

**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 and change to the narrative reason.

The applicant seeks relief contending, in effect, is a parent going to college and has been denied jobs and careers, due to this separation. The applicant has four children which the applicant is trying to take care of. The applicant has spent six years in the Army and served two deployments to Iraq. After a divorce, the applicant's PTSD and emotions from the divorce sent the applicant on a downhill spiral. An upgrade of the discharge would allow the applicant to better provide for the family.

**b. Board Type and Decision:** In a records review conducted on 9 August 2023, 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, PTSD, prior honorable service, severe family problems, time since discharge, and post-service accomplishments. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, changed 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 voted the reentry eligibility (RE) code was proper and equitable due to applicant's PTSD diagnosis warranting consideration prior to reentry of military service.

*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:** Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 11 August 2010

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 28 June 2010

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

On 22 April 2010, the applicant was found guilty beyond a reasonable doubt during a Field Grade Article 15 hearing of one Specification of Article 86, Absence without leave. On or about 30 March 2010, the applicant absented oneself from HSC, 6th POB (A) and did remain so absent until on or about 7 April 2010;

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**AR20210000846**

On 19 January 2010, the applicant was found guilty beyond a reasonable doubt during a Field Grade Article 15 hearing of one Specification of Article 86, Failure to go to appointed place of duty and one Specification of Article 90, Willfully disobeying, a superior commissioned officer;

On 23 November 2009, the applicant failed to go at the time prescribed to the appointed place of duty, to wit: 0730 Accountability Formation at HSC, 6th POB; and,

On 3 December 2009, the applicant failed to obey a lawful order, issued by CPT J. B, to not have any contact with R. M.

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

**(4) Legal Consultation Date:** 29 June 2010

**(5) Administrative Separation Board:** On 29 June 2010, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 22 July 2010 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 5 November 2005 / NIF / applicant's Army Military Human Resource Record (AMHRR) is void of a DD Form 4 for this period. The DD Form 214 reflects the applicant completed first full term of service.

**b. Age at Enlistment / Education / GT Score:** 23 / GED / 108

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 91B20, Wheeled Vehicle Mechanic / 6 years, 2 months, 16 days

**d. Prior Service / Characterizations:** RA, 19 May 2004 – 4 November 2005 / HD

**e. Overseas Service / Combat Service:** SWA / Iraq (3 March 2005 – 9 November 2005; 1 October 2007 – 9 June 2008)

**f. Awards and Decorations:** AAM, MUC, AGCM, NDSM, GWOTEM, GWOTSM, ICM-CS, NCOPDR, ASR, OSR

**g. Performance Ratings:** 1 May 2008 – 31 October 2008 / Fully Capable  
1 November 2008 – 31 October 2009 / Marginal

**h. Disciplinary Action(s) / Evidentiary Record:** FG Article 15, dated 19 January 2010, for on or about 23 November 2009, failing to go at the time prescribed to the appointed place of duty and on or about 3 December 2009, willfully disobey a lawful command from CPT J. P. B. The punishment consisted of a reduction to E-4; extra duty for 45 days; and an Oral Reprimand.

Two Personnel Action Forms, reflect the applicant's duty status changed as follows:

From "Present for Duty (PDY)," to "Absent Without Leave (AWOL)," effective 30 March 2010; and,  
From "AWOL" to "PDY," effective 7 April 2010.

FG Article 15, dated 22 April 2010, for on or about 30 March 2010 absent oneself from the unit and did remain so absent until on or about 7 April 2010. The punishment consisted of a reduction to E-1; forfeiture of \$361.50 pay per month for two months; and extra duty and restriction for 45 days, suspended.

Several Developmental Counseling Forms, for AWOL; relationship with M. and failure to obey a lawful order; disobeying a lawful order; perception of improper/inappropriate relationship; and, failure to report to PT formation.

**i. Lost Time / Mode of Return:** 7 days (AWOL, 30 March 2010 – 6 April 2010) / Returned to Military Control

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

**(1) Applicant provided:** The applicant's application includes an assertion of PTSD.

**(2) AMHRR Listed:** Report of Behavioral Health Evaluation (BHE), dated 15 April 2010, reflects the applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. The applicant was cleared for any administrative actions deemed appropriate by command. The applicant was diagnosed with: Axis I: Adjustment Disorder with Disturbance of Emotions and Conduct. It was noted: The SM was evaluated at the commander's request IAW regulations pertaining to separation under CH 14-12, AR 635-200. Results of this evaluation are based on Soldier's self-report, clinical assessment, record review, and information provided by Soldier's commander. No diagnosis of PTSD or TBI was identified from this examination. SM reports several symptoms, and a previous diagnosis of PTSD over a year ago, however, does not meet criteria for PTSD at this time.

