to accept a Chapter 10 discharge with a general (under honorable conditions) characterization. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's misconduct.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, disobeying a lawful order in the context of leaving the company area to go AWOL, use of spice, and possession of spice-associated paraphernalia. 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. The Board determined the reentry code is proper and equitable and voted not to change it.

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(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder outweighed the applicant's offenses of AWOL, disobeying a lawful order in the context of leaving the company area to go AWOL, use of spice, and possession of spice-associated paraphernalia. 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.

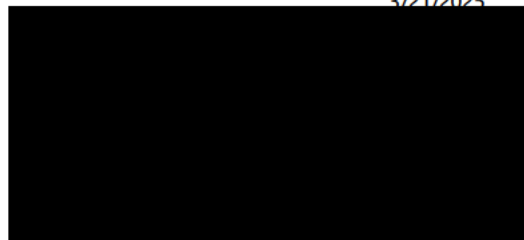
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

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:

3/21/2025



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