

**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 honorable.

The applicant seeks relief contending, in effect, returning from Iraq with many psychological problems and not asking or seeking help. The applicant began self-medicating with drugs and alcohol to cope with their pain. The applicant failed two drug tests and was AWOL one time and received an under other than honorable conditions discharge. The applicant suffers from PTSD, depression, anxiety, and tinnitus.

**b. Board Type and Decision:** In a records review conducted on 19 September 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder, Anxiety, and Depression outweighing the applicant's AWOL and illegal substance abuse separating 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. 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:** Misconduct / AR 635-200, Chapter 14-12c / JKQ / RE-3 / Under Other Than Honorable Conditions

**b. Date of Discharge:** 14 July 2005**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 9 June 2005

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant wrongfully used marijuana and ecstasy, controlled substances, and was Absent Without Leave from 23 November 2004 to 12 December 2004.

**(3) Recommended Characterization:** Under Other Than Honorable Conditions

**(4) Legal Consultation Date:** 9 June 2005

**(5) Administrative Separation Board:** On 9 June 2005, the applicant unconditionally waived consideration of the case before an administrative separation board

**(6) Separation Decision Date / Characterization:** 7 July 2005 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 1 October 2002 / 3 years

**b. Age at Enlistment / Education / GT Score:** 20 / High School Graduate / 98

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 21B10, Combat Engineer / 5 years, 4 months, 20 days

**d. Prior Service / Characterizations:** ARNG, 25 February 2000 – 30 September 2002 / HD  
IADT, 8 August 2001 – 28 September 2001 / HD  
(Concurrent Service)

**e. Overseas Service / Combat Service:** Germany, SWA / Iraq (25 April 2003 – 17 July 2004)

**f. Awards and Decorations:** ARCOM, NDSM, GWOTEM, GWOTSM, ASR, OSR, OSB-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 23 November 2004; and, From AWOL to PDY, effective 12 December 2004.

Electronic Copy of DD Form 2624, 10 December 2004, reflects the applicant tested positive for MDMA (methylenedioxymethamphetamine) 2827, during an uncoded urinalysis testing, conducted on 20 November 2004.

Electronic Copy of DD Form 2624, 5 January 2005, reflects the applicant tested positive for THC (marijuana) 17, during a Command Directed (CO) urinalysis testing, conducted on 13 December 2004.

Pretrial Offer and Agreement, 17 March 2005, reflects the applicant agreed to plead guilty to Charges I and II and Specifications, providing the summary court martial convening authority agreed to refer the charges to a summary court-martial. The applicant also agreed to waive the rights to a personal appearance and the board. The summary court martial convening authority accepted the pretrial offer and agreement.

Report of Result of Trial, 31 March 2005, reflects the applicant was found guilty of Charge I, in violation of Article 112a, UCMJ. Two Specifications of Wrongful use of ecstasy and marijuana; and Charge II, in violation of Article 86, UCMJ for being AWOL. The sentence consisted of a reduction to E-1, forfeiture of \$823, and confinement for 30 days.

Five Developmental Counseling Forms, for improper wear of the uniform; disorderly conduct; revocation of pass privileges; revocation of USAREUR driving privileges; AWOL; and positive urinalysis test x2.

i. **Lost Time / Mode of Return:** AWOL for 19 days, 23 November 2004 to 12 December 2004. This period is not annotated on the applicant's DD Form 214, block 29.

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Mental Status Evaluation (MSE), 12 January 2005, reflects the applicant could understand and participate in administrative proceedings; and was mentally responsible. The diagnosis was deferred.

Report of Mental Status Evaluation (MSE), 18 May 2005, 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 MSE does not include 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:** Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty; three memorandums from the separation packet; ARBA letter; National Guard Bureau Report of Separation and Record of Service.

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's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends good service, including a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends returning from Iraq with many psychological problems and not asking or seeking help. The applicant began self-medicating with drugs and alcohol to cope with their pain. The applicant failed two drug tests and was AWOL one time and received an under other than honorable conditions discharge. The applicant suffers from PTSD, depression, anxiety, and tinnitus. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from any medical condition. The applicant's AMHRR contains no documentation of PTSD diagnosis. The AMHRR shows a Report of Mental Status Evaluation (MSE), 12 January 2005, which reflects the applicant could understand and participate in administrative proceedings; and was mentally responsible. The diagnosis was deferred. A Report of Mental Status Evaluation (MSE), 18 May 2005, 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 MSE does not include a diagnosis. The mental status evaluations were considered by the separation authority.

#### **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. Additionally, the applicant asserts Anxiety and Depression, 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's Medical Advisor found that the applicant was diagnosed by the VA with combat-related PTSD, and the active duty medical record supports the applicant's asserted Anxiety and Depression.

**(3)** Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of BH conditions that mitigate the basis of separation. The applicant was diagnosed by the VA with combat-related PTSD, and the active duty medical record supports the applicant's asserted Anxiety and Depression. Given the nexus between PTSD, Anxiety, Depression, avoidance, and self-medicating with substances, the drug use and AWOL 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, Anxiety, and Depression outweighed the applicant's AWOL and illegal substance abuse separating offenses.

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

**(1)** The applicant contends returning from Iraq with many psychological problems and not asking or seeking help. The applicant began self-medicating with drugs and alcohol to cope with their pain. The applicant failed two drug tests and was AWOL one time and received an under other than honorable conditions discharge. The applicant suffers from PTSD, depression,

anxiety, and tinnitus. The Board liberally considered this contention, substantiated it, and determined that the applicant's Post Traumatic Stress Disorder, Anxiety, and Depression outweighed the applicant's AWOL and illegal substance abuse separating offenses.

(2) The applicant contends good service, including a combat tour. The Board considered the applicant's length of service and combat tour in Iraq but ultimately did not address the service record in further detail after finding that an upgrade was warranted for medical mitigation.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder, Anxiety, and Depression outweighing the applicant's AWOL and illegal substance abuse 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. The Board determined the reentry code is proper and equitable and voted not to change it.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder, Anxiety, and Depression outweighed the applicant's AWOL and illegal substance abuse separating offenses. Thus, the prior characterization is no longer appropriate.

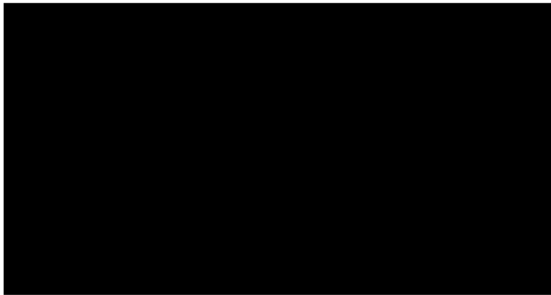
(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

(3) The RE code will not change given 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:**



**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