Report of Medical History, dated 21 April 2010, the examining medical physician noted in the comments section: Head Injury; concussion; and adjustment disorder with disturbance of emotion and conduct.

**5. APPLICANT-PROVIDED EVIDENCE:** Online application.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant is a parent of four children and is attending college.

**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 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 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 two combat tours.

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. 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, anxiety disorder NOS, and various adjustment disorder diagnoses (subsumed under PTSD).

The applicant is a parent of four children and is attending college. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

#### 9. BOARD DISCUSSION AND DETERMINATION:

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

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board'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, anxiety disorder NOS, and various adjustment disorder diagnoses (subsumed under PTSD).

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant's PTSD existed during the applicant military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that applicant PTSD mitigates the applicant's AWOL and FTR offenses as the natural course and sequelae of PTSD is associated with avoidance behaviors such as AWOL and FTR. However, the applicant's PTSD and anxiety disorder do not mitigate the applicant's failure to obey a no-contact order because the applicant's neither condition impairs one's ability to differentiate right from wrong and adhere to the right.

(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 PTSD and anxiety disorder outweighed the applicant's medically unmitigated failure to obey a no-contact order.

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

(1) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined the narrative reason for discharge is inequitable and warrants a change. Thus, the Board voted to change the narrative reason to Misconduct (Minor Infractions) due to applicant's length and quality of service, to include combat service, PTSD, prior honorable service, severe family problems, time since discharge, and post-service accomplishments outweighing the applicant's AWOL, FTRs, disobeying a commissioned officer, and failure to obey a lawful order basis for separation.

(2) The applicant contends good service, including two combat tours. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record.

(3) The applicant contends after the applicant's divorce, the applicant's PTSD and emotions from the divorce sent the applicant on a spiral downhill which affected the applicant's behavior and ultimately caused the discharge. The Board considered this contention and determined the applicant's length and quality of service, to include combat service, PTSD, prior honorable service, severe family problems, time since discharge, and post-service accomplishments outweigh the applicant's AWOL, FTRs, disobeying a commissioned officer, and failure to obey a lawful order basis for separation.

(4) The applicant contends suffering from PTSD. The Board determined that this contention was valid voted to upgrade the characterization of service due to the applicant's length and quality of service, to include combat service, PTSD, prior honorable service, severe family problems, time since discharge, and post-service accomplishments outweighing the applicant's AWOL, FTRs, disobeying a commissioned officer, and failure to obey a lawful order basis for separation.

(5) The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

(6) The applicant contends an upgrade is warranted because the applicant is a parent of four children and is attending college. The Board considered this contention and determined the applicant's length and quality of service, to include combat service, PTSD, prior honorable service, severe family problems, time since discharge, and post-service accomplishments outweigh the applicant's AWOL, FTRs, disobeying a commissioned officer, and failure to obey a lawful order basis for separation.

c. The Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, PTSD, prior honorable service, severe family problems, time since discharge, and post-service accomplishments. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, 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 voted the reentry eligibility (RE) code was proper and equitable due to applicant's PTSD diagnosis warranting consideration prior to reentry of military service. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d. Rationale for Decision:**

**(1)** The Board voted to change the applicant's characterization of service to Honorable because the applicant's length and quality of service, to include combat service, PTSD, prior honorable service, severe family problems, time since discharge, and post-service accomplishments outweigh the applicant's AWOL, FTRs, disobeying a commissioned officer, and failure to obey a lawful order basis for separation. 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 due to applicant's PTSD diagnosis warranting consideration prior to reentry of military service.



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

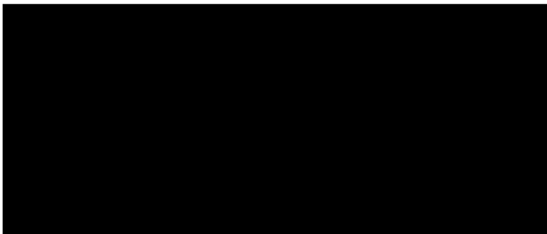
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**10. BOARD ACTION DIRECTED:**

- 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, paragraph 14-12a

**Authenticating Official:**

3/20/2024



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