

**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, serving honorably, including a deployment and receiving the Purple Heart. The applicant went from a combat unit to a training unit at Fort Knox training new Lieutenants, and the applicant believed they were mentally incapable of finishing their time. The applicant did not have much time left; however, the applicant was mentally broke down due to PTSD and TBI. The applicant also had family issues at home they were coping with and told their superiors the applicant could not do it anymore. The applicant would like an upgrade to continue their education.

b. **Board Type and Decision:** In a records review conducted on 17 September 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder (PTSD) outweighing the DUI and FTR separating offenses. The Board found that the applicant's unmitigated offenses of driving on post after privileges were revoked and speeding did not rise to a level to negate meritorious service. 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. 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 details 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:** 24 October 2006

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 21 September 2006

(2) **Basis for Separation:** The applicant was informed of the following reasons:

Between 18 January 2006 and the present, the applicant had received over 20 negative counseling statements for missing accountability formations or for failing to be at the appointed place of duty;

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On 14 September 2005, the applicant was confined for six days by the Meade County Sherriff's department for driving under the influence of alcohol;

Received a Company Grade Article 15 on 12 June 2006, for failing to be at the appointed place of duty x2;

On 19 September 2006, the applicant received another Company Gade Article 15 for driving while the installation driving privileges were suspended on 11 August 2006 and 5 September 2006; and,

Under the same Company Grade Article 15, the applicant was also charged with failing to be at the appointed place of duty x3.

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

**(4) Legal Consultation Date:** 22 September 2006

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

**(6) Separation Decision Date / Characterization:** 3 October 2006 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 16 June 2004 / 4 years / The applicant's DD Form 4 is not included in the AMHRR and the information was derived from the Commander's Report.

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

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 19D10, Calvary Scout / 4 years, 6 months, 14 days

**d. Prior Service / Characterizations:** RA, 2 April 2002 – 15 June 2004 / HD / There appears to be an error on the applicant's DD Form 214, block 12a, and should read "2002 04 02" per the DD Form 4.

**e. Overseas Service / Combat Service:** SWA / Iraq (6 March 2004 – 1 April 2005)

**f. Awards and Decorations:** PH, ARCOM, AAM, AGCM, NDSM, ASR, OSR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Personnel Action Form, reflects the applicant's duty status changed as follows: From Present for Duty (PDY) to Confined by Civilian Authorities (CCA), effective 2 September 2005.

Memorandum for Record, Administrative Reduction Action, 30 September 2005, reflects the applicant was found guilty in a civil court on 14 September 2005 for the offense of Driving Under the Influence of alcohol and reduced in rank to PFC.

FG Article 15, 28 June 2006, for failing to go at the time prescribed to the appointed place of duty x2 on or about 12 and 19 June 2006. The punishment consisted of oral reprimand; and extra duty and restriction for 14 days.

MPR# 02578-2006-MPC032, 5 September 2006, reflects while conducting radar enforcement, the applicant was observed exceeding the posted speed limit. A traffic stop was conducted and a check through NCIC revealed the applicant's Louisiana operator's license was suspended for violation of revocation. A check of the post driving suspension roster revealed the applicant's post driving privileges were suspended for driving while state privileges were suspended. The applicant was apprehended.

CG Article 15, 19 September 2006, on or about 5 September 2006 and 11 August 2006, violate a lawful regulation by driving a vehicle on Fort Knox while the installation driving privileges were suspended; and failed to go at the time prescribed to the appointed place of duty x3 on 9 and 10 August and 7 September 2006; The punishment consisted of a reduction to E-3; forfeiture of \$394; and extra duty and restriction for 14 days.

Numerous Developmental Counseling Forms, for various acts of misconduct.

**i. Lost Time / Mode of Return:** CCA, for 6 days, 2 September 2005 - NIF/ The Commanders Report reflects the applicant was confined on 14 September 2005 for 6 days. 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 Medical History, 9 August 2006, the examining medical physician noted the applicant's medical conditions in the comments section.

*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 and Certificate of Release or Discharge from Active Duty.

**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 the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12b, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Pattern of Misconduct," and the separation

code is "JKA." Army Regulation 635-8 (Separation Processing and Documents, governs preparation of the DD Form 214, and dictates entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be exactly 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 a combat tour and being awarded the purple heart. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends going from a combat unit to a training unit at Fort Knox training new Lieutenants, and the applicant believed they were mentally incapable of finishing their time. The applicant did not have much time left; however, was mentally broke down due to PTSD and TBI. 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 contains Report of Medical History, 9 August 2006, reflecting the examining medical physician noted the applicant's medical conditions in the comments section. The AMHRR does not contain a mental status evaluation.

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 an upgrade would allow educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

## 9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board'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: PTSD and TBI.

(2) Did the condition exist, or experience occur during military service? **Yes.** PTSD and Concussions were diagnosed during/from military service.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that driving while privileges were revoked and speeding are not mitigated as there's no indication the applicant was intoxicated at the time and does not fall under substance related behavior. However, the DUI and FTRs are mitigated given the nexus between trauma, substance use, substance related behavior, and avoidance.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board

determined that the applicant's PTSD outweighed the DUI and FTR offenses. The Board found that the applicant's unmitigated offenses of driving on post after privileges were revoked and speeding did not rise to a level to negate meritorious service.

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

(1) The applicant contends going from a combat unit to a training unit at Fort Knox training new Lieutenants, and the applicant believed they were mentally incapable of finishing their time. The applicant did not have much time left; however, was mentally broke down due to PTSD and TBI. The Board liberally considered this contention and determined that the applicant's PTSD outweighed the applicant's DUI and FTR offenses. The Board found that the applicant's offenses of driving on post after privileges were revoked and speeding did not rise to a level to negate meritorious service.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention during proceedings and determined a change was warranted based on partial medical mitigation.

(3) The applicant contends good service, including a combat tour and being awarded the purple heart. The Board considered the entirety of the applicant's service record during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on partial medical mitigation of the separating misconduct.

(4) The applicant contends family issues affected behavior and ultimately caused the discharge. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on partial medical mitigation of the separating misconduct.

(5) The applicant contends an upgrade would allow educational benefits through the GI Bill. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

**c.** The Board determined the discharge is inequitable based on the applicant's the Board determined that the applicant's PTSD outweighing the applicant's DUI and FTR offenses. The Board found that the applicant's unmitigated offenses of driving on post after privileges were revoked and speeding did not rise to a level to negate meritorious service. 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. The Board determined the reentry code is proper and equitable given the diagnosed PTSD 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 PTSD outweighed the applicant's DUI and FTR offenses. The Board found that the applicant's offenses of driving on post after privileges were revoked and speeding did not rise to a level to negate meritorious service. Thus, the prior characterization is no longer appropriate.

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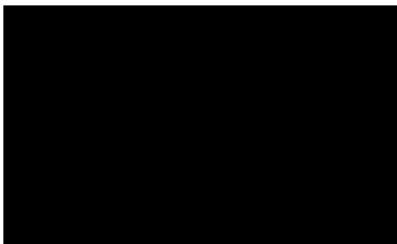
(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts. Thus, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

(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:**

 9/17/2024

**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