

**1. Applicant's Name:**

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Next of Kin:** 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.

The applicant seeks relief contending, in effect, while deployed, the applicant lost two very close friends at home, who were like family to them, a blood relative passed away, and divorced their spouse, when they learned the spouse was six months pregnant with another service member's child. The applicant is not making excuses for their actions but let the situations control their actions as a Soldier. The applicant wishes they could go back to 4 July 2013, and do everything they did wrong over as they have learned their lesson the hard way. The applicant would go straight back into active duty if they could and deploy tomorrow. The applicant knows how bad they messed up when on active duty and all the opportunities they have lost now for the future, the only real hope is to get in school and carry out the mission God has for them. The applicant has been going to the VA for help with PTSD and group counseling to help them see outside the box. Since being discharged, the applicant has become the person they were before being caught up and being put into ignorant situations. It haunts the applicant to know they have a paper trail showing how bad the past was, they just want to move on.

b. **Board Type and Decision:** In a records review conducted on 21 May 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:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 15 April 2014

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 8 April 2014

(2) **Basis for Separation:** The applicant was informed of the following reasons: On or about 5 April 2014, the applicant unlawfully carried and possessed a weapon. On or about 5 April 2014, the former service member was found to be in possession of stolen property. Between on or about 24 December 2013 and on or about 28 February 2014, the applicant was absent without leave.

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

(4) **Legal Consultation Date:** On 9 April 2014, the applicant waived legal counsel.

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

(6) **Separation Decision Date / Characterization:** 10 April 2014 / General (Under Honorable Conditions)

#### 4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 12 June 2013 / 4 years

b. **Age at Enlistment / Education / GT Score:** 21 / High School Graduate / 92

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 91B10, Wheeled Vehicle Mechanic / 2 years, 10 months, 16 days

d. **Prior Service / Characterizations:** RA, 15 March 2011 – 11 June 2013 / HD

e. **Overseas Service / Combat Service:** SWA / Afghanistan (8 October 2012 – 4 July 2013)

f. **Awards and Decorations:** ACM-CS, NDSM, GWOTSM, ASR, OSR, NATOMDL

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** CG Article 15, 29 October 2013, for on or about 28 September 2013, without authority, go from the appointed place of duty; on or about 18 September 2013, with intent to deceive, make an official statement, which statement was totally false, and was then known to be false; on or about 27 August 2013 and on or about 24 September 2013, on divers occasions, without authority, fail to go at the time prescribed to the appointed place of duty; and, on or about 27 August 2013, with authority, fail to go at the time prescribed to the appointed place of duty. The punishment consisted of a reduction to E-3; forfeiture of \$443 pay and extra duty for 14 days.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 24 December 2013;

From AWOL to Dropped From Rolls (DFR), effective 23 January 2014;

From DFR to PDY, effective 28 February 2014; and,

From Present for Duty (PDY) to Confined by Civil Authorities (CCA) effective 5 April 2014.

Memorandum, 15 January 2014, reflects the applicant was disapproved for the award of the Army Good Conduct Medal for the period of Active Service from 14 March 2011 to 14 March 2014 due to being flagged for AWOL and Adverse Action.

Incident Report, 5 April 2014, reflects the applicant was arrested for Unlawful Carry/Possess Weapon, Possession of Stolen Property and Traffic Offenses.

Numerous Developmental Counseling Forms, for various acts of misconduct.

**i. Lost Time / Mode of Return:** 75 days:

AWOL, 24 December 2013 – 27 February 2014 / NIF  
CCA, 45 April 2014 – 15 April 2014 / Released from Confinement

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

**(1) Applicant provided:** VA Problem List, 14 January 2015, reflects a diagnosis.

VA Progress Notes, 3 February 2015, reflects a diagnosis.

VA Progress Notes, 13 April 2015, reflects a diagnosis.

**(2) AMHRR Listed:** Report of Mental Status Evaluation, 14 March 2014, 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. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The report does not contain a diagnosis.

Report of Medical History, 27 March 2014, 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. FORMER SERVICE MEMBER PROVIDED EVIDENCE:** Online application; DD Form 214. Next-of-kin provided: two self-authored statements; two VA Cover Letters; applicant's obituary, medical records; death certificate.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant had become the person they were before being caught up and being put into ignorant situations.

**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 14-12c 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's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8 (Separation Processing and Documents), governs the preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be 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 time after returning from deployment was the hardest time in their life. They lost two very close friends at home which were like family, a blood relative passed away, and divorced their spouse. 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 going to the VA for help with PTSD and group counseling to help them see outside the box. The next of kin provided a VA Problem List, 14 January 2015, which reflects a diagnosis. VA Progress Notes, 3 February, and 13 April 2015, reflect a diagnoses. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 14 March 2014, which indicates the applicant was mentally responsible and recognized right from wrong. The MSE does not indicate any diagnosis. All the medical documents in the AMHRR were considered by the separation authority.

Since being discharged, the applicant had become the person they were before being caught up and being put into ignorant situations. 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 found, based on the Board's Medical Advisor's opine, a review of the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation, that the applicant has the following potentially-mitigating diagnoses/experiences: Anxiety Disorder, Depressive Disorder, mTBI.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that, based off the Board's Medical Advisor's opine, the applicant was diagnosed with Anxiety Disorder during service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board applied liberal consideration, including consideration of the Board's Medical Advisor's opine and a review of the records, and determined that the applicant presented with potentially mitigating diagnoses of Anxiety Disorder, Depressive Disorder and mTBI. As there is an association between Anxiety Disorder and avoidance, there is a nexus between the applicant's misconduct characterized as AWOL and FTR. However, the applicant's misconduct characterized as unlawfully carrying a weapon, possession of stolen property, and making a false official statement with the intent to deceive is not mitigated, as the misconduct is not natural sequela to Anxiety Disorder or Depressive Disorder. The misconduct is also not mitigated by the applicant's diagnosis of mTBI, as there is no evidence the condition was of such severity as to have noteworthy impact on behavior, judgment, or cognition.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board's Medical Advisor's opine, the Board determined that the available evidence did not support a conclusion that the applicant's Anxiety Disorder, Depressive Disorder, and mTBI outweighed the entire basis for applicant's separation

– specifically, the unlawfully carrying and possession of a weapon, possession of stolen property, and making a false official statement. Therefore, the Board found that the Bh conditions did not outweigh the discharge.

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

(1) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention and determined the applicant's narrative reason for discharge is appropriate. The Board also determined that there is insufficient evidence in the applicant's official record or provided by the applicant that the applicant was not provided sufficient access to BH resources. Therefore, no change is warranted

(2) The applicant contends the time after returning from deployment was the hardest time in their life. They lost two very close friends at home which were like family, a blood relative passed away, and divorced their spouse. Since being discharged, the applicant had become the person they were before being caught up and being put into ignorant situations. The Board considered this contention and determined that the applicant's post service behavior does not outweigh the misconduct based on the seriousness of the applicant's offense of unlawfully carrying and possessing a weapon, in possession of stolen property, and making a false official statement.

(3) The applicant contends going