

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, the applicant was very young when they joined the Army and when sent off to war and believes they were not ready to see their friends killed. The applicant has PTSD, and it has taken the applicant a long time to get their life going again and on the right track. The applicant would like to go to school.

b. Board Type and Decision: In a records review conducted on 25 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 disobeying a lawful order, FTR, disrespect toward an NCO, and dereliction of duty due to overconsumption of alcohol. 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 Section 9 of this document for more details regarding the Board's decision. Board member names are 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: 16 March 2006**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 14 September 2005

(2) Basis for Separation: The applicant was informed of the following reasons:

On 24 June 2005, the applicant failed to go to the appointed place of duty at 0700 hours, Accountability Formation, located at building 3672;

On 24 June 2005, the applicant disobeyed a direct order from SGT D. G., a noncommissioned officer, by failing to "Get at the position of parade-rest";

On 24 June 2005, the applicant disrespected SGT D. G., a noncommissioned officer, by saying "Fuck this," while throwing the military gear on the ground;

On 24 June 2005, the applicant disobeyed a direct order from SFC M. B., a noncommissioned officer, by failing to "At ease";

On 24 June 2005, the applicant disrespected SFC M. B., a noncommissioned officer, by saying "Fuck the military, I want out," while walking into the building;

On 5 July 2005, the applicant disrespected SSG L. A. B., a noncommissioned officer, by saying "I'm already late, I might as well make it worth it," when instructed to hurry up, get dressed, and go outside;

On 24 July 2005, the applicant failed to go to the place of duty is 0915, C Company (Anti-Tank), 52d Infantry Regiment Urinalysis, located at building 3672;

On 24 July 2005, the applicant broke the limits of restriction which was imposed by LTC B. H. on 11 July 2005;

On 25 July 2005, the applicant failed to go to the place of duty at 0630 hours, Accountability Formation, located in building 3672;

On 8 August 2005, the applicant failed to go to the place of duty at 0630 hours, Accountability Formation, located at building 3672;

On 8 August 2005, the applicant wrongfully overindulged in intoxicating liquor resulting in the incapacitation of the proper performance of duties;

On 8 August 2005, the applicant failed to go to the place of duty at 0900 hours, Accountability Formation, located at building 3672;

On 6 September 2005, the applicant failed to go to the place of duty at 0630 hours Accountability Formation, located at building 3672;

On 7 September 2005, the applicant failed to go to the place of duty at 0630 hours Accountability Formation, located in building 3672; and,

The applicant was absent without authority from the unit C Company (Anti-Tank), 52d Infantry Regiment, from 10 September 2005 until 12 September 2005.

(3) Recommended Characterization: The Company and Battalion Commanders recommended Under Other Than Honorable Conditions; however, the Brigade Commander recommended a General (Under Honorable Conditions)

(4) Legal Consultation Date: 14 September 2005

(5) Administrative Separation Board: On 14 September 2005, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than general (under honorable conditions) discharge.

(6) Separation Decision Date / Characterization: 3 February 2006 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

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a. Date / Period of Enlistment: 1 April 2003 / 4 years / There appears to be an error on the DD Form 214 block 12a, date entered AD this period. The applicant's Enlistment/ Reenlistment Document reflects the applicant enlisted on 1 April 2003 the DD Form 214 reflects 27 April 2003.

b. Age at Enlistment / Education / GT Score: 20 / GED / 107

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B10, Infantryman / 2 years, 10 months, 20 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (31 October 2003 – 31 October 2004)

f. Awards and Decorations: ARCOM, AAM, NDSM, GWOTEM, GWOTSM, OSR, CIB, OSB-2

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: FG Article 15, 11 July 2005; on or about 24 June 2005, willfully disobey a lawful order from SGT D. G.; on or about 25 June 2005, was disrespectful in language and deportment toward SGT D. G.; on or about 24 June 2005, willfully disobeyed a lawful order from SFC M. B.; on or about 25 June 2005, was disrespectful in language and deportment toward SFC M. B., and on or about 24 June 2005, without authority, fail to go at the time prescribed to the appointed place of duty. The punishment consisted of a reduction to E-3; forfeiture of \$773 pay per month for one month (suspended); and extra duty and restriction for 45 days.

FG Article 15, 24 August 2005, on or about 20 and 25 July, 8 and 9 August 2005 fail to go at the time prescribed to the appointed place of duty; on or about 5 July 2005, was disrespectful in language and deportment toward SSG L. A. B.; on or about 8 August 2005 as a result of wrongful previous overindulgence in intoxicating liquor or drugs incapacitated for the proper performance of their duties; and on or about 24 July 2005, broke restriction. The punishment consisted of a reduction to E-2; forfeiture of \$1,384 pay per month for two months; and extra duty and restriction for 45 days.

