

**1. Applicant's Name:**

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** Yes

**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 a change to the narrative reason for separation to "medical."

The applicant seeks relief contending, in effect, the unit was treating the applicant unfairly and administratively discharged the applicant even though the medical conditions impairing their performance at work were already adjudicated and declared the applicant unfit for service due to those medical conditions.

b. **Board Type and Decision:** In a records review conducted on 23 July 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*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:** 27 January 2014

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 04 January 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: Two previous Article 15's for misconduct and twice reduction in rank; one AWOL status; and continuous disciplinary issues.

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

(4) **Legal Consultation Date:** 4 January 2013

(5) **Administrative Separation Board:** On 28 September 2013, the administrative separation board convened, and the applicant appeared with counsel. The worksheet and Memorandum mentioned on the DA Form 1574 are void from the AMHRR; however, according to the Memorandum for Commander, Legal Review, 4 November 2013, the Board determined the applicant demonstrated a pattern of misconduct in accordance with AR 635-200, paragraph

14-12b to wit: previous misconduct, malingering, work inefficiency, two previous Article 15s, reduction in rank, AWOL status, and continuous disciplinary action. The Board recommended the applicant's discharge with characterization of service of general (under honorable conditions).

On 20 November 2013, the separation authority approved the findings and recommendations of the administrative separation board.

**(6) Separation Decision Date / Characterization:** 20 November 2013 / General (Under Honorable Conditions) / The Separation Authority determined the applicant's medical condition was not the direct or substantial contributing cause of the conduct which led to the recommendation for administrative separation and did not find the circumstance of the individual case warrant disability processing instead of further processing for administrative separation.

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 27 August 2009 / 6 years (USAR)

**b. Age at Enlistment / Education / GT Score:** 32 / some college / NIF

**c. Highest Grade Achieved / MOS / Total Service:** E-6 / 42A30, Human Resources Specialist / 11 years, 2 months, 25 days

**d. Prior Service / Characterizations:** USAR, 25 March 2002 – 2 January 2004 / NA  
IADT, 30 April 2002 – 7 August 2002 / UNC  
(Concurrent Service)  
IADT, 27 June 2003 – 29 August 2003 / NA  
(Concurrent Service)  
OAD, 3 January 2004 – 13 May 2004 / HD  
(Break in Service)  
USAR, 12 July 2004 – 26 August 2009 / NA

**e. Overseas Service / Combat Service:** SWA / Iraq (29 October 2009 – 31 July 2010; 15 May 2011 – 7 November 2011); Kuwait (6 August 2005 – 2 November 2006)

**f. Awards and Decorations:** ICM-2CS, ARCOM-2, AAM, MUC, AGCM-2, ARCAM, NDSM, GWOTEM, GWOTSM, NCOPDR-2, ASR, OSR-4, AFRM-3M

**g. Performance Ratings:** 1 December 2008 – 30 November 2009 / Among the Best  
30 November 2009 – 31 July 2010 / Fully Capable  
1 August 2010 – 4 April 2011 / Among the Best  
5 April 2011 – 18 July 2011 / Fully Capable  
19 July 2011 – 9 February 2012 / Fully Capable  
10 February 2012 – 9 February 2013 / Needs Improvement

**h. Disciplinary Action(s) / Evidentiary Record:** CID Report of Investigation – Final/SSI-0058-2011-CID939-35973-7X2 / 7F3A1, 2 August 2011, an investigation established probable cause to believe the applicant, SGT F., and PFC S. committed the offense of Wrongful Appropriation of Government Property and Conspiracy when they conspired to wrongfully withhold CPT C.'s weapon to get CPT C. into trouble for losing the weapon. The applicant was interviewed and admitted to wrongfully withholding the weapon.

FG Article 15, 31 August 2011, on or about 26 July 2011, was derelict in the performance of duties, the applicant willfully failed to report the discovery of an unsecured M9, 9mm pistol, as it was the applicant's duty to do; on or about 26 July 2011, wrongfully appropriate a M9, 9mm pistol, of a value of about \$386 military property assigned to CPT C. C. The punishment consisted of a reduction to E-5; and extra duty for 21 days.

Memorandum for Commander, Legal Review, 4 November 2013, reflects MAJ H. testified the applicant was AWOL, misused the government travel card and filed a fraudulent travel voucher, which resulted in the issuance of another Article 15 in June of 2012. The DA Form 2627 is void from the AMHRR.

Memorandum For Record, 17 December 2014, reflects the Separation Authority considered both AR 635-200, paragraph 1-33b(1)(a), and determined the applicant's medical condition was not the direct or substantial contributing cause of the conduct which led to the recommendation of administrative separation, and also considered paragraph 1-33b(1)(b), other circumstances of this individual case do not warrant disability processing instead of further processing for administrative separation.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 23 December 2013; and,  
From AWOL to PDY, effective 22 January 2014.

Physical Disability Information Report, 24 January 2014, reflects a 30 percent disability with separation date of 18 March 2014.

**i. Lost Time / Mode of Return:** 29 days (AWOL, 23 December 2013 – 21 January 2014) / NIF

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

**(1) Applicant provided:** Report of Mental Status Evaluation (MSE), 11 May 2012, 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 negative results. The evaluation contains a diagnosis.

Discharge Summaries, 20 July 2012, reflect a diagnosis.

Progress Notes, 20 July 2012, reflect a diagnosis.

Health Record, Chronological Record of Medical Care, 30 August 2012, reflects the applicant's medical problems.

