

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, struggling with anxiety and depression during their time on active duty. The applicant sought help while on active duty; however, was not given a fair chance to rehabilitate. The applicant was a good Soldier and has been diagnosed with an adjustment disorder by the VA.

b. Board Type and Decision: In a records review conducted on 6 February 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length of service and partial medical mitigation of the applicant's misconduct. 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 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: Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 3 April 2012

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 28 February 2012

(2) Basis for Separation: The applicant was informed of the following reasons: Numerous failure to reports (FTRs) for being late on divers occasions from June 2010 to February 2012;

Has shown up in an improper uniform to physical training;

Given false official statements between 24 to 26 February 2012;

Was derelict in their duties by not maintaining and keeping the barracks room clean; and,

Disobeyed a General Order by having an opposite sex person cohabitate in the barracks room.

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

(4) Legal Consultation Date: 9 March 2012

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 26 March 2012 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 23 July 2009 / 3 years, 23 weeks

b. Age at Enlistment / Education / GT Score: 21 / High School Graduate / 116

c. Highest Grade Achieved / MOS / Total Service: E-3 / 27D10, Paralegal Specialist / 3 years, 18 days

d. Prior Service / Characterizations: ARNG, 16 March 2009 – 22 July 2009 / HD

e. Overseas Service / Combat Service: SWA / Iraq (16 April 2010 – 2 March 2011)

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

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: CG Article 15, 27 July 2011, for failing to go at the time prescribed to the appointed place of duty on or about 4 and 28 April, 28 June, and 6 July 2011 x2. The punishment consisted of a restriction for 14 days; extra duty for 14 days, of which 5 days, suspended.

Record Of Supplementary Action Under Article 15, UCMJ, 19 October 2011, reflects the suspended portion of the punishment imposed on 27 July 2011, was vacated for: Article 86, absent oneself from the place of duty.

CG Article 15, 22 February 2012, on or about 8 February 2012, without authority, fail to go at the time prescribed to the appointed place of duty; and on or about 8 February 2012, violate a lawful general regulation, by wrongfully cohabitating with the opposite sex person in their room after hours of visitation. The punishment consisted of a reduction to E-2; forfeiture of \$389 pay (suspended); extra duty and restriction for 14 days; oral reprimand.

Several Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: VA Rating Decision letter, 2 July 2012, reflects the applicant was granted 50 percent service-connected disability for adjustment disorder with mixed anxiety and depressed mood.

(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; two third-party letters; VA Rating Decision; Recommendation for Award; Certificate of Release or Discharge from Active Duty; Enlisted Records Brief.

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) 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 struggling with anxiety and depression during their time on active duty. The applicant sought help while on active duty. Since being discharged the applicant has been diagnosed with an adjustment disorder by the VA. The applicant provided VA Rating Decision letter, 2 July 2012, which reflects the applicant was granted 50 percent service-connected disability for adjustment disorder with mixed anxiety and depressed mood. The AMHRR does not include any medical documents.

The applicant contends the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12b, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Pattern of Misconduct," and the separation code is "JKA." Army Regulation 635-8 (Separation Processing and Documents), governs preparation of the DD Form 214, and dictates entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be exactly as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends they were not given a fair chance to rehabilitate. 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 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 third-party statements provided with the application reflect the applicant's hard work and good character while serving in the Army.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Adjustment Disorder. Additionally, the applicant asserts Depression and Anxiety, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that the applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for Chronic Adjustment Disorder with Mixed Anxiety and Depressed Mood. The applicant also self-asserts Depression and Anxiety during military service which is supported by the medical record.

(3) Does the condition or experience actually 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. The applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for Chronic Adjustment Disorder with Mixed Anxiety and Depressed Mood. The applicant also self-asserts Depression and Anxiety during military service which is supported by the medical record. Given that Depression has a nexus with decreased motivation, low energy, sleep difficulties, and avoidance, the applicant's Depression mitigates the FTRs and not keeping the barracks room clean. However, showing up in an improper uniform, giving false official statements, and disobeying an order by having an opposite sex person cohabitate in the barracks room are not mitigated since neither an Adjustment Disorder, Depression, or Anxiety interfere with the ability to distinguish between right and wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Depression, Anxiety, and Adjustment Disorder outweighed the applicant's medically unmitigated offenses of improper uniform, making false official statements, and disobeying a lawful order.

b. Response to Contention(s):

(1) The applicant contends struggling with anxiety and depression during their time on active duty. The applicant sought help while on active duty. Since being discharged the applicant has been diagnosed with an adjustment disorder by the VA. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Depression, Anxiety, and Adjustment Disorder outweighed the applicant's medically unmitigated offenses of improper uniform, making false official statements, and disobeying a lawful order. The Board did find that the applicant's Depression mitigated the FTRs and failure to maintain a barracks room to standard.

(2) The applicant contends good service, including a combat tour. The Board considered the applicant's three years of service, including a combat tour in Iraq. The Board found that the applicant's record, in combination with partial medical mitigation of the applicant's misconduct, warranted a discharge upgrade.

(3) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined that it was valid based on the reasons discussed above in 9b(1-2).

(4) The applicant contends they were not given a fair chance to rehabilitate. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on reasons discussed above in 9b(1-2).

c. The Board determined the discharge is inequitable based on the applicant's length of service and partial medical mitigation of the applicant's misconduct. 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.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's length of service and partial medical mitigation of the applicant's misconduct combined to outweigh the applicant's offenses of improper uniform, making false official statements, and disobeying a lawful order. 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.

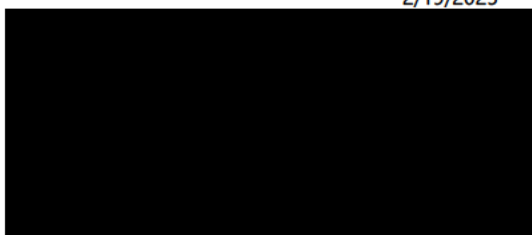
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

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:

2/19/2025



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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000472

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