

**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 under other than honorable conditions. The applicant requests an upgrade to general characterization of service.

The applicant seeks relief contending, in effect, serving honorably in combat in Iraq. The problems the applicant encountered began after the deployment to Iraq; and they were going through a divorce. The applicant was trying to save their marriage and was suffering from PTSD and made some mistakes in trying to save the marriage.

**b. Board Type and Decision:** In a records review conducted on 1 October 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, combining with the applicant's behavioral health conditions to partially outweigh the discharge. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to General and changed to the separation authority to AR 635-200, paragraph 14-12b, the narrative reason for separation to Pattern of Misconduct, with a corresponding separation code of JKA. 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 (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / Under Other Than Honorable Conditions

**b. Date of Discharge:** 28 April 2010**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** undated

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant was absent without leave between on or about 8 June and 25 July 2009 for which the applicant received an Article 15; was absent without leave between on or about 28 October and 4 December 2009; and was absent without leave between on or about 4 and 7 January 2010.

**(3) Recommended Characterization:** Under Other Than Honorable Conditions / The Intermediate Commanders recommended General (Under Honorable Conditions).

**(4) Legal Consultation Date:** 13 January 2010

**(5) Administrative Separation Board:** On 13 January 2010, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than general (under honorable conditions) discharge.

On 27 January 2010, the applicant's conditional waiver was denied.

On 5 March 2010, the administrative separation board convened, and the applicant was absent without leave (AWOL). Because the applicant was AWOL shortly after requesting a board, counsel did not know how the applicant wanted to be represented and therefore counsel was absent. The Board determined the allegations of being absent without leave between on or about 8 June and 25 July 2009 for which the applicant received an Article 15; absent without leave between on or about 28 October and 4 December 2009; and absent without leave between on or about 4 and 7 January 2010 in the notice of administrative separation was supported by preponderance of the evidence. The board recommended the applicant's discharge with characterization of service of under other than honorable conditions.

On 7 April 2010, the separation authority approved the findings and recommendations of the administrative separation board.

**(6) Separation Decision Date / Characterization:** On 7 April 2010 under the provisions of AR 635-200, Chapter 14-12c, the findings and recommendations of the board were approved by the separation authority. / Under Other Than Honorable Conditions

#### **4. SERVICE DETAILS:**

- a. Date / Period of Enlistment:** 1 August 2006 / 3 years, 17 weeks
- b. Age at Enlistment / Education / GT Score:** 17 / GED / 94
- c. Highest Grade Achieved / MOS / Total Service:** E-4 / 19K10, M1 Armor Crewman / 3 years, 3 months, 10 days
- d. Prior Service / Characterizations:** None
- e. Overseas Service / Combat Service:** SWA / Iraq (25 October 2007 – 28 February 2009)
- f. Awards and Decorations:** ARCOM, NDSM, ASR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:** Twelve Personnel Action Forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 8 June 2009;  
From AWOL to Dropped From Rolls (DFR), effective 8 July 2009;  
From DFR to PDY, effective 25 July 2009;  
From PDY to AWOL, effective 28 October 2009;  
From AWOL to DFR, effective 29 October 2009;  
From DFR to Return to Military Control (RMC), effective 1 December 2009;  
From RMC to PDY, effective 4 December 2009;  
From PDY to AWOL, effective 4 January 2010;

From AWOL to DFR, effective 5 January 2010;  
From DFR to PDY, effective 7 January 2010;  
From PDY to AWOL, effective 31 January 2010; and,  
From AWOL to DFR, effective 1 February 2010.

FG Article 15, 22 October 2009, for on or about 8 June 2009, without authority, absent oneself from the unit and did remain so absent until on or about 25 July 2009. The punishment consisted of a reduction to E-1; forfeiture of \$647 pay per month for two months; and extra duty for 45 days.

Memorandum from the applicant's commander to the separation authority dated 20 January 2010 contains a MP Blotter report, reflecting the applicant was being investigated for conspiracy, false official document, forgery, identity fraud, impersonating an NCO, and false official statement. The blotter also reflects the applicant's previous offenses of failure to maintain lane, simple assault (civil), criminal trespass (civil), AWOL reported; desertion; deserter (surrendered), desertion, driving on a suspended registration, no insurance, and failure to stop at posted stop sign.

Report of Proceedings by Investigating Officer/Board of Officers, 5 March 2009, reflects the board found: The allegations of being absent without leave between on or about 8 June 2009 and 25 July 2009 for which the applicant received an Article 15; absent without leave between on or about 28 October 2009 and 4 December 2009; and absent without leave between on or about 4 and 7 January 2010 in the notice of administrative separation was supported by preponderance of the evidence. The board recommended the applicant's discharge with characterization of service of under other than honorable conditions.

