

**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 condition). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, at the time of the incidents, the applicant had personal issues related to post-traumatic stress disorder (PTSD), anxiety, and depression. The applicant received two driving under the influence (DUI) charges while seeking treatment for their disorder and was not referred to the Alcohol Substance Abuse Program (ASAP) in accordance with the Army regulation; instead, they were made an example for their two DUI incidents and discharged.

**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 separating DUI offenses. 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:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 1 March 2012**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 9 January 2012

**(2) Basis for Separation:** The applicant was informed of the following reasons: On 14 August 2011, the applicant was pulled over at West Point, Kentucky for speeding and for driving under the influence (DUI) with a breath alcohol content (BAC) of .157. On 2 October 2011, the applicant was pulled over at Fort Knox, Kentucky and cited for driving on a suspended/revoked license, failure to maintain motor vehicle insurance and a DUI with a BAC of .167.

**(3) Recommended Characterization:** General (Under Honorable Conditions)

**(4) Legal Consultation Date:** 19 January 2012

(5) **Administrative Separation Board:** NA

(6) **Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 15 August 2011 / NIF / The reenlistment contract is not available for review. However, the applicant's DD Form 214 indicates the applicant reenlisted and the Enlisted Record Brief reflects an ETS date of 20 November 2013.

**b. Age at Enlistment / Education / GT Score:** 40 / some college / 120

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 91B10, Wheeled Vehicle Mechanic / 4 years, 11 months, 13 days

**d. Prior Service / Characterizations:** RA, 19 March 2007 – 14 August 2011 / HD

**e. Overseas Service / Combat Service:** SWA / Iraq (9 September 2009 – 30 May 2010)

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

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** General Officer Memorandum Of Reprimand, 2 December 2011, reflects on 14 August 2011, the applicant was apprehended for driving a motor vehicle while intoxicated in West Point, Kentucky. A West Point Police Officer observed the applicant traveling at a high rate of speed (82/55). Upon contact, the officer detected a strong odor of alcohol emanating from the applicant. The applicant was administered three standard field sobriety tests which showed impairment. The applicant's breath alcohol content at the time was .157. On 2 October 2011, a Radcliff Police Officer observed the applicant swerving across the entire roadway. Upon contact, the officer detected a strong odor of alcohol emanating from the applicant. The applicant's breath alcohol content at the time was .167. The applicant also failed to show valid vehicle insurance.

Developmental Counseling Form, for separation.

**i. Lost Time / Mode of Return:** None

**j. Behavioral Health Condition(s):**

**(1) Applicant provided:** Lincoln Trail Behavioral Health System Discharge Summary, 28 November 2011, reflects a diagnosis of Axis I: Posttraumatic stress disorder by history; Depressive disorder not otherwise specified and substance abuse.

Department of Veterans Affairs Rating Decision, undated, reflects an evaluation of 30 percent for PTSD.

**(2) AMHRR Listed:** Lincoln Trail Behavioral Health System Discharge Summary as described in previous paragraph 4j(1).

Report of Mental Status Evaluation, 17 August 2011, reflects the evaluation included a diagnosis of Anxiety disorder NOS.

*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:** Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge; VA Rating Decision; medical records.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant sought treatment from the VA for their mental health.

**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 (Army Substance Abuse Program), paragraph 7-9 (3b) The unit commander will refer individuals suspected or identified as alcohol and/or other drugs abusers, including those identified through drug testing (except those determined to be legitimate medical use by the MRO) and /or blood alcohol tests, to the ASAP counseling center for screening. Soldiers impaired by alcohol as described in paragraph 3-2 of this regulation while on duty will be referred to the ASAP counseling center for the initial evaluation. Soldiers who are referred by the unit commander for evaluation, regardless of the means of ID, will be referred using a DA Form 8003, which the commander must sign.

**e.** 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 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

f. 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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

g. 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 being diagnosed with PTSD, anxiety, and depression. The applicant provided a Lincoln Trail Behavioral Health System Discharge Summary, 28 November 2011, reflecting a diagnosis of Axis I: Posttraumatic stress disorder by history; Depressive disorder not otherwise specified and substance abuse. A Department of Veterans Affairs Rating Decision, undated, reflects an evaluation of 30 percent for PTSD. The AMHRR includes a Lincoln Trail Behavioral Health System Discharge Summary as previously described. A Report of Mental Status Evaluation, 17 August 2011, reflects the evaluation included a diagnosis of Anxiety disorder NOS. All medical documents were considered by the separation authority.

The applicant contends receiving two DUI charges while seeking treatment for their disorder and was not referred to the ASAP in accordance with the Army regulation; instead, they were made an example for their two DUI incidents and discharged. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR includes a Developmental Counseling Form, undated, reflecting the applicant received two DUIs in late August 2011, and the applicant had been through the ASAP. Army Regulation 600-85; the Army Substance Abuse Program paragraph 7-9, reflects the unit commander will refer individuals suspected or identified as alcohol and/or other drugs abusers, including those identified through drug testing and /or blood alcohol tests, to the ASAP counseling center for screening. Army Regulation 635-200, paragraph 1-17d(2), entitled counseling and rehabilitative requirements, states the separation authority may waive the rehabilitative requirements in circumstances where common sense and sound judgment indicate such a transfer will serve no useful purpose or produce a quality, Soldier.

The applicant contends seeking treatment from the VA for their mental health. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization

of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

#### 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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: PTSD, MDD, GAD, and Anxiety Disorder NOS.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found the applicant is 70 percent service connected for PTSD.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions partially mitigate the discharge. Given the nexus between PTSD and the use of substances to self-medicate, the DUI offenses are mitigated. A letter from the JAG dated 7 February 2012 shows the JAG gave the applicant the benefit of the doubt related to having auto insurance after the applicant presented an insurance card reflecting coverage for the period in question. While driving on a suspended license is not typically mitigated, it was unclear to the board if in fact the applicant's license was suspended at the time of the offense.

(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 DUI offenses. The Board found that the applicant's medically unmitigated offense of driving on a suspended license did not necessarily rise to a level to negate meritorious service.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD, anxiety and depression. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the separating offenses. Therefore, a discharge upgrade is warranted.

(2) The applicant contends receiving two DUI charges while seeking treatment for their disorder and was not referred to the ASAP in accordance with the Army regulation; instead, they were made an example for their two DUI incidents and discharged. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the separating offenses.

(3) The applicant contends seeking treatment from the VA for their mental health. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the separating offenses.

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c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the separating DUI and suspended license offenses. 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 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 applicant's separating 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.

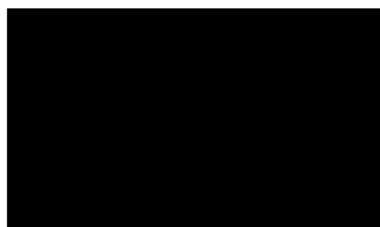
(3) The RE code will not change given the behavioral health condition(s) and service connection. The current code is consistent with the procedural and substantive requirements of the regulation.

**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:**

3/28/2025



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