

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, suffering from a range of various medical conditions. The applicant's explosive behavior was because they had intermittent explosive disorder, anxiety, and other mental health issues.

- b. **Board Type and Decision:** In a records review conducted on 24 June 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's offenses of FTR and Communicating a Threat. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed 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 (Serious Offense) / AR 635-200, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

- b. **Date of Discharge:** 3 May 2013

- c. **Separation Facts:**

- (1) **Date of Notification of Intent to Separate:** 3 April 2013

- (2) **Basis for Separation:** The applicant was informed of the following reasons: On 28 October 2009, the applicant was convicted of forcible touching in New York. Between 23 July 2009 and 11 March 2013, the applicant had over ten documented failures to be at their appointed place of duty. On 17 January 2013, the applicant made homicidal threats towards their chain of command.

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

- (4) **Legal Consultation Date:** On 4 April 2013, the applicant waived legal counsel.

- (5) **Administrative Separation Board:** On 4 April 2013, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon

receiving a characterization of service no less favorable than general (under honorable conditions) discharge.

(6) Separation Decision Date / Characterization: 17 April 2013 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 23 October 2011 / 2 years

b. Age at Enlistment / Education / GT Score: 24 / HS Graduate / 102

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B10, Infantryman / 6 years, 7 months, 29 days

d. Prior Service / Characterizations: ARNG, 5 September 2006 – 6 April 2009 /HD
IADT, 25 October 2006 – 13 April 2007 / HD
(Concurrent Service)
(Break in Service)
RA, 8 April 2009 – 22 October 2011 / HD

e. Overseas Service / Combat Service: Germany, SWA / Afghanistan (18 March 2011 – 6 March 2012)

f. Awards and Decorations: ARCOM-2, AGCM, NDSM, ACM-2CS, GWOTSM, ASR, OSR, ARCTR, NATOMDL, CIB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Numerous Developmental Counseling Forms, from 23 July 2009 to 4 March 2013, for failing to report on multiple occasions; failing to obey order or regulation on multiple occasions; missing ASAP appointment; being informed of separation appointments; being informed of the terms of the civilian probation; being recommended for separation because of civil conviction; disrespecting a noncommissioned officer (NCO); having a physical altercation with the opposite sex; failing to remain in the company run; and failing to obey an order from an NCO on multiple occasions.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs (VA) letter, 31 March 2014, reflects the applicant was rated 70 percent disabled for traumatic brain injury (TBI), and 50 percent for anxiety disorder, not otherwise specified (NOS).

(2) AMHRR Listed: Report of Medical History, 27 June 2012, the examining medical physician noted in the comments section: Chronic headaches; history of head injury, knocked unconscious during a fight in January 2011; trouble sleeping; received counseling for anger management; depression, currently seeing Behavioral Health; and had abused alcohol, but seen by the Army Substance Abuse Program (ASAP).

Report of Mental Status Evaluation, 7 March 2013, reflects the applicant was cleared for administrative separation. The applicant could understand and participate in administrative

proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for post-traumatic stress disorder (PTSD) and mild TBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions. The applicant was on a temporary post hospitalization profile. The applicant was diagnosed with intermittent explosive disorder and alcohol dependence, by history.

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; and VA letter.

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 3-8b (2) states prior service activities including, but not limited to, records of convictions by courts-martial, records of nonjudicial punishment, records of absence without leave, or commission of other offenses for which punishment was not imposed will not be considered in determining the characterization of service. To the extent that such matters are considered on the issue of retention or separation, the record of proceedings will reflect express direction that such information will not be considered on the issue of characterization.

(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 14-2c, prescribes Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties that may be imposed under the UCMJ.

(7) 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.

(8) 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 waivable and nonwaivable 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 waivable. 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 suffering from intermittent explosive behavior, anxiety, and other mental health issues, and the VA determined the applicant was service-connected disabled. The applicant provided medical documents reflecting the applicant was rated 70 percent disabled for traumatic brain injury (TBI), and 50 percent for anxiety disorder, NOS. The applicant's AMHRR contains a Report of Medical History, 27 June 2012, which reflects the examining medical physician noted chronic headaches; history of head injury, knocked unconscious during a fight in January 2011; trouble sleeping; received counseling for anger management; depression, currently seeing Behavioral Health; and had abused alcohol, but seen by the Army Substance Abuse Program (ASAP). The record shows the applicant underwent a mental status evaluation (MSE) on 7 March 2013, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The applicant was diagnosed with intermittent explosive disorder and alcohol dependence, by history. The separation authority considered the documents in the applicant's AMHRR.

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 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, Adjustment Disorder, and Intermittent Explosive Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found the applicant is 100 percent service connected for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the Board Medical Advisor's opine, that the applicant's behavioral health conditions mitigate the discharge. The applicant's Intermittent Explosive Disorder, and Adjustment Disorder w/Anxious Mood are subsumed by PTSD. The applicant's offenses consist of FTRs and Communicating a Threat. These instances of misconduct are mitigated by the applicant's PTSD, given the nexus between PTSD and avoidant behavior, PTSD and problems with authority, and PTSD with verbal outbursts.

(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 outweighed the separating offenses of FTR and Communicating a Threat.

b. Response to Contention(s): The applicant contends suffering from intermittent explosive behavior, anxiety, and other mental health issues, and the VA determined the applicant was service-connected disabled. The Board liberally considered this contention, found it valid, and determined that the applicant's Post Traumatic Stress Disorder outweighed the separating offenses of FTR and Communicating a Threat.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the separating offenses of FTR and Communicating a Threat. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed 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 outweighed the applicant's offenses of FTR and Communicating a Threat. 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 BH conditions and service connection. The current code is consistent with the procedural and substantive requirements of the regulation.

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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

Authenticating Official:

6/30/2025



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