Informal Physical Evaluation Board (PEB) Proceedings, 28 August 2013, the Board finds the applicant is physically unfit and recommends a rating of 30 percent and the applicant's disposition be permanent disability retirement. The evaluation contains a diagnosis.

Department of Veterans Affairs, Summary of Benefits, 24 August 2015, reflects the applicant was granted a combined service-connected evaluation of 100 percent.

**(2) AMHRR Listed:** MSE as described in previous paragraph 4j(1).

Health Record, Chronological Record of Medical Care, 23 January 2013, reflects the applicant's medical conditions.

Report of Medical Assessment, 14 January 2014, the health care provider noted the applicant's medical conditions in the comments section.

*The ARBA's medical advisor reviewed DoD and VA medical records, including those documents listed in 4j(1) and (2) above.*

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 149; VA Form 21-4138; seven DA Forms 2166-8; medical records; separation packet; three emails; Article 138 complaint; ASAP memorandum; The Salvation Army letter; DA Form 1559; Department of Veterans Affairs letter; Department of Veterans Affairs Disability Evaluation System Proposed Rating; Department of Veterans Affairs Summary of Benefits letter; IG Complaint; DA Form 1559; four third-party letters.

**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)** 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 to medical. 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 the unit was treating them unfairly and administratively discharged the applicant; the applicant's medical conditions impairing the applicant's performance at work were declared unfit for service. The applicant provided Report of Mental Status Evaluation (MSE), 11 May 2012, which 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 negative results. The evaluation contains a diagnosis. Discharge Summaries, 20 July 2012, and Progress Notes, 20 July 2012, reflect a diagnosis. Health Record, Chronological Record of Medical Care, 30 August 2012, reflects the applicant's medical problems. Informal Physical Evaluation Board (PEB) Proceedings, 28 August 2013, reflect the Board found the applicant was physically unfit and recommended a rating of 30 percent and the applicant's disposition be permanent disability retirement. The evaluation contains a diagnosis. A Department of Veterans Affairs, Summary of Benefits, 24 August 2015, reflect the applicant was granted a combined service-connected evaluation of 100 percent. The AMHRR contains Health Record, Chronological Record of

Medical Care, 23 January 2013, which reflects the applicant's medical conditions. A Report of Medical Assessment, 14 January 2014, the health care provider noted the applicant's medical conditions in the comments section. All the medical documents in the AMHRR were considered by the Separation Authority. The Separation Authority determined the applicant's medical condition was not the direct or substantial contributing cause of the conduct which led to the recommendation for administrative separation and did not find the circumstance of the individual case warrant disability processing instead of further processing for administrative separation. Army Regulation 635-200, stipulates commanders will not separate Soldiers for a medical condition solely to spare a Soldier who may have committed serious acts of misconduct. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The third-party statements provided with the application reflect the applicant's good conduct while serving in the Army Reserve.

#### 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 determined that, based on the Board Medical Advisor opine resulting from a review of the applicant's medical records, the applicant has the following potentially mitigating diagnoses/experiences: MDD, Depressive Disorder NOS, Adjustment Disorder with Depressed Mood, PTSD, and GAD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board determined that, based on the Board's Medical Advisor opine and review of the applicant's official record, the applicant's MDD, Depressive Disorder NOS, Adjustment Disorder with Depressed Mood, PTSD, and GAD existed during service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board determined that, based on the Board's Medical Advisor opine and review of the applicant's official record, that the applicant's MDD mitigates the applicant's AWOL offense given the nexus between MDD and decreased motivation, avoidance, and isolation. However, none of the applicant's behavioral health conditions mitigate the applicant's wrongful appropriation of government property, misuse of a travel card, and filing a fraudulent travel voucher offenses as there is natural sequela between these conditions and this misconduct, and none of these conditions rendered the applicant unable to differentiate between right and 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 MDD, Adjustment Disorder with Depressed Mood, PTSD, or GAD outweighed the applicant's medically unmitigated offenses of wrongful appropriation of government property, misuse of a travel card, and filing a fraudulent travel voucher.

b. Response to Contention(s):

(1) The applicant contends the unit treated them unfairly and administratively discharged the applicant; even though the applicant's medical conditions impairing their performance at work were declared unfitting for service. The Board liberally considered this

contention but determined that the available evidence did not support a conclusion that the applicant's Major Depressive Disorder, Adjustment Disorder with Depressed Mood, Post Traumatic Stress Disorder, or Generalized Anxiety Disorder outweighed the applicant's medically unmitigated offenses of wrongful appropriation of government property, conspiracy, misuse of a travel card, and filing a fraudulent travel voucher.

(2) The applicant contends the narrative reason for the discharge needs to be changed to "medical." A narrative reason change to medical is not within the Board's purview. The applicant can apply to the ABCMR for this request.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the 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 not to change the applicant's characterization of service because, despite applying liberal consideration to all evidence, the applicant's Major Depressive Disorder, Adjustment Disorder with Depressed Mood, Post Traumatic Stress Disorder, or Generalized Anxiety Disorder did not outweigh the medically unmitigated offenses of wrongful appropriation of government property, conspiracy, misuse of a travel card, and filing a fraudulent travel voucher. The Board considered the totality of the applicant's record and determined that it does not warrant a discharge upgrade. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process. Therefore, the applicant's General discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, and the reason the applicant was discharged was both 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 / Separation Order:** No
- b. Change Characterization to:** No Change
- c. Change Reason / SPD Code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** No Change

**Authenticating Official:**

11/22/2024

**X**

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Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

**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