

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, had over seven years of active service with a consistent history of outstanding service. The applicant was diagnosed with generalized anxiety disorder and chronic depression before the discharge and had a history of suicide attempts. They have since been diagnosed with PTSD and are service-connected through the VA with a 70 percent rating. At the time, the applicant was under extreme stress and prescribed medication known to have side effects including extreme depression, mood changes, and suicidal ideation. The applicant had an outstanding career and received medals and commendations after the misconduct, during the suspended punishment. After being diagnosed with generalized anxiety disorder and chronic depression, the applicant received a charge of AWOL. The applicant believes during the last months of their service, their mental health was not considered the problem. The applicant is not trying to use medical diagnoses as an excuse; however, they believe more could have been done to recognize the desire to continue serving as an outstanding Soldier and leader. The applicant spent their career serving well above their pay grade and consistently in an outstanding manner. The applicant is honorable and works very hard to set an example for their children. The applicant would like to continue their work in the medical field and plans on attending a specialty school; however, needs the discharge upgraded to honorable to use the GI Bill. If given true consideration, the applicant believes they can continue to serve humanity in a medical capacity and keep making the world a better place for our children and grandchildren.

b. Board Type and Decision: In a records review conducted on 31 October 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Depression and Generalized Anxiety Disorder outweighing the applicant's AWOL offense. 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:** Misconduct / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)
- b. Date of Discharge:** 23 November 2004

c. Separation Facts:

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

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant was absent without leave between 30 March 2004 and 21 April 2004, which is in violation of Article 86, Uniform Code of Military Justice.

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

(4) Legal Consultation Date: 25 October 2004

(5) Administrative Separation Board: On 25 October 2004, the applicant unconditionally waived consideration of the case before an administrative separation board.

(6) Separation Decision Date / Characterization: 8 November 2004 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 1 April 2003 / 3 years

b. Age at Enlistment / Education / GT Score: 27 / High School Graduate / 116

c. Highest Grade Achieved / MOS / Total Service: E-4 / 91W10, Health Care Specialist / 7 years, 1 month, 16 days

d. Prior Service / Characterizations: USMC, 22 January 1997 – 14 February 2001 / HD
MCRSC, 15 February 2001 – 21 February 2001 /
NA
USAR, 22 February 2001 – 31 March 2003 / NA
(Concurrent Service)
IADT, 1 November 2001 – 12 April 2002 / HD

e. Overseas Service / Combat Service: Hawaii, Japan / None

f. Awards and Decorations: AAM, NAM, MCGCM, NDSM, GWOTSM, ASR, NMCEM, SSDR-2

g. Performance Ratings: NA

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 30 March 2004; and,

From AWOL to Confinement, effective 21 April 2004.

CG Article 15, 25 May 2004, without authority absent oneself from the unit on or about 30 March 2004 and did remain so absent until apprehended on or about 21 April 2004. The punishment consisted of a reduction to E-3; forfeiture of \$370, suspended.

Record Of Supplementary Action Under Article 15, UCMJ, 7 September 2004, reflects the suspended portion of the punishment imposed on 25 May 2004, was vacated for: Article 86, failure to sign in off leave on 23 August 2004 and failure to show up at 0630 formation on 24 August 2004.

Two Developmental Counseling Forms, for violating Article 86, Absent without leave x2.

i. **Lost Time / Mode of Return:** AWOL for 22 days, 30 March 2004 to 21 April 2004. This period is not annotated on the DD Form 214 block 29.

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Mental Status Evaluation (MSE), 30 August 2004, 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 was diagnosed with: Axis I: Generalized Anxiety Disorder and Partner relational Problems and Axis II: Dependent Personality traits.

Report of Medical Assessment, 15 September 2004, the health care provider noted: Drug ingestion/suicide attempt and depression.

Report of Medical Examination, 28 September 2014, the examining medical physician noted: Depression/suicide attempt.

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: Online application; Certificate of Release or Discharge from Active Duty; six certificates; Recommendation for Award; Service School Academic Evaluation Report.

6. POST SERVICE ACCOMPLISHMENTS: The applicant volunteers with American Red Cross as an instructor for CPR and First Aid; is an Emergency Medical Technician in the local community, 100 percent without pay; and is a Peer Mentor and Alumni with Wounded Warrior Project.

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 14-12c 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.

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 "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).

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 waivable and nonwaivable 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 waivable. 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 the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations, at the time, for a discharge under this paragraph is "Misconduct," and the separation code is "JKQ." Army Regulation 635-8 (Separation Processing and Documents),

governs the preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be 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 good service, including receiving numerous awards and commendations. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends being diagnosed with generalized anxiety disorder; chronic depression; and a history of suicide attempts prior to being discharged. The applicant has been diagnosed with PTSD and was granted 70 percent service-connected disability by the VA. At the time, they were prescribed medication known to have side effects including extreme depression, mood changes, and suicidal ideation. 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 AMHRR shows the applicant underwent a Mental Status Evaluation (MSE) on 30 August 2004, which indicates 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 was diagnosed with: Axis I: Generalized Anxiety Disorder and Partner relational Problems and Axis II: Dependent Personality traits. A Report of Medical Assessment, 15 September 2004, shows the health care provider noted: Drug ingestion/suicide attempt and depression. A Report of Medical Examination, 28 September 2014, the examining medical physician noted: Depression/suicide attempt. All the medical documents included in the AMHRR were considered by the separation authority.

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 volunteers with American Red Cross as an instructor for CPR and First Aid; is an Emergency Medical Technician in the local community, 100 percent without pay; and is a Peer Mentor and Alumni with Wounded Warrior Project. 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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Depression, Generalized Anxiety Disorder.

Additionally, the applicant asserts PTSD, 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 Depression and Generalized Anxiety Disorder, and the VA has service connected the Generalized Anxiety Disorder. The applicant also self-asserts 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. Given the nexus between Depression, Generalized Anxiety Disorder, and avoidance, the applicant's BH conditions likely contributed to the AWOL that led to the separation. The applicant also self-asserts PTSD. There is no medical evidence to substantiate that the applicant's PTSD existed during military service, but it is inconsequential to the applicant's case given the full mitigation for Depression and Anxiety.

(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 Depression and Generalized Anxiety Disorder outweighed the applicant's AWOL offense.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with generalized anxiety disorder; chronic depression; and a history of suicide attempts prior to being discharged. The applicant has been diagnosed with PTSD and was granted 70 percent service-connected disability by the VA. At the time, they were prescribed medication known to have side effects including extreme depression, mood changes, and suicidal ideation. The Board liberally considered this contention and determined that the applicant's Depression and Generalized Anxiety Disorder outweighed the applicant's AWOL offense.

(2) The applicant contends the narrative reason for the discharge needs changed. 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 Depression and Generalized Anxiety Disorder outweighing the applicant's AWOL offense.

(3) The applicant contends good service, including receiving numerous awards and commendations. 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 Depression and Generalized Anxiety Disorder outweighing the applicant's AWOL offense.

(4) 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.

(5) The applicant volunteers with American Red Cross as an instructor for CPR and First Aid; is an Emergency Medical Technician in the local community, 100 percent without pay; and is a Peer Mentor and Alumni with Wounded Warrior Project. 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 Depression and Generalized Anxiety Disorder outweighing the applicant's AWOL offense.

c. The Board determined the discharge is inequitable based on the applicant's Depression and Generalized Anxiety Disorder outweighing the applicant's AWOL offense. 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 Depression and Generalized Anxiety Disorder outweighed the applicant's AWOL offense. 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:

11/12/2024



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