Two Personnel Action forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 10 September 2005; and,
From AWOL to PDY, effective 12 September 2005.

Report of Result of Trial reflects the applicant was tried in a Summary Court-Martial on 16 September 2005. The applicant was charged with three specifications. The summary of offenses, pleas, and findings: The Charge: Violation of Article 86, UCMJ:

Specification 1: On 6 September 2005, fail to be at the appointed place of duty: guilty consistent with the plea;

Specification 2: On 7 September 2005, fail to be at the appointed place of duty: guilty, consistent with the plea; and,

Specification 3: On 10 September 2005 absent without authority until 12 September 2005: guilty, inconsistent with the plea.

Sentence: To be reduced to Private (E-1); to forfeit \$823; and to be confined for 30 days.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: AWOL, for 2 days, 10 September 2005 to 12 September 2005. this period is not annotated on the DD Form 214 block 29.

j. Behavioral Health Condition(s):

(1) Applicant provided: Report of Mental Status Evaluation (MSE), 30 August 2005, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The MSE does not include a diagnosis.

Central Minnesota Counseling Center, Inc. letter, 17 December 2012, reflects a Licensed Psychologist completed a PTSD evaluation on the applicant on 18 May 2011. The psychologist diagnosed the applicant with severe chronic and at times overwhelming symptoms of PTSD which negatively affected the applicant's life not only while in Iraq, also after their return to Fort Lewis. The Psychologist believes the applicant's PTSD symptoms with depression should be considered when reviewing the discharge upgrade.

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

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 Correction of Military Record; Certificate of Release or Discharge from Active Duty; three third-party letters; lab results; Report of Medical History; Report of Medical Examination; Report of Mental Status Evaluation; Certificate of Release or Discharge from Active Duty.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is trying to get their life together again and would like to go to school.

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 third-party letters from SFC M. B. the platoon sergeant, and the applicant's parent, which described the applicant's change in behavior after returning from combat and supported the applicant's contention. A Central Minnesota Counseling Center, Inc. letter, 17 December 2012, which reflects a Licensed

Psychologist completed a PTSD evaluation on the applicant on 18 May 2011. The psychologist diagnosed the applicant with severe chronic and at times overwhelming symptoms of PTSD which negatively affected the applicant's life not only while in Iraq, also after their return to Fort Lewis. The Psychologist believed the applicant's PTSD symptoms with depression should be considered when reviewing the discharge upgrade. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 30 August 2005, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The MSE does not include a diagnosis. The MSE was considered by the separation authority.

The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The AMHRR shows the applicant met entrance qualification standards to include age.

The applicant contends an upgrade would allow educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does 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.

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.

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

(3) Does the condition or experience 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 problems with authority, avoidant behavior, and using substances to self-medicate, the applicant's offenses of disobeying a lawful order (i.e. not going to parade rest and at ease), disrespect of an NCO (i.e. stating I am already late), multiple FTRs, and overindulgence in intoxicating liquor 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 separating offenses of disobeying a lawful order, FTR, disrespect toward an NCO, and dereliction of duty due to overconsumption of alcohol.

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 outweighed the

separating offenses of disobeying a lawful order, FTR, disrespect toward an NCO, and dereliction of duty due to overconsumption of alcohol.

(2) The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. 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 offenses of disobeying a lawful order, FTR, disrespect toward an NCO, and dereliction of duty due to overconsumption of alcohol.

(3) The applicant contends an upgrade would allow educational benefits through the GI Bill. 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, 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 Post Traumatic Stress Disorder outweighing the applicant's offenses of disobeying a lawful order, FTR, disrespect toward an NCO, and dereliction of duty due to overconsumption of alcohol. 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 outweighed the separating misconduct of marijuana abuse and AWOL. 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 due to the BH condition and service connection. The current code is consistent with the procedural and substantive requirements of the regulation.

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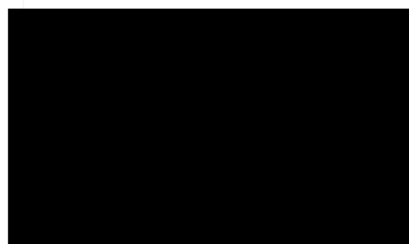
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10. BOARD ACTION DIRECTED:

- 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:

4/1/2025



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