Two Developmental Counseling Forms, for being AWOL and being recommended for separation.

**i. Lost Time / Mode of Return:** 81 days:

AWOL, 8 June 2009 – 24 July 2009 / NIF  
AWOL, 28 October 2009 – 30 November 2009 / NIF  
AWOL, 4 January 2010 – 6 January 2010 / NIF

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

**(1) Applicant provided:** Homeless Assessment, 18 June 2013, reflects the applicant was a 24 year old veteran who had been homeless since July 2012 for substance abuse treatment, case management services, and transitional housing.

VA Problem List, 2 November 2015, reflects a diagnosis.

**(2) AMHRR Listed:** Mental Status Evaluation (MSE), 9 December 2009, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. The evaluation reflects a diagnosis.

*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:** Two Applications for the Review of Discharge; Recommendation for Award; three third-party letters; Certificate of Release or Discharge from Active Duty; VA Problem List; UPS Store receipt; homeless assessment.

**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)** Paragraph 3-7c states Under Other Than Honorable Conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

**(5)** 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.

**(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 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 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 good service, including a combat tour.

The applicant contends family issues affected behavior and ultimately caused the discharge. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

The applicant contends suffering from PTSD after returning from deployment and made some mistakes in trying to save the marriage. The applicant provided Homeless Assessment, 18 June 2013, which reflects the applicant was a 24 year old veteran who had been homeless since July 2012 for substance abuse treatment, case management services, and transitional housing. A VA Problem List, 2 November 2015, reflects a diagnosis. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 9 December 2009, which reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. The evaluation reflects a diagnosis. The MSE was considered by the separation authority.

The third-party statements provided with the application reflect the applicant's good character and performance while serving on active duty and a statement from Riverside County Probation Department stating the applicant was in good standing.

#### **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's Medical Advisor, a voting member, 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, MDD, Anxiety Disorder Unspecified, Adjustment Disorder with Anxiety and Depressed Mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 0 percent SC for PTSD (treatment only).

(3) Does the condition or experience actually excuse or mitigate the discharge?

**Partially.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions partially mitigate the basis of the applicant's separation (AWOL offenses). Given the nexus between PTSD and avoidance, the applicant's AWOL offenses are mitigated. However, the applicant's additional misconduct of simple assault, larceny of private funds, forgery of a personal check, impersonating an NCO, identify fraud, making false official statements, driving without insurance, driving with a suspended registration, are not natural sequela of PTSD or any of the other potentially mitigating BH conditions and therefore not mitigated.

(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 Post Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder, and Adjustment Disorder outweighed the applicant's medically unmitigated offenses of assault, larceny of private funds, forgery of a personal check, impersonating an NCO, identify fraud, making false official statements, driving without insurance, and driving with a suspended registration.

**b. Response to Contention(s):**

(1) The applicant contends suffering from PTSD after returning from deployment and made some mistakes in trying to save the marriage. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder, and Adjustment Disorder outweighed the applicant's medically unmitigated offenses of assault, larceny of private funds, forgery of a personal check, impersonating an NCO, identify fraud, making false official statements, driving without insurance, and driving with a suspended registration.

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

(3) The applicant contends family issues affected behavior and ultimately caused the discharge. The Board considered this contention but determined that the applicant going through a divorce did not outweigh the medically unmitigated offenses of assault, larceny of private funds, forgery of a personal check, impersonating an NCO, identify fraud, making false official statements, driving without insurance, and driving with a suspended registration.

**c.** The Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, combining with the applicant's behavioral health conditions to partially outweigh the discharge. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to General and changed to the separation authority to AR 635-200, paragraph 14-12b, the narrative reason for separation to Pattern of Misconduct, with a corresponding separation code of JKA.

**d. Rationale for Decision:**

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE****AR20210000778**

(1) The Board voted to change the applicant's characterization of service to General because the applicant's Post Traumatic Stress Disorder outweighed the applicant's AWOL offenses, and the applicant's service record mitigated the applicant's medically unmitigated offenses of assault, larceny of private funds, forgery of a personal check, impersonating an NCO, identify fraud, making false official statements, driving without insurance, and driving with a suspended registration. The Board found that a General discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Pattern of Misconduct under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKA.

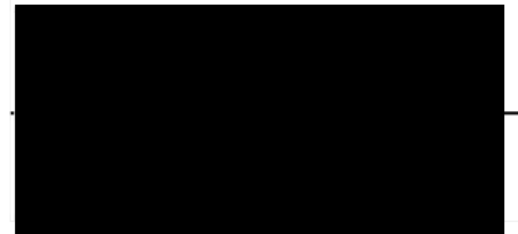
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214: Yes
- b. Change Characterization to: General
- c. Change Reason / SPD Code to: Pattern of Misconduct / JKA
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200

**Authenticating Official:**

12/6/2024



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