

**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 honorable. The applicant is considered for a change to the narrative reason for separation.

The applicant seeks relief contending, in effect, serving honorably and did their duty, gave their all, and almost did not come home. The applicant was a good Soldier and lived the Army values and standards. The applicant states toxic leadership is what will tear the Army apart. The applicant was alone and had no one because of an IED, which changed the applicant's life, and then was punished for it. The leadership failed the applicant. The applicant was told to be ready for the E-5 promotion board after returning from deployment. The applicant felt forgotten; no one came to the plane to welcome them home.

b. **Board Type and Decision:** In a records review conducted on 8 August 2024, and by a 5-0 vote, the Board, based on the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Major Depression outweighing the applicant's AWOL offense, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the characterization of service was proper and equitable and voted not to change it.

*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:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / Honorable

b. **Date of Discharge:** 7 May 2014

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 28 October 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant was AWOL from on or about 18 February 2012 until 5 September 2013.

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

(4) **Legal Consultation Date:** 29 October 2013

**(5) Administrative Separation Board:** On 29 October 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 honorable.

On 6 January 2014, the applicant's conditional waiver was denied.

On 26 February 2014, the applicant was notified to appear before an administrative separation board and advised of rights.

On 11 March 2014, the administrative separation board convened, and the applicant appeared with counsel. The Board determined the allegation of absent without leave from on or about 18 February 2012 until 5 September 2013, in the notification memorandum was supported by a preponderance of the evidence. The board recommended the applicant's discharge with characterization of service of general (under honorable conditions).

On 22 April 2014, the separation authority approved the findings and recommendations of the administrative separation board.

**(6) Separation Decision Date / Characterization:** 22 April 2014 / General (Under Honorable Conditions)

#### **4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 18 September 2008 / 3 years, 20 weeks
- b. **Age at Enlistment / Education / GT Score:** 22 / GED / 97
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 19K10, M1 Armor Crewman / 4 years, 1 month, 4 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Iraq (10 September 2009 – 15 September 2010)
- f. **Awards and Decorations:** PH, ICM-2CS, ARCOM, AGCM, NDSM, GWOTSM, ASR, OSR, CAB
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Three Personnel Action Forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 19 February 2012;  
From AWOL to Dropped From Rolls (DFR), effective 21 March 2012; and,  
From AWOL to PDY, effective 5 September 2013.

Charge Sheet, 21 March 2012, reflects the applicant was charged with:

Charge I: Violating Article 85, UCMJ. The Specification: On or about 21 March 2012, without authority, and with intent to stay there from permanently, absent oneself from the unit and had not returned as of 21 March 2012.

Charge II: Violating Article 86, UCMJ. The Specification: On or about 18 February 2012, without authority, absent oneself from the unit and had not returned as of 21 March 2012.

FG Article 15, 20 September 2013, on or about 18 February 2012, without authority absent oneself from the unit and did remain so absent until on or about 5 September 2013. The punishment consisted of a reduction to E-1; forfeiture of \$758 pay per month for two months; extra duty and restriction for 45 days; and an oral reprimand.

Report of Proceedings by Board of Officers, 11 March 2014, reflects the Board found: The allegation of absent without leave from on or about 18 February 2012 until 5 September 2013, in the notification memorandum was supported by a preponderance of the evidence. The board recommended the applicant's discharge with characterization of service of general (under honorable conditions).

Three Developmental Counseling Forms, for MEB process; being AWOL, and being directed for a mental health evaluation.

**i. Lost Time / Mode of Return:** 1 years, 6 months, 16 days (AWOL, 19 February 2012 – 4 September 2013) / Apprehended by Civil Authorities

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

**(1) Applicant provided:** Memorandum for Record, 7 October 2010, reflects on 7 September 2010 the applicant was serving as the gunner in an MRAP which was struck by an IED. The applicant lost consciousness and fell to the floor of the MRAP suffering a concussion from the blast.

Health Record, Chronological Record of Medical Care, 8 July 2011, the record reflects a diagnosis.

Physical Profile, 2 October 2013, reflects medical conditions of Postconcussion syndrome (TBI); Post-traumatic headaches; PTSD; Depression with anxiety; and Lumbar strain.

**(2) AMHRR Listed:** Health Record, Chronological Record of Medical Care, 8 July 2011, reflects the applicant was being treated by MACH TBI for concussion during deployment to Iraq in September 2010. The health record reflects a diagnosis.

Memorandum For, 8 December 2011, is from a health care provider which states the applicant was being treated at the TBI clinic. The applicant was also being treated for PTSD and was prescribed medication.

Report of Medical Examination, 26 September 2013, the examining medical physician noted the applicant's medical conditions in the comments section.

Report of Medical History, undated, the examining medical physician noted the applicant's medical conditions in the comments section.

