

**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 and reentry eligibility code.

The applicant seeks relief contending, in effect, having completed 11 years of active duty, including four combat deployments with the Army, and was never in any trouble during the first ten years of service. Upon returning from the fourth deployment, the applicant was advised of having failed to reintegrate. The applicant had considerable difficulties reintegrating back into garrison. An incident with a lieutenant marked the starting point of being in trouble. Upon separation, the unit refused to allow the applicant to review the separation documentation and instead was screamed at by higher-ranking Soldiers. The applicant served as a staff sergeant, obtained multiple awards, was reviewed twice by the E-7 boards, and participated in four combat deployments with no losses. The applicant's depression began following the third deployment and the loss of a close friend, SSG B. E., and internalized the feelings. During the fourth deployment, the applicant began having issues with the unit and spent time transferring between units within the battalion. Despite consulting with the first sergeant, the applicant was advised it was not the first sergeant's problem. The applicant could no longer cope with the military and desired to leave. Being instructed to suck it up and sent to BNCOC school for a break only added to the stress. The applicant began self-medicating with alcohol when denied help. The applicant was not in the proper frame of mind. Consulting with a chaplain and counselors did not result in the appropriate treatment. The applicant has since worked full-time without incident and is still coping with the symptoms of PTSD and combat stress, and needs help with night terrors. While regretting the past and making poor choices, the applicant must move forward in life with an upgrade.

b. **Board Type and Decision:** In a records review conducted on 16 May 2024, and by a 5-0 vote, the Board, based on the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Depression outweighing the applicant's offenses of AWOL, FTR, and disrespect toward an officer, 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 it.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / Honorable

**b. Date of Discharge:** 26 June 2012

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 9 March 2012

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

On 17 August 2011, the applicant disrespected a superior commissioned officer.

On 16 August and 13 October 2011, the applicant failed to go at the time prescribed to the appointed place of duty.

From 6 to 11 January 2012, and from 15 to 18 October 2011, the applicant was absent without leave.

The conduct was against the Army Values and incompatible with honorable military service.

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

**(4) Legal Consultation Date:** 14 and 23 March 2012

**(5) Administrative Separation Board:** On 14 March 2012, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than general (under honorable conditions) discharge.

On 23 March 2012, the applicant unconditionally waived consideration of the case before an administrative separation board.

On 2 May 2012, the applicant's conditional waiver was denied, and the case was referred to an Administrative Separation Board.

On 9 May 2012, the applicant was notified to appear before an administrative separation board and advised of rights.

**(6) Separation Decision Date / Characterization:** 8 June 2012 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 29 February 2008 / 6 years

**b. Age at Enlistment / Education / GT Score:** 31 / High School Graduate / 97

**c. Highest Grade Achieved / MOS / Total Service:** E-6 / 11B3P, Infantryman / 11 years, 12 days

**d. Prior Service / Characterizations:** RA, 5 June 2011 – 23 September 2003 / HD  
 RA, 24 September 2003 – 1 April 2006 / HD  
 RA, 2 April 2006 – 28 February 2008 / HD

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**AR20210001120**

**e. Overseas Service / Combat Service:** SWA / Afghanistan (9 August 2003 – 10 July 2004; 12 February 2010 – 7 February 2011), Iraq (10 August 2005 – 18 July 2006; 24 September 2007 – 13 November 2008)

**f. Awards and Decorations:** ACM-BSS, ICM-3BSS, ARCOM-5, AAM, VUA, AGCM-3, NDSM, GWOTEM, GWOTSM, NCOPDR-2, ASR, OSR-4, NATOMDL, CIB

**g. Performance Ratings:** 1 January 2008 – 31 December 2008 / Among the Best  
1 January 2009 – 31 March 2011 / Fully Capable  
1 April 2011 – 15 February 2012 / Marginal

**h. Disciplinary Action(s) / Evidentiary Record:** Five Developmental Counseling Forms for recoupment of reenlistment bonus; pending administrative separation; failing to go at the time prescribed to the appointed place of duty; failing to follow orders; being AWOL; failing to report to work; and failing to maintain control of a separation packet.

FG Article 15, 12 September 2011, for failing to go at the time prescribed to the appointed place of duty on two separate occasions on 16 August 2011; behaving with disrespect towards 1LT M. J. C. on 17 August 2011; and being derelict in the performance of duties on 17 August 2011. The punishment consisted of a reduction to E-5; forfeiture of \$350 pay per month for two months; extra duty for 45 days; and restriction for 45 days (suspended).

Five Personnel Action forms reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 15 October 2011;  
From AWOL to PDY, effective 18 October 2011;  
From PDY to AWOL, effective 6 January 2012;  
From AWOL to Dropped From Rolls (DFR), effective 9 January 2012; and  
From AWOL to PDY, effective 11 January 2012;

Military Police Report, 18 January 2012, reflects the applicant was cited for: desertion (on post); desertion – surrendered to military authorities (on post); and AWOL – failed to go to place of duty (on post).

