

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** [REDACTED]**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, was injured in Iraq, via electrocution, while working on a vehicle. The applicant suffered from TBI and martial issues due to the injuries. The applicant wanted to complete their enlistment and make the military a career. The applicant states they may have been experiencing problems due to the martial issues which resulted from the injury. The applicant accepts full responsibility for the errors they made. The applicant was able to perform at a high level in their job with all the challenges they were faced with after the injury. The discharge is excessive due to the applicant's condition, and they were still able to pass Army Physical Fitness Standards.

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 Post Traumatic Stress Disorder and Traumatic Brain Injury outweighing the applicant's FTR 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 keeping the reentry code at RE-3.

*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: 30 January 2012

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 15 December 2011

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant failed to be at the appointed place of duty on multiple occasions.

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

(4) Legal Consultation Date: 27 December 2011

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 9 January 2012 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 12 February 2009 / 3 years, 25 weeks

b. Age at Enlistment / Education / GT Score: 21 / High School Graduate / 97

c. Highest Grade Achieved / MOS / Total Service: E-3 / 91B10, Wheeled Vehicle Mechanic / 2 years, 11 months, 19 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (10 October 2009 – 25 June 2010)

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

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: The applicant provided a SIR, 6 November 2009, which reflects at approximately 1045, 6 November 2009, the applicant was electrocuted and fell from a HEMTT vehicle in the MOPO area. The applicant was working on a HEMTT tracing wires in order to configure another vehicle wiring system. While tracing the wires the applicant came across an unprotected layer and since they were touching the vehicle body, the applicant caused it to complete the circuit and electrocuted oneself causing the applicant to fall approximately three feet to the ground. The applicant was conscious and was seated on the ground when the medics arrived. The applicant complained of having numbness of the hands.

Memorandum for Commander, 22 December 2010, reflects the CRC met on 22 December 2010 to review incident 20110217. The allegation was emotional abuse and physical abuse. The incident was determined as follows: met criteria. The abuser was identified as both the applicant and spouse. The risk level was determined as high. The applicant was directed to schedule treatment for Anger Management for 12 weeks.

CG Article 15, 18 March 2011, on or about 24 February, 1 and 4 March 2011 without authority, fail to go at the time prescribed to the appointed place of duty. The punishment consisted of a reduction to E-2; forfeiture of \$383 pay per month for one month; and 14 days extra duty.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Health Record, 21 March 2011, reflects the applicant was diagnosed and being treated for TBI.

Report of Medical Examination, 5 July 2011, the examining medical physician noted Anxiety/depression; Hx of TBI, continue meds/BH in the comments section:

Report of Mental Status Evaluation, 20 September 2011, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mTBI and tested positive for TBI. The applicant was diagnosed with Axis I: Anxiety Disorder NOS per AHLTA history.

Report of Medical History, 5 October 2011, the examining medical physician noted Anxiety – on meds. Seeing BH. in the comments section.

(2) AMHRR Listed: USA MEDDAC Mild Traumatic Brain Injury Clinic letter, 28 April 2011, reflects the applicant was a patient of the Mild Traumatic Brain Clinic. The applicant had memory problems because of mild TBI. The applicant had difficulty paying attention and could not retain information well. The applicant was undergoing therapy in the clinic to improve their attention and recall skills and was also undergoing training to help learn how to compensate for their memory problems.

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; Certificate of Release or Discharge from Active Duty; third-party letter; Enlisted Record Brief; SIR; Report of Mental Status Evaluation; extensive medical records.

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 suffering from TBI due to an injury. The discharge was excessive due to the applicant's condition. The applicant provided a Health Record, 21 March 2011, which reflects the applicant was diagnosed and being treated for TBI. A Report of Medical Examination, 5 July 2011, the examining medical physician noted Anxiety/depression; Hx of TBI, continue meds/BH in the comments section. A Report of Mental Status Evaluation (MSE), 20 September 2011, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mTBI and tested positive for TBI. The applicant was diagnosed with Axis I: Anxiety Disorder NOS per AHLTA history. A Report of Medical History, 5 October 2011, the examining medical physician noted Anxiety – on meds. Seeing BH. in the comments section. The AMHRR includes USA MEDDAC Mild Traumatic Brain Injury Clinic letter, 28 April 2011, which reflects the applicant was a patient

of the Mild Traumatic Brain Clinic. The applicant had memory problems because of mild TBI. The applicant had difficulty paying attention and could not retain information well. The applicant was undergoing therapy in the clinic to improve their attention and recall skills and was also undergoing training to help learn how to compensate for their memory problems. The USA MEDDAC Mild Traumatic Brain Injury Clinic letter was considered by the separation authority.

The applicant contends family issues affected behavior. The applicant provided a Memorandum for Commander, 22 December 2010, which reflects the CRC met on 22 December 2010 to review incident 20110217. The allegation was emotional abuse and physical abuse. The incident was determined as follows: met criteria. The abuser was identified as both the applicant and spouse. The risk level was determined as high. The applicant was directed to schedule treatment for Anger Management for 12 weeks.

The third-party statement provided with the application was provided by the Operations Officer and reflects the applicant's hard work and dedication while serving as a mechanic in Afghanistan since being discharged.

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, Anxiety Disorder NOS, Adjustment Disorder, and mTBI.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found the applicant is 50 percent service connected for PTSD and 10 percent service connected for mTBI.

(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 PTSD and avoidant behavior and memory problems, and the nexus between mTBI and memory problems, the applicant's FTRs are 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 Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's FTR offenses.

b. Response to Contention(s):

(1) The applicant contends suffering from TBI due to an injury. The discharge was excessive due to the applicant's condition. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's FTR offenses.

(2) The applicant contends family issues affected behavior. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade

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being granted based on the applicant's Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's FTR offenses.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder and Traumatic Brain Injury outweighing the applicant's FTR 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 to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The board voted to keep the reentry code at RE-3.

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 and Traumatic Brain Injury outweighed the applicant's FTR 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.

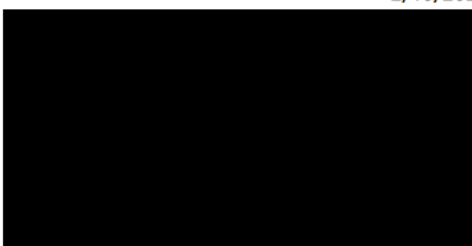
(3) The RE code will not change due to the diagnosed behavioral health conditions. The current code is consistent with the procedural and substantive requirements of the regulation.

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



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

charge
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