

**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, being separated because of a pattern of misconduct. The applicant does not believe the applicant underwent all possible routes to rehabilitation before the discharge was initiated. After the discharge, the applicant was diagnosed with service-connected post-traumatic stress disorder (PTSD), which may help explain the reason why some of these events occurred. It does not justify the applicant's actions, but would explain some of their misbehavior. The applicant believes under current standards, they would not have received the type of discharge they received. The applicant's average and overall conduct and efficiency was rated as good or better. Between November 2005 and November 2006, the applicant was deployed in support of Operation Iraqi Freedom (OIF) to Al Taqaddum Iraq. The adverse actions were isolated incidents, with six months or more between any incidents. The applicant's age and immaturity played a factor. The applicant has been diagnosed and treated for PTSD by the Phoenix, Arizona, Department of Veterans Affairs (VA). The applicant deserves the opportunity to use the GI Bill to further their education, which they earned, and hopes it will be considered. The applicant has done their best to leave an imprint on all those they have met since separating from the service. The applicant admits to not being perfect but has been actively trying to improve themselves and their well-being in the years that have followed the applicant's separation. The applicant requested others write honest letters of their character from the time they have known the applicant until the present. Their opinions are very similar. The applicant is a good person, a hard worker, and a very devoted parent. The applicant highly values a strong relationship with God and implements that value in their home. The upgrade would greatly benefit the applicant and requests the applicant's statement and letters from colleges and friends be considered.

b. **Board Type and Decision:** In a records review conducted on 5 September 2024, and by a 4-1 vote, the Board determined the discharge is inequitable based on the applicant's length of service, to include combat service, partial medical mitigation of the applicant's misconduct, and post-service accomplishments combining to outweigh the discharge. 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 Board Discussion and Determination of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Pattern of Misconduct / AR 635-200, Paragraph 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 3 February 2007

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** Undated Acknowledgement

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant had either been counseled or received Article 15s for falsifying a government document, failure to obey an order or regulation, noncompliance with procedural rules, disrespecting a noncommissioned officer (NCO), indebtedness, as well as several failures to report to duty.

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

**(4) Legal Consultation Date:** On 5 January 2007, the applicant waived legal counsel.

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

**(6) Separation Decision Date / Characterization:** 30 January 2007 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 28 October 2004 / 3 years, 25 weeks

**b. Age at Enlistment / Education / GT Score:** 18 / GED / 105

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 63B10, Wheeled Vehicle Mechanic / 2 years, 3 months, 6 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** Germany, SWA / Iraq (12 November 2005 – 1 November 2006)

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

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Summarized Article 15, 22 September 2005, for being derelict in the performance of their duties by willfully failing to utilize the latrine to urinate (29 July 2005). The punishment consisted of and extra duty and restriction for 14 days.

Company Grade Article 15, 3 March 2006, for being derelict in the performance of their duties by failing to stay awake on guard duty (20 February 2006). The punishment consisted of a reduction to E-2; forfeiture of \$333 pay; and extra duty for 14 days.

Bar to Reenlistment Certificate, 3 July 2006, reflects the bar to reenlistment was initiated on the applicant for being counseled for various acts of misconduct. The bar to reenlistment was approved on 16 July 2006, and the applicant notified on 20 July 2006.

Report of Mental Status Evaluation, 1 December 2006, 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.

Commander's Report, undated; intermediate commander's memorandum, 28 January 2007; and separation authority's memorandum, 30 January 2007, reflect the immediate and intermediate commanders requested the separation authority waive the rehabilitation transfer requirement, but the separation authority did not reference the rehabilitative transfer.

Four Developmental Counseling Forms, for being insubordinate toward an NCO; failing to obey order or regulation by failing to wear the proper uniform; disobeying a direct order; and disrespecting an NCO.

**i. Lost Time / Mode of Return:** None

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

**(1) Applicant provided:** Department of Veterans Affairs Disability Rating Decision, 2 April 2014, reflecting the applicant was rated 70 percent disabled for PTSD (claimed as mental condition).

**(2) AMHRR Listed:** Report of Medical Examination, 13 December 2006, the examining medical physician noted in the summary of defects and diagnoses section: Anxiety.

Report of Medical History, 13 December 2006, the examining medical physician noted in the comments section: Hard to fall asleep for one year; anxiety for one year.

*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:** Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge, self-authored statement; seven character references; and VA Rating Decision.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant is employed as a bank manager, is a devoted parent and spouse, and is involved in the church and activities in the community as a positive role model.

**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 1 provides the general provisions for the regulation.
- (2) Paragraph 1-17c (previously 1-16c), entitled rehabilitation, states except as provided in paragraph 1-17d, rehabilitative measures are required before initiating separation proceedings for pattern of misconduct (see Chapter 14). Soldiers not in training status will be locally reassigned at least once, with a minimum of 3 months of duty in each unit. Reassignment should be between battalion-sized units or between brigade-sized or larger units when considered necessary by the local commander.
- (3) Paragraph 1-17d(2) (previously 1-16d(2)), entitled waivers, states the rehabilitative transfer requirement may be waived by the separation authority in circumstances where common sense and sound judgment indicate that such transfer will serve no useful purpose or produce a quality Soldier.
- (4) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.
- (5) Paragraph 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) 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 contends being diagnosed with PTSD by the VA; receiving a rating of 70 percent service-connected disability for PTSD; and the condition along with family issues affected the applicant's behavior, which led to the discharge. The applicant provided a letter from the VA indicating the applicant was rated 70 percent service-connected disabled for PTSD. The applicant provided a third party letter from a fellow Soldier which described the applicant's change in behavior after returning from combat and supported the applicant's contention. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 1 December 2006, which indicates the applicant was mentally responsible and recognized right from wrong. The MSE does not indicate any diagnosis. The applicant underwent a medical examination on 13 December 2006, which shows the examining medical physicians noted anxiety and hard to fall asleep for one year. The documents in the AMHRR were considered by the separation authority.