Report of Result of Trial packet reflects the applicant was tried in a Summary Court-Martial on 13 February 2012. The applicant was charged with three specifications of violation of the UCMJ, Article 86. The summary of offenses, pleas, and findings:

Specification 1: On 6 to 11 January 2012, being AWOL, guilty consistent with the plea;  
Specification 2: On 15 to 18 October 2011, being AWOL, guilty, consistent with the plea;  
and,  
Specification 3: On 13 October 2011, leaving place of duty without authority, guilty, not consistent with the plea.

Sentence: Reduction to E-4, forfeiture \$1,575 pay and restriction for 60 days.

**i. Lost Time / Mode of Return:** 11 days (AWOL, 15 October 2011 – 18 October 2011, for 4 days; 6 January – 11 January 2012, for 7 days) / Surrendered to Military Authorities on both period of AWOL

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

**(1) Applicant provided:** Report of Medical History and Report of Medical Examination as described in paragraph 4j(2) below.

Report of Medical Assessment, 19 January 2012, the applicant noted behavioral health issues and the examining medical physician noted the applicant's medical conditions in the comments section.

**(2) AMHRR Listed:** Report of Medical Examination, 12 January 2012, the examining medical physician noted the applicant's medical conditions in the Summary of Defects and Diagnoses section.

Report of Medical History, 19 January 2012, the applicant noted behavioral health issues and the examining medical physician noted the applicant's medical conditions in the comments section.

Report of Mental Status Evaluation, 15 February 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 conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions.

*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; two third-party statements; NCOER; two DA Forms 1059; two Enlisted Record Briefs; DA Form 638; CG Exclusion memorandum; JA memorandum; DD Form 2329; ARBA email; DD Form 2807-1 (pages 2 and 3 of 3 pages); DD Form 2808 (page 3 of 3 pages); and DD Form 2697.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has obtained full-time employment and has not been in any trouble.

**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) 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 14-2c, prescribes Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties that may be imposed under the UCMJ.

(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 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

f. Army Regulation 601-210, (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1 defines reentry eligibility (RE) codes: RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

**8. SUMMARY OF FACT(S):** The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests an upgrade to honorable.

The applicant contends good service during 10 years of service, serving as a staff sergeant, obtaining multiple awards, being considered twice by the E-7 boards, and serving four combat tours.

The applicant contends members of the chain of command refused to allow the applicant to review the separation documents, screamed at the applicant, and provided no help or support.

The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends experiencing depression following the third deployment, coping with the symptoms of PTSD and combat stress, and self-medicating with alcohol when receiving no help. The applicant provided third-party statements from their spouse and parents which described the applicant's change in behavior after returning from the last combat tour and supported the applicant's contention. The applicant's AMHRR contains documentation which supports an in-service diagnosis. The record shows the applicant underwent a mental status evaluation (MSE) on 15 February 2012, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The MSE was considered by the separation authority.

The applicant contends obtaining full-time employment. 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.

The third-party statements provided with the application reflect on the applicant's positive behavior prior to deployment, the major changes in the behavior after the last deployment, and the applicant's chain of command's lack of support and concern.

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

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

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Adjustment Disorder, PTSD, Anxiety Disorder NOS, Depression, TBI.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder, PTSD, Anxiety Disorder NOS, and Depression. The applicant is service connected by the VA for TBI and PTSD. Service connection establishes that the applicant's TBI also existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD, Depression, and avoidance, the FTRs and AWOLs are mitigated. And given the nexus between PTSD and difficulty with authority, as well as the nexus between TBI and difficulties with impulse control, the disrespect 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 Post Traumatic Stress Disorder, Traumatic Brain Injury, and Depression outweighed the applicant's offenses of AWOL, FTR, and disrespect toward an officer.

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

(1) The applicant contends experiencing depression following the third deployment, coping with the symptoms of PTSD and combat stress, and self-medicating with alcohol when receiving no help. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Depression outweighed the applicant's offenses of AWOL, FTR, and disrespect toward an officer.

(2) The applicant contends good service during 10 years of service, serving as a staff sergeant, obtaining multiple awards, being considered twice by the E-7 boards, and serving four combat tours. The Board considered the totality of the applicant's service record but ultimately did not address this contention due to an upgrade being granted based on medical mitigation as discussed above in 9b(1).

(3) The applicant contends members of the chain of command refused to allow the applicant to review the separation document, screamed at the applicant, and provided no help or support. The Board considered this contention but ultimately did not address it due to an upgrade being granted based on medical mitigation as discussed above in 9b(1)

(4) The applicant contends obtaining full-time employment. The Board considered the applicant's post-service accomplishments but ultimate did not address this contention due to an upgrade being granted based on medical mitigation of the applicant's misconduct.

**c.** The Board, based on the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Depression outweighing the applicant's offenses of AWOL, FTR, and disrespect toward an officer, 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 it.

**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) based on medical mitigation of the applicant's 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.

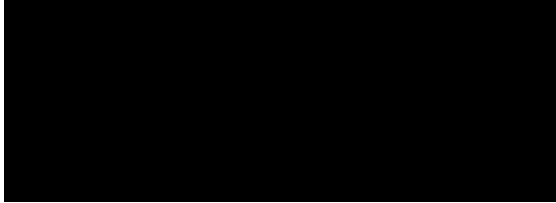


**10. BOARD ACTION DIRECTED:**

- 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:**

6/11/2024



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