

**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 under other than honorable conditions. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, the discharge was inequitable because it was based on isolated incidents which occurred during their 48 months of service. The applicant contends their service was otherwise honest, faithful, and meritorious. The applicant states, they were injured while deployed and suffers from severe post-traumatic stress disorder (PTSD), depression and from the injury to their testicles for which they were medically evacuated out of Afghanistan. The applicant is sick, and it appears the applicant will continue to suffer from their pain, depression, and PTSD issues for a long time. The consistent increase in prescription medicine did not properly address their pain, but it did start their addiction to Army prescribed medicines. Since the discharge, the applicant has been through addiction treatment, seen medical doctors, psychologists, and psychiatrists numerous times for their depression, injury, and severe PTSD without military assistance. The applicant's request is straightforward, upgrade their discharge to honorable and grant them access to disability payments, the Gi bill, health care, and veterans' benefits.

**b. Board Type and Decision:** In a records review conducted on 11 June 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Chronic Adjustment Disorder mitigating the applicant's drug abuse, the accepted basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and changed the narrative reason/SPD code and RE code to JKN / RE3.

*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:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / Under Other Than Honorable Conditions

**b. Date of Discharge:** 19 November 2013

**c. Separation Facts:** The applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file.

**(1) Date and Charges Preferred (DD Form 458, Charge Sheet):** NIF

**(2) Legal Consultation Date:** NIF

**(3) Basis for Separation:** NIF

(4) **Recommended Characterization:** NIF

(5) **Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

a. **Date / Period of Enlistment:** 26 January 2010 / 3 years, 18 weeks

b. **Age at Enlistment / Education / GT Score:** 28 / High School Graduate / 95

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 19D10, Calvary Scout / 3 years, 9 months, 24 days

d. **Prior Service / Characterizations:** None

e. **Overseas Service / Combat Service:** Germany, SWA / Afghanistan (NIF)

f. **Awards and Decorations:** ARCOM, AGCM, GWOTSM, ASR, OSR, NATOMDL / The applicant's AMHRR reflects award of the ACM-CS, however, the award is not reflected on the DD Form 214.

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** Report of Investigation Line of Duty and Misconduct Status, 9 August 2013, reflects, the applicant willfully ingested approximately 45 Flexeril and 15 Lunesta, on 16 July 2013. This overdose caused a cardiac delay resulting in a RBBB, increased somnolence, need for a breathing tube, need for an OG tube for use of charcoal to absorb toxins, need for admittance to ICU. This is concomitant, with an investigation for discovered Methadone and Doxepin in applicant's barracks.

Memorandum For Line of Duty Determination, 9 April 2014, reflects the Army's Casualty and Mortuary Affairs Operations Center completed a review of the applicant's Line of Duty investigation in which the applicant suffered Tricyclic Antidepressant toxicity on 16 July 2013. This office regrets to inform the applicant they supported the original finding of "Not in Line of Duty - Due to Own Misconduct" made by their Final Approval Authority. This action is final and will be made a permanent part of their IPERMS record.

i. **Lost Time / Mode of Return:** None

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

(1) **Applicant provided:** Informal Physical Evaluation Board (PEB) Proceeding, 6 September 2013, reflects a medical diagnosis.

(2) **AMHRR Listed:** None

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

**5. APPLICANT-PROVIDED EVIDENCE:** DA Form 199; DD Form 214; DD Form 293; The applicant's military history; Army Job history; VA Form 21-4138; Privacy Act consent form; A copy of two driver's license and two letters of support.

**6. Post Service Accomplishments:** The applicant has sought treatment for their injury and mental health.

**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)** Paragraph 3-7c states Under Other Than Honorable Conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

**(6)** Chapter 10, paragraph 10-1 states that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt.

**(7)** Paragraph 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40-501, chapter 8.

**(8)** Paragraph 10-8a stipulates a discharge under other than honorable conditions normally is appropriate for a Soldier who is discharged in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. (See chap 3, sec II.)

(9) Paragraph 10b stipulates Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

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-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

**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) 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 not 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 10, by reason of In Lieu of Trial by Court-Martial, with a characterization of service of under other than honorable conditions. The applicant's request for discharge in lieu of trial by court-martial is void from the record.

The applicant contends they were injured while deployed and suffers from severe post-traumatic stress disorder and depression. The applicant provided an Informal Physical Evaluation Board (PEB) Proceeding, 6 September 2013, which reflects a medical diagnosis. The 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 an upgrade of the discharge would allow veterans benefits and 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.

The applicant contends good service, including a combat tour.

The third-party statements provided with the application reflect the applicant's character and dedication to the mission and the people.

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

#### **9. BOARD DISCUSSION AND DETERMINATION:**

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

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board determined that, based on the Board Medical advisor opine resulting from a review of the applicant's official medical and service records, the applicant is diagnosed with Chronic Adjustment Disorder and asserts PTSD and Depression.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board determined that the applicant asserted PTSD, Depression, and Chronic Adjustment Disorder existed during the applicant's service.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that after reviewing all the available information, there is evidence that the applicant has potentially mitigating diagnoses. Applicant has in service diagnoses of Adjustment Disorder with Grief Reaction, Adjustment Disorder with Anxiety and Depressed Mood, and Adjustment Disorder with Depression, and a SC post service diagnosis of Chronic Adjustment Disorder (which subsumes the other adjustment disorder diagnoses), secondary to testicular injury and addiction to pain medication. Records reflect adjustment-related issues with onset after the injury and redeployment, opioid dependence that developed after being prescribed Oxycontin for over 6-months to treat applicant's chronic pain, and continued adjustment related issues related to both the chronic pain and opioid addiction. Records further reflect the applicant proactively sought assistance through applicant's physician, CoC and ASAP, enrolled-in and successfully completed alcohol treatment, but subsequently relapsed. In this specific case the applicant's Chronic Adjustment Disorder appears secondary to both the applicant's physical injury and later addiction to pain medication that was prescribed to treat the injury. The applicant subsequently relapsed after a period of abstinence, which common is among individuals with a history of opioid dependence. Given the nexuses between the applicant injury, subsequent adjustment issues, and eventual substance dependence, the applicant's misconduct characterized by wrongful use of opioids is mitigated.

(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 chronic adjustment disorder outweighed the opioid drug abuse basis for separation.

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

(1) The applicant contends they were injured while deployed and suffers from severe post-traumatic stress disorder and depression. The applicant is seeking treatment for an injury and mental health. The Board considered this contention during proceedings, but ultimately found no evidence to support this contention. The board granted an upgrade based on the applicant's Adjustment Disorder mitigating the applicant's drug abuse basis for separation.

(2) 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 Adjustment Disorder mitigating the applicant's drug abuse basis for separation.

(3) The applicant contends an upgrade of the discharge would allow Veterans benefits and educational benefits through the GI Bill. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do 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.

(4) 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.

c. The Board determined that the characterization of service was inequitable based on the applicant's Chronic Adjustment Disorder mitigating the applicant's drug abuse, the accepted basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were no longer proper and voted to change them to JKN / RE3. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Chronic adjustment disorder mitigated the applicant's misconduct of drug abuse. 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.

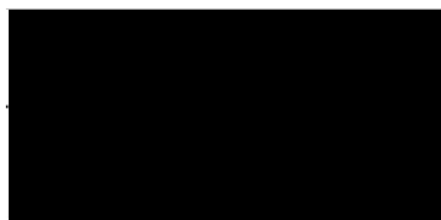
(3) The Board voted to change the RE code to RE-3.

**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: RE-3
- e. Change Authority to: AR 635-200, paragraph 14-12a

**Authenticating Official:**

1/13/2025



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