

1. Applicant's Name:

- 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 period under review is honorable. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, not knowing they were suffering from PTSD and TBI. The applicant was exposed to Improvised Explosive Device (IED) blasts and heavy fire fights. The applicant began abusing pain pills daily to cope. The applicant confessed to their chain of command about using drugs every day and subsequently they were sent to the field for three weeks and not able to complete ASAP. The applicant was given little help to recover, as it was their company commander's intent to have them discharged. The applicant believes they were discharged without a chance to recover and make up for their misconduct when they were clearly suffering from PTSD and TBI. The applicant desires access to their GI Bill.

b. **Board Type and Decision:** In a records review conducted on 16 January 2025, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

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:** Misconduct (Minor Infractions) / AR 635-200, Chapter 14-12a / JKN / RE-3 / Honorable

b. **Date of Discharge:** 3 December 2010

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 28 October 2010

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant wrongfully made a false official statement.

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

(4) **Legal Consultation Date:** 28 October 2010

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

(6) **Separation Decision Date / Characterization:** General (Under Honorable Conditions) / 4 November 2010

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 27 August 2007 / 4 years
- b. **Age at Enlistment / Education / GT Score:** 19 / High School Graduate / 111
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 46R10, Broadcast Journalist / 3 years, 3 months, 7 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Iraq (1 December 2008 – 15 November 2009)
- f. **Awards and Decorations:** ARCOM, AAM, NDSM, GWOTSM, ICM-CS, ASR, CAB
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** CG Article 15, 13 July 2010, for failing to go at the time prescribed to their appointed place of duty on two occasions between 4 and 18 June 2010. On or about 26 May 2010, violate a lawful general order by wrongfully storing their TA-50 in a privately owned vehicle. This is in violation of Article 92, UCMJ. The punishment consisted of a reduction to E-3 (suspended); forfeiture of \$423 pay per month for one month (suspended); and extra duty for 14 days.

FG Article 15, 1 September 2010, between 23 and 27 July 2010, fail to go at the time prescribed to their appointed place of duty. On or about 27 July 2010, with intent to deceive, make to Major J. B., an official statement, to wit: "that [the applicant] taken some photographs of a field exercise or words to that effect", which statement was totally false, and was then known by the accused to be false. On or about 23 July 2010, forge a note from Specialist M., stating "the accused was treated for insomnia" such conduct being prejudicial to good order and discipline in the armed forces. The punishment consisted of a reduction to E-1; forfeiture of \$723 pay per month for two months; and extra duty and restriction for 45 days.

Four Developmental Counseling Forms, for Article 86, Article 107, Article 115, and accountability.

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

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

- (1) **Applicant provided:** None

- (2) **AMHRR Listed:** Report of Behavioral Health Evaluation (BHE), 27 September 2010, reflects the applicant was diagnosed with Axis I: Opiate dependence in early remission.

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; ARBA Email.

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 14-12a addresses minor disciplinary infractions, defined as a pattern of misconduct, consisting solely of minor military disciplinary infractions.

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 "JKN" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (minor infractions).

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 and TBI. The applicant was exposed to Improvised Explosive Device (IED) blasts and heavy fire fights and began abusing pain pills daily to cope. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR includes a Report of Behavioral Health Evaluation (BHE), 27 September 2010, reflecting the applicant was diagnosed with Axis I: Opiate dependence in early remission. The separation authority considered the mental status report.

The applicant contends being given little help to recover, as it was their company commander's intent to have them discharged. The applicant confessed to their chain of command about using drugs every day and subsequently they were sent to the field for three weeks and not able to complete ASAP. The applicant believes they were discharged without a chance to recover and make up for their misconduct. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

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: Adjustment Disorder, PTSD, TBI.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for TBI and PTSD. Service connection establishes that the applicant's PTSD and TBI also existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for TBI and PTSD. However, the applicant's BH conditions do not provide mitigation for making a false official statement since neither TBI, PTSD, or an Adjustment Disorder 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 Adjustment

Disorder, Post Traumatic Stress Disorder, and Traumatic Brain Injury outweighed the applicant's medically unmitigated offense of making a false official statement.

b. Response to Contention(s):

(1) The applicant contends suffering from PTSD and TBI. The applicant was exposed to Improvised Explosive Device (IED) blasts and heavy fire fights and began abusing pain pills daily to cope. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Post Traumatic Stress Disorder, and Traumatic Brain Injury outweighed the applicant's medically unmitigated offense of making a false official statement.

(2) The applicant contends being given little help to recover, as it was their company commander's intent to have them discharged. The applicant confessed to their chain of command about using drugs every day and subsequently they were sent to the field for three weeks and not able to complete ASAP. The applicant believes they were discharged without a chance to recover and make up for their misconduct. The Board considered this contention but ultimately did not address it as the applicant already holds an honorable characterization of service with a Misconduct (Minor Infractions) narrative reason for separation.

(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 that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service as the applicant already holds an honorable characterization and further relief is not available.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, and the reason the applicant was discharged was both proper and equitable.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000486

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: No
- b. Change Characterization to: No Change
- c. Change Reason / SPD Code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

Authenticating Official:

1/29/2025

X

Presiding Officer, COL, U.S. ARMY

Army Discharge Review Board

Legend:

AWOL – Absent Without Leave
AMHRR – Army Military Human
Resource Record
BCD – Bad Conduct Discharge
BH – Behavioral Health
CG – Company Grade Article 15
CID – Criminal Investigation
Division
ELS – Entry Level Status
FG – Field Grade Article 15

GD – General Discharge
HS – High School
HD – Honorable Discharge
IADT – Initial Active Duty Training
MP – Military Police
MST – Military Sexual Trauma
N/A – Not applicable
NCO – Noncommissioned Officer
NIF – Not in File
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty
OBH (I) – Other Behavioral
Health (Issues)
OMPF – Official Military
Personnel File
PTSD – Post-Traumatic Stress
Disorder
RE – Re-entry
SCM – Summary Court Martial
SPCM – Special Court Martial

SPD – Separation Program
Designator
TBI – Traumatic Brain Injury
UNC – Uncharacterized
Discharge
UOTHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs