

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, being young and was assigned to a new unit to reclassify to another military occupational specialty (MOS). The applicant did not have anyone in their corner to help the applicant since the applicant returned from Iraq and had a permanent change of station (PCS) for training. The applicant was diagnosed with post-traumatic stress disorder (PTSD) and was attending counseling. The applicant's company commander did not help the applicant with their adjustment to the medications or counseling. The applicant believed they were constantly being bullied and made an example for the others who were assigned to the company for reclassification. The applicant served one term, reenlisted, and paid there \$100 a month for their first year of enlistment for their GI Bill. Upon separation, the applicant was threatened with more Uniform Code of Military Justice (UCMJ) action if they did not sign their DD Form 214 and leave. The applicant's DD Form 214 has caused them nothing but problems, causing the applicant to lose more than one good job, which resulted in the end of the applicant's marriage. It is affecting the applicant's chance at furthering their education by using their GI Bill. The applicant was separated as a private E-2 who had just completed basic combat training instead of a Soldier who had served in combat, had complications, and into trouble. The applicant questioned how a Soldier could remain an E-2 for almost five years without holding an MOS. The applicant requests a break for a war veteran.

b. Board Type and Decision: In a records review conducted on 5 December 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder, Depression, and Anxiety outweighing the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO. 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.

The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 293 regarding the applicant's PUC, NDSM, ASR, GWOTSM, AGCM, and AAM awards which are not reflected on the applicant's DD214. A DD Form 293 may be obtained online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf> or from a Veterans' Service Organization.

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 / AR 635-200, Paragraph 14-12c (1) / JKD / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 27 January 2005

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 15 December 2004

(2) Basis for Separation: The applicant was informed under the provisions Army Regulation 635-200, paragraphs 14-12b and c, of the following reasons:

The applicant, between 26 and 30 July 2004 and 9 and 15 November 2004, was absent without leave;

On 28 October 2004, the applicant was disrespectful to Staff Sergeant (SSG) S.; and

On 22, 25, 27, 28, and 29 October 2004, and 1 November 2004, the applicant failed to report.

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

(4) Legal Consultation Date: 4 January 2005

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 19 January 2005 / The separation authority approved the applicant's separation under the provisions of AR 635-200, paragraphs 14-12b, Pattern of Misconduct, and 14-12c, Commission of a Serious Offense. The separation authority directed the reason, Misconduct – Commission of a Serious Offense – AWOL be entered on the DD Form 214 (Certificate of Release or Discharge from Active Duty).

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 4 December 2004 / 4 years

b. Age at Enlistment / Education / GT Score: 21 / GED / 120

c. Highest Grade Achieved / MOS / Total Service: E-4 / None / 4 years, 10 months, 7 days / The applicant's AMHRR reflects the applicant enlisted in the MOS 19D10, Calvary Scout, and was pending reclassification to 31S10, Satellite Communications Systems Operator-Maintainer, but did not complete the course.

d. Prior Service / Characterizations: RA, 8 March 2000 – 3 December 2002 / HD

e. Overseas Service / Combat Service: Bosnia, SWA / Iraq (21 January 2003 – 26 August 2003)

f. Awards and Decorations: None / The applicant's AMHRR reflects award of the PUC, NDSM, ASR, and the GWOTSM, and the applicant provided AGCM orders and AAM certificate, however, the awards are not reflected on the applicant's DD Form 214.

g. Performance Ratings: NA

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

From Absent Without Leave (AWOL) to Present for Duty (PDY), effective 30 July 2004;
From PDY to AWOL, effective 26 July 2004;
From AWOL to PDY, effective 15 November 2004; and
From PDY to AWOL, effective 9 November 2004.

Company Grade Article 15, 6 August 2004, for being absent from the unit (between 26 and 30 July 2004). The punishment consisted of a reduction to E-3 (suspended); forfeiture of \$370 pay; and extra duty and restriction for 14 days.

Record Of Supplementary Action Under Article 15, UCMJ, 24 August 2004, reflects the suspended portion of the punishment imposed on 6 August 2004, was vacated for: Article 86, failing to go at the time prescribed to the appointed place of duty (23 August 2004).

Company Grade Article 15, 29 November 2004, for without authority being absent from the unit (between 9 and 15 November 2004); being disrespectful to SSG S. S. (28 October 2004); and on six occasions, failing to go at the time prescribed to the appointed place of duty (22, 25, 27, 28, and 29 October, and 1 November 2004). The punishment consisted of a reduction to E-2; forfeiture of \$312 pay; and extra duty and restriction for 14 days.

Report of Mental Status Evaluation, 9 December 2004, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings and met medical retention requirements.

Memorandum, 11 January 2005, reflects the applicant's battalion commander indicated the applicant did not complete the course and was not awarded an MOS.

Nine Developmental Counseling Forms, for being AWOL on two occasions; failing to report on multiple occasions; and being insubordinate to a noncommissioned officer.

i. Lost Time / Mode of Return: 12 days:

AWOL, 26 July – 30 July 2004 / NIF

AWOL, 9 November 2004 – 15 November 2004 / NIF

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: Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge; assignment instructions; PCS orders; Enlisted Record Brief; Service Member Deployment History Out-processing Verification; Army Achievement Medal Certificate; Recommendation for Award; Personnel Action form – promotion to E-4; Permanent Orders – Army Good Conduct Medal (1st Award); and Leave and Earnings Statement.

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 14-2c, prescribes Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties that may be imposed under the UCMJ.

(6) 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.

(7) Paragraph 14-12c(1) allows for an absentee returned to military control from a status of absent without leave or desertion to be separated for commission of a serious offense.

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 "JKD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c(1), 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 contends being diagnosed with PTSD, and the condition affected behavior which led to the discharge. 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 AMHRR shows the applicant underwent a mental status evaluation (MSE) on 9 December 2004, which indicates the applicant was mentally responsible. The MSE does not indicate any diagnosis. The MSE was considered by the separation authority.

The applicant contends good service, including a combat tour.

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 the command did not help the applicant adjust to their medication or counseling. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends harassment and discrimination by members of the chain of command. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment.

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.

The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

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, Depression, Anxiety Disorder NOS.

(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 PTSD, Depression, and Anxiety Disorder NOS, and the VA has service connected the PTSD.

(3) Does the condition or experience actually 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. The applicant was diagnosed in service with PTSD, Depression, and Anxiety Disorder NOS, and the VA has service connected the PTSD. Given the nexus between PTSD, Depression, Anxiety and avoidance, the AWOLs and FTRs are mitigated. PTSD also has a nexus with difficulty with authority, so the applicant's PTSD mitigates the disrespect.

(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, Depression, and Anxiety outweighed the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD, and the condition affected behavior which led to the discharge. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder, Depression, and Anxiety outweighed the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO.

(2) The applicant contends good service, including a combat tour. 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, Depression, and Anxiety outweighing the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO.

(3) 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, Depression, and Anxiety outweighing the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO.

(4) The applicant contends the command did not help the applicant adjust to their medication or counseling. 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, Depression, and Anxiety outweighing the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO.

(5) The applicant contends harassment and discrimination by members of the chain of command. 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, Depression, and Anxiety outweighing the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO.

(6) 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.

(7) The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder, Depression, and Anxiety outweighing the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO. 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 Post Traumatic Stress Disorder, Depression, and Anxiety outweighed the applicant's offenses of AWOL, FTR, and Disrespect Toward an NCO. 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

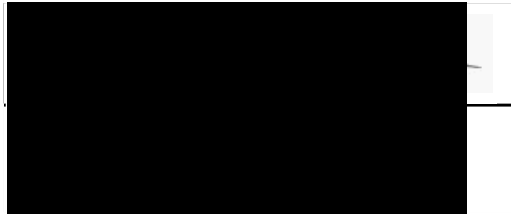
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10. BOARD ACTION DIRECTED:

- 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:

12/30/2024



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