

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, was a good Soldier and serving the country overseas in Iraq from November 2007 to February 2009. While deployed, the applicant was engaged in combat including being hit by IED's, small arms fire, clearing rooms, taking mortar and RPG rounds and seeing many casualties. When the applicant returned home, they started having problems with insomnia, anxiety attacks, nightmares, general nervousness and anger outbursts were the applicant's main issues. The applicant began to self-medicate with alcohol for the anxiety and experimented with crystal meth for a brief period, because the applicant was afraid to sleep due to the nightmares. Most of the command and peers had never seen combat or been deployed. Sympathies towards the applicant's behavior were little to none. The applicant began getting into trouble for being late and having a lack of motivation. When the applicant did speak up about the problems, they were coping with, they were sent to mental health where they were diagnosed with PTSD. The applicant believed the command did not like them, because they could not understand why the applicant could not just get over it. The applicant was discharged a month before their contract expired and for the applicant not to have a discharge of honorable is a complete and total disregard of the sacrifices the applicant made while serving this country. Most of the change in behavior was because of the things the applicant saw in Iraq. To be denied the benefits the applicant earned while serving the country because of a lack of understanding from the superiors is wrong. The applicant realizes the mistakes they made; however, to be robbed of what they earned because of some personal issues between the applicant and command cannot be the right thing to happen to the applicant. Serving this country was probably one of the greatest things the applicant has done in their life.

b. Board Type and Decision: In a records review conducted on 4 February 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Anxiety Disorder outweighing the applicant's AWOL, FTR, and illegal substance abuse offenses. 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. 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 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 / Under Other Than Honorable Conditions

b. Date of Discharge: 6 July 2010

c. Separation Facts:

(1) Date and Charges Preferred (DD Form 458, Charge Sheet): On 17 May 2010, the applicant was charged with:

Charge I: Violating Article 86, UCMJ:

Specification 1: On or about 3 March 2010, without authority, fail to go to the prescribed place of duty, to wit: extra duty at 1800 hours, building 1435.

Specification 2: On or about 18 March 2010, without authority, absent oneself from the unit, and did remain so absent until 23 March 2010.

Specification 3: On or about 28 March 2010, without authority, absent oneself from the unit and did remain so absent until 12 April 2010.

Charge II: Violating Article 112a, UCMJ:

Specification 1: On or about 15 March 2010, the applicant wrongfully used methamphetamine.

Specification 2: On or about 12 April 2009, the applicant wrongfully used methamphetamine.

(2) Legal Consultation Date: 7 June 2010

(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: 10 June 2010 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 22 August 2006 / 4 years

b. Age at Enlistment / Education / GT Score: 25 / High School Graduate / NIF

c. Highest Grade Achieved / MOS / Total Service: E-4 / 25C10, Radio Operator Maintainer / 3 years, 9 months, 24 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (9 November 2007 – 6 February 2009)

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

g. Performance Ratings: NA

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 18 March 2010;
 From AWOL to PDY, effective 23 March 2010;
 From PDY to AWOL, effective 28 March 2010; and,
 From AWOL to PDY, effective 12 April 2010.

Electronic Copy of DD Form 2624, 29 April 2010, reflects the applicant tested positive for DMETH 181 (D-Methamphetamine), during an Inspection Unit (IU) urinalysis testing, conducted on 15 March 2010.

Electronic Copy of DD Form 2624, 11 May 2010, reflects the applicant tested positive for DAMP 2068 (D-Amphetamine), during a Probable Cause (PO) urinalysis testing, conducted on 12 April 2010.

Developmental Counseling Form, for positive UA result for DMeth and failure to be appointed place of duty.

Charge sheet as described in previous paragraph 3c(1).

i. Lost Time / Mode of Return: 20 days:

AWOL, 18 March 2010 – 23 March 2010 / NIF
 AWOL, 28 March 2010 – 12 April 2010 / NI

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: Online Application and Certificate of Release or Discharge from Active Duty.

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) 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 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.

(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.)

(7) Paragraph 10b stipulates Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

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 under other than honorable conditions discharge received by the applicant was normal and appropriate under the regulatory guidance.

The applicant contends being diagnosed with PTSD after returning from Iraq. The applicant was self-medicating with alcohol for their anxiety and experimented with crystal meth for a brief period. 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 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.

The applicant contends the command and peers had never seen combat or been deployed. Sympathies towards the applicant's behavior were little to none. The applicant started getting into trouble for being late and having a lack of motivation. The applicant believes the command did not like them because they could not understand why the applicant just could not get over it. The applicant was discharged a month before their contract expired and for the applicant not to have a discharge of honorable is a complete and total disregard of the sacrifices the applicant made while serving this country. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits 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: Anxiety Disorder w/Panic Attacks and Panic Disorder w/o Agoraphobia.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found the applicant was diagnosed with Anxiety Disorder w/Panic Attacks during service.

(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 Anxiety Disorder and using substances to self-medicate, and Anxiety Disorder and avoidant behavior, the applicant's offenses of AWOL, FTR, and wrongful use of methamphetamine is 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 Anxiety Disorder outweighed the applicant's AWOL, FTR, and illegal substance abuse offenses.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD after returning from Iraq. The applicant was self-medicating with alcohol for their anxiety and experimented with crystal meth for a brief period. The Board liberally considered this contention and determined that the applicant's Anxiety Disorder outweighed the applicant's AWOL, FTR, and illegal substance abuse offenses.

(2) The applicant contends good service, including a combat tour. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade for medical mitigation.

(3) The applicant contends the command and peers had never seen combat or been deployed. Sympathies towards the applicant's behavior were little to none. The applicant started getting into trouble for being late and having a lack of motivation. The applicant believes the command did not like them because they could not understand why the applicant just could not get over it. The applicant was discharged a month before their contract expired and for the applicant not to have a discharge of honorable is a complete and total disregard of the sacrifices the applicant made while serving this country. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade for medical mitigation.

(4) The applicant contends an upgrade of the discharge would allow veterans benefits. 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 Anxiety Disorder outweighing the applicant's AWOL, FTR, and illegal substance abuse offenses. 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. 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 Anxiety Disorder outweighed the applicant's AWOL, FTR, and illegal substance abuse offenses. 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20210000451**

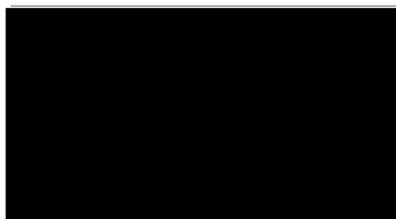
(3) The RE code will not change due to the service connected behavioral health diagnosis. The current code is consistent with the procedural and substantive requirements of the regulation.

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:

2/10/2025



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