Report of Mental Status Evaluation (MSE), 26 September 2013, 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 applicant had been screened for PTSD and mTBI with positive results. The evaluation contains 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; Enlisted Record Brief; partial separation file.

**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)** 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.

**(4)** 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.

**(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 14-12c 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 and receiving the purple heart. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends the leadership was toxic. The applicant was alone and had no one because of an IED, which changed the applicant's life, and then was punished for it. The leadership failed the applicant. The applicant was told to be ready for the E-5 promotion board after returning from deployment. The applicant was forgotten. The applicant provided Memorandum for Record, 7 October 2010, which reflects on 7 September 2010 the applicant was serving as the gunner in an MRAP which was struck by an IED. The applicant lost consciousness and fell to the floor of the MRAP suffering a concussion from the blast. Health Record, Chronological Record of Medical Care, 8 July 2011, the record reflects a diagnosis. Memorandum For, 8 December 2011, is from a health care provider which states the applicant was being treated at the TBI clinic. The applicant was also being treated for PTSD and was prescribed medication. Physical Profile, 2 October 2013, reflects medical conditions of Postconcussion syndrome (TBI); Post-traumatic headaches; PTSD; Depression with anxiety; and Lumbar strain. The applicant's AMHRR contains Health Record, Chronological Record of Medical Care, 8 July 2011, which reflects the applicant was being treated by MACH TBI for concussion during deployment to Iraq in September 2010. The health record reflects a diagnosis. Report of Medical Examination, 26 September 2013, the examining medical physician noted the applicant's medical conditions in the comments section. Report of Medical History, undated, the examining medical physician noted the applicant's medical conditions in the comments section. Report of Mental Status Evaluation (MSE), 26 September 2013, 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 applicant had been screened for PTSD and mTBI with positive results. The evaluation contains a diagnosis. All of the medical documents contained in the AMHRR were considered by the Separation Authority. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

**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: Adjustment Disorder, PTSD, TBI, Major Depression, Generalized Anxiety Disorder.

(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 an Adjustment Disorder, PTSD, TBI, Major Depression, and Generalized Anxiety Disorder. The VA has also service connected the applicant for PTSD and TBI.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's multiple BH conditions provide mitigation for the AWOL that led to the applicant's separation. Given the nexus between PTSD, TBI, Major Depression, and avoidance, the applicant's BH conditions likely contributed to the AWOL.

(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, Traumatic Brain Injury, and Major Depression outweighed the applicant's AWOL offense.

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

(1) The applicant contends good service, including a combat tour and receiving the purple heart. The Board considered the totality of the applicant's service record during proceedings but ultimately did not address this contention after determining that the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Major Depression outweighed the applicant's AWOL offense.

(2) The applicant contends the leadership was toxic. The applicant was alone and had no one all because of an IED which changed the applicant's life, and the applicant was punished for it. The leadership failed the applicant. The applicant was told to be ready for the E5 promotion board after returning from deployment. The applicant was forgotten. The Board considered this contention during proceedings but ultimately did not address it after determining that the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Major Depression outweighed the applicant's AWOL offense

**c.** The Board, based on the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Major Depression outweighing the applicant's AWOL offense, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the characterization of service was proper and equitable and voted not to change it:

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

**AR20210000963**

**d. Rationale for Decision:**

(1) The Board voted not to change the applicant's characterization of service because the applicant already holds an honorable characterization of service and further relief is not available.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) due to medical mitigation of the applicant's AWOL offense, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

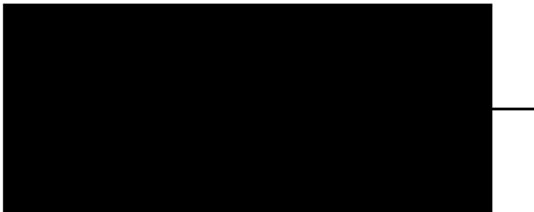
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** No Change
- 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:**

8/13/2024



**Legend:**

AWOL – Absent Without Leave  
AMHRR – Army Military Human Resource Record  
BCD – Bad Conduct Discharge  
BH – Behavioral Health  
CG – Company Grade Article 15  
CID – Criminal Investigation Division  
ELS – Entry Level Status  
FG – Field Grade Article 15

GD – General Discharge  
HS – High School  
HD – Honorable Discharge  
IADT – Initial Active Duty Training  
MP – Military Police  
MST – Military Sexual Trauma  
N/A – Not applicable  
NCO – Noncommissioned Officer  
NIF – Not in File  
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty  
OBH (I) – Other Behavioral Health (Issues)  
OMPF – Official Military Personnel File  
PTSD – Post-Traumatic Stress Disorder  
RE – Re-entry  
SCM – Summary Court Martial  
SPCM – Special Court Martial

SPD – Separation Program Designator  
TBI – Traumatic Brain Injury  
UNC – Uncharacterized Discharge  
UOTHC – Under Other Than Honorable Conditions  
VA – Department of Veterans Affairs