

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 a good Soldier, winning Soldier of the Month boards, noncommissioned officer (NCO) of the month and of the quarter as a corporal, and receiving the Good Conduct Medal and Army Achievement Medal. In 2009, the applicant deployed to Iraq and was brutally attacked by a fellow Soldier. It was like something snapped and everything went downhill. The applicant entered into an abusive marriage, which made the applicant sink even further. The applicant's commander even questioned the applicant about the applicant's drop in performance, but the applicant was too proud to admit to being weak enough to be attacked. Prior to the attack, the applicant had never been in any trouble. The applicant enjoyed serving and had dreams of retiring. The applicant desired to attend school using GI Bill and improve oneself. In one moment, it was all stripped away from the applicant for something the applicant could not control. The applicant stopped caring, stopped showing up on time for formations, and began seeing a psychiatrist for depression.

The applicant needed an escape. The applicant purchased a motorcycle and was riding the new motorcycle with a friend off-post when the applicant and the friend were speeding and were observed by a police officer. The officer began to chase them. The friend sped up and the applicant became scared and sped up as well. The applicant was not thinking, and the next thing the applicant knew, the applicant was flying down the highway at 145 miles per hour (mph), with a dozen police officers on the applicant's trail. The officers called ahead and closed off the road. The applicant skidded to a stop because there were numerous guns pointing in the applicant's direction. The police ripped the applicant off the bike and placed the applicant in handcuffs. The officers examined the applicant and realized the applicant was sober. The applicant was taken to jail and the motorcycle was impounded. The applicant informed the chain of command and was seen by the sergeant major (SGM). The SGM was disappointed but laughed at the applicant and made the applicant give a class on motorcycle safety. The SGM knew the applicant was not a problem Soldier, but also knew the applicant could not remain in the military because of the applicant's military occupational specialty, 31B, Military Police. The SGM tried to ensure the applicant receive an honorable discharge, but when the separation packet was forwarded to a higher command, the separation was approved with a general discharge. The applicant knows the applicant messed up, and the applicant and the friend should have died that day on the bike, but it only made the applicant a better driver. The applicant has not had any speeding tickets. The applicant still owns the bike, but the applicant learned from the mistakes and moved on. The applicant does not speed anymore because it is not worth dying for. The applicant gave so much to the military, and because of one mistake, everything was taken away from the applicant. The applicant joined the Army to fight for loved ones and to obtain an education to improve oneself.

b. **Board Type and Decision:** In a records review conducted on 18 July 2024, and by a 5-0 vote, the Board, based on the applicant's length and quality of service, to include combat

service, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new DD Form 214. The Board determined the narrative reason for separation (Misconduct (Minor Infractions)), the separation code of JKN, and the RE Code were 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 (Minor Infractions) / AR 635-200, Paragraph 14-12a / JKN / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 19 June 2012

c. Separation Facts:

(1) Date of Notification of Intent to Separate: NIF

(2) Basis for Separation: NIF

(3) Recommended Characterization: NIF

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NIF

(6) Separation Decision Date / Characterization: 30 May 2012 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 16 January 2008 / 5 years

b. Age at Enlistment / Education / GT Score: 23 / HS Graduate / 103

c. Highest Grade Achieved / MOS / Total Service: E-4 / 31B10, Military Police / 4 years, 5 months, 4 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (4 January 2009 – 17 December 2009)

f. Awards and Decorations: ARCOM, AAM-2, MUC, AGCM, NDSM, GWOTSM, ICM-CS, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Personnel Action form, reflects the applicant was laterally promoted to Corporal, effective 18 October 2010.

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 14-12a, with a narrative reason of Misconduct (Minor Infractions). The DD Form 214 was authenticated with the applicant's electronic signature.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

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: DD Form 214; two DD Forms 293

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 3-5c, 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.

(3) 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.

(4) 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.

(5) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions

by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(6) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(7) Paragraph 14-12a addresses minor disciplinary infractions, defined as a pattern of misconduct, consisting solely of minor military disciplinary infractions.

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 "JKN" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (minor infractions).

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's Army Military Human Resources Record (AMHRR) is void of the specific facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 14, paragraph 14-12a, by reason of Misconduct (Minor Infractions), with a characterization of service of general (under honorable conditions).

The applicant contends the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12a, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Minor Infractions)," and the separation code is "JKN." 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 further stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends depression caused by being brutally attacked by a fellow Soldier and entering into an abusive marriage, affected behavior, which ultimately led to the discharge. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends the event which led to the discharge from the Army was an isolated incident. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

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

The applicant contends 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.

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, Major Depression, Post Traumatic Stress 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 and Major Depression. The medical record also reveals in service Intimate Partner Violence, and the applicant is service connected by the VA for Post Traumatic Stress Disorder. Service connection establishes that the Post Traumatic Stress Disorder also existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was diagnosed in service with an Adjustment Disorder and Major Depression. The medical record also reveals in service Intimate Partner Violence, and the applicant is service connected by the VA for Post Traumatic Stress Disorder. While the basis of separation is not contained in the applicant's service record, the applicant asserts that the basis of separation is recklessly driving a motorcycle at 145 mph and fleeing from police. There is no natural sequela between an Adjustment Disorder, Major Depression, Intimate Partner Violence, or Post Traumatic Stress Disorder and recklessly driving a motorcycle or fleeing police which involve a conscious choice reflecting motivation and rationalization. There is no evidence that any of the applicant's Behavioral Health conditions or experiences contributed to the asserted basis of separation.

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s):

(1) The applicant contends good service, including a combat tour. 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 and voted to upgrade the characterization of service based on the applicant's length and quality of service, to include combat service.

(2) The applicant contends depression caused by being brutally attacked by a fellow Soldier and entering into an abusive marriage, affected behavior, which ultimately led to 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 applicant's length and quality of service, to include combat service.

(3) The applicant contends the event which led to the discharge from the Army was 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 applicant's length and quality of service, to include combat service.

(4) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's length and quality of service, to include combat service.

(5) The applicant contends an upgrade would allow educational benefits through the GI Bill. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's length and quality of service, to include combat service.

c. The Board determined, based on the applicant's length and quality of service, to include combat service, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new DD Form 214. The Board determined the narrative reason for separation (Misconduct (Minor Infractions)), the separation code of JKN, and the RE Code were proper and equitable and voted not to change it.

d. Rationale for Decision:

(1) The Board voted to grant relief by upgrading the applicant's characterization of service to Honorable. Although the Board found the discharge proper and equitable and there were no behavioral health diagnoses which mitigated the misconduct to warrant relief, it was found that the discharge has served its purpose. Thus, making the current reason for discharge inequitable.

(2) The reason for discharge Misconduct (Minor Infractions) is proper and equitable.

(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

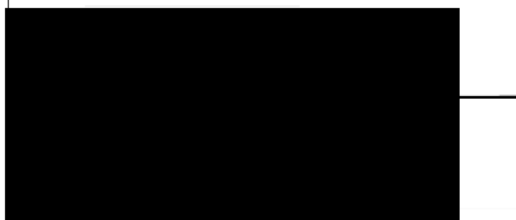
ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000988

- b. Change Characterization to:** Honorable
- c. Change Reason / SPD Code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** AR 635-200

Authenticating Official:

8/26/2024



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