

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, the punishment received was excessive for the accused misconduct. During the applicant's time in the military, the applicant received four negative counseling statements and one Article 15, all of which were in the span of one year and all being minor in nature. The applicant does not dispute any wrongdoing on their part; however, they do not agree with the commander's decision to chapter the applicant out of the Army. The applicant believes they were subjected to a fuller extent of UCMJ punishment than necessary for the nature of the misconduct and there should have been a justifiable reason for the harsher punishment. The applicant served this country honorably for two and a half years as an Army Ranger, with two deployments to Afghanistan as a member of the JSOC task force. The applicant was injured as a direct result of a combat operation which had taken place early into the second deployment. Upon returning from deployment, the applicant was in a deeply depressed state of mind; anger and alcohol became a way of coping with the pain from the injuries. Now the applicant realizes they should have sought help; however, they were unaware the addiction to alcohol had anything to do with the reason the applicant had trouble with the leadership. The applicant is currently seeking treatment with the VA to battle this disease, anger and rage issues. The applicant is trying to steer their life back in the right direction and become the person the Army Rangers would have been proud to call their own. Since the separation, and due to the general (under honorable conditions) discharge, the applicant has lost their education benefits, rendering it nearly impossible to further their career goals; and has made it difficult for the applicant to pursue even a menial career outside of the military. The applicant served the United States of America proudly on the front line and is now eager to be a U.S. combat veteran who served the country with honor and not just a veteran who generally served.

b. **Board Type and Decision:** In a records review conducted on 4 June 2024, and by a 5-0 vote, the Board, based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's more serious misconduct and the remaining misconduct being only minor offenses, 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 and reentry eligibility code were proper and equitable and voted not to change them. *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 / Honorable

b. **Date of Discharge:** 14 October 2010

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 17 September 2010

(2) **Basis for Separation:** The applicant was informed of the following reasons:

Failed to report to the appointed place of duty;

Made false official statements to SFC S.;

Supported a minor by giving them their ID card so the minor could enter a bar; and,

Drove with a suspended license.

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

(4) **Legal Consultation Date:** 20 September 2010

(5) **Administrative Separation Board:** NA

(6) **Separation Decision Date / Characterization:** undated / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 1 May 2008 / 3 years, 19 weeks

b. **Age at Enlistment / Education / GT Score:** 23 / GED / 104

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 11C1P, Indirect Fire Infantry / 2 years, 5 months, 14 days

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

e. **Overseas Service / Combat Service:** SWA / Afghanistan (23 January 2009 – 18 May 2009; 12 December 2009 – 31 March 2010)

f. **Awards and Decorations:** AFC-CS, ARCOM, NDSM, GWOTSM, ASR, CIB

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 13 July 2010, on or about 29 June 2010, with intent to deceive make to SFC S. an official statement, which statement was totally false, and was then known by the applicant to be false. The punishment consisted of a reduction to E-3; forfeiture of \$441 pay per month for two months (suspended); and extra duty and restriction for 14 days.

Several Developmental Counseling Forms, for various acts of misconduct.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Medical History, 4 September 2010, the examining medical physician noted the applicant's medical conditions in the comments section.

Report of Medical Examination, 8 September 2010, the examining medical physician noted the applicant's medical conditions in the comments section.

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 293; self-authored statement; DD Form 214; DA Form 2627.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is currently seeking treatment with the VA to battle an addiction to alcohol, anger and rage issues.

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 14-3, 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.

(5) 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's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends good service, including two combat tours. The applicant served honorably for two and half years as an Army Ranger. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends after returning from deployment, they were deeply depressed; anger and alcohol became a way of coping with the pain from the injuries. The applicant should have sought help; however, was unaware the addiction to alcohol had anything to do with the reason the applicant was in trouble with the leadership. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's AMHRR contains Report of Medical History, 4 September 2010, and a Report of Medical Examination, 8 September 2010, wherein the examining medical physician noted the applicant's medical conditions in the comments section. The AMHRR does not contain a mental status evaluation. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

The applicant contends the punishment received was excessive for the accused misconduct. The evidence of record shows the command attempted to assist the applicant in performing and conducting to Army standards by providing counseling and the imposition of non-judicial punishment. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command. Punishment imposed under Article 15 of the UCMJ does not fall within this board's purview. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

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.

The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

The applicant is currently seeking treatment with the VA to battle an addiction to alcohol, anger and rage issues. 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'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: Post Traumatic Stress Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 70 percent SC for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's PTSD mitigates the discharge. Given that there is a relationship between PTSD and avoidance, there is a nexus between the applicant's misconduct characterized by FTR and PTSD. However, making false official statements, supporting a minor enter a bar, and driving on a suspended license is not mitigated given the misconduct is not natural sequela of PTSD and the applicant did not have a condition that rendered the applicant unable to differentiate between right and wrong and adhere to the right.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's FTR offense. The Board further found that the remaining unmitigated misconduct of false official statement, enabling a minor to enter a bar, and driving on a suspended license were minor offenses and therefore warranted a change to the narrative reason for separation.

b. Response to Contention(s):

(1) The applicant contends after returning from deployment, they were deeply depressed. Anger and alcohol became a way of coping with the pain from the injuries. The applicant should have sought help; however, was unaware the addiction to alcohol had anything to do with the reason the applicant was in trouble with the leadership. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's FTR offense. The Board further found that the remaining unmitigated misconduct of false official statement, enabling a minor to enter a bar, and driving on a suspended license were minor offenses and therefore warranted a change to the narrative reason for separation.

(2) The applicant contends good service, including two combat tours. The applicant served honorably for two and half years as an Army Ranger. The Board considered the totality of the applicant's service record during proceedings but ultimately did not address this contention due to a narrative reason change being made based on medical mitigation of the applicant's FTR offense and the minor nature of the applicant's remaining medically unmitigated misconduct.

(3) The applicant contends the punishment received was excessive for the misconduct of which the applicant was accused of. The Board considered this contention and determined that it was valid, especially in light of the medical mitigation of the applicant's FTR offense.

(4) The applicant contends an upgrade would allow 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.

(5) The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

c. The Board, based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's more serious misconduct and the remaining misconduct being only minor offenses, 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 and reentry eligibility code were proper and equitable and voted not to change them.

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 and further relief is not available.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) due to partial medical mitigation and the relatively minor nature of the applicant's medically unmitigated misconduct, 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:

6/21/2024



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