The applicant contends not being provided all routes of rehabilitation before the separation action was initiated. The applicant's AMHRR reflects the immediate and intermediate commanders requested the separation authority waive the rehabilitation transfer requirement, but the separation authority did not address the request to waive the rehabilitative transfer requirement. Army Regulation 635-200, paragraph 1-17c, entitled rehabilitation, states Soldiers not in training status will be locally reassigned at least once, with a minimum of 3 months of duty in each unit. Reassignment should be between battalion-sized units or between brigade-sized or larger units when considered necessary by the local commander. Paragraph 1-17d(2), entitled waivers, states the separation authority may waive the rehabilitative transfer requirement in circumstances where common sense and sound judgment indicate such a transfer will serve no useful purpose or produce a quality Soldier.

The applicant contends the events which led to the discharge from the Army were an isolated incidents. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The AMHRR shows the applicant met entrance qualification standards to include age.

The applicant contends good service, including a combat tour.

The applicant contends under current standards, the applicant would not have received the type of discharge. The DODI 1332.28 provides each case must be decided on the individual merits, and a case-by-case basis, considering the unique facts and circumstances of the case. Additionally, when an applicant cites a prior decision of the ADRB, another agency, or a court, the applicant shall describe the specific principles and facts contained in the prior decision and explain the relevance of the cited matter to the applicant's case. The Board is an independent body, not bound by prior decisions in its review of subsequent cases because no two cases present the same issues.

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 contends being employed as a bank manager, being a devoted parent and spouse, and being involved in the church and activities in the community as a positive role model. 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.

The third party statements provided with the application speak highly of the applicant. The all recognize the applicant good military service and/or good conduct after leaving the Army.

#### **9. BOARD DISCUSSION AND DETERMINATION:**

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: Anxiety, PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with Anxiety and is service connected by the VA for PTSD. Service connection establishes that the PTSD also existed during military service.

(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 condition provides partial mitigation for the basis of separation. Given the nexus between PTSD, difficulty with authority, and avoidance, failure to obey orders, disrespect of NCOs, and the FTRs are mitigated by the PTSD which likely contributed to this misconduct. However, there is no natural sequela between Anxiety, PTSD, falsifying a government document, noncompliance with procedural rules, or indebtedness since neither of these conditions interfere with an individual's ability to manage money or differentiate between right and wrong and act in accordance with the right. Therefore, falsifying a government document, noncompliance with procedural rules, and indebtedness are 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 and Anxiety outweighed the applicant's medically unmitigated offenses of falsifying a government document, noncompliance with procedural rules, or indebtedness.

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

(1) The applicant contends being diagnosed with PTSD by the VA; receiving a rating of 70 percent service-connected disability for PTSD; and the condition along with family issues affected the applicant's behavior, which led to the discharge. 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 and Anxiety outweighed the applicant's medically unmitigated offenses of falsifying a government document, noncompliance with procedural rules, or indebtedness. However, the Board found that this partial mitigation, when combined with the applicant's record of service, did outweigh the discharge. Therefore, an upgrade is warranted.

(2) The applicant contends not being provided all routes of rehabilitation before the separation action was initiated. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the rationale discussed above in 9b(1).

(3) The applicant contends the events which led to the discharge from the Army were an isolated incident. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the rationale discussed above in 9b(1).

(4) The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the rationale discussed above in 9b(1).

(5) The applicant contends good service, including a combat tour. The Board credited the applicant's good service in its decision to upgrade the discharge.

(6) The applicant contends under current standards, the applicant would not have received the type of discharge. The Board considered this contention and determined that it was valid, crediting the applicant's contention in the decision to upgrade the discharge.

(7) 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.

(8) The applicant contends being employed as a bank manager, being a devoted parent and spouse, and being involved in the church and activities in the community as a positive role model. The Board factored the applicant's post-service accomplishments in the decision to upgrade the discharge.



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

**AR20210000819**

c. The Board determined the discharge is inequitable based on the applicant's length of service, to include combat service, partial medical mitigation of the applicant's misconduct, and post-service accomplishments combining to outweigh the discharge. 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 length of service, to include combat service, partial medical mitigation of the applicant's misconduct, and post-service accomplishments combined to outweigh the discharge. 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.

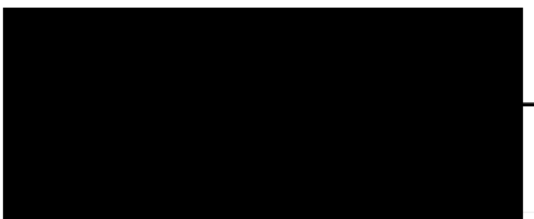
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**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:**

9/18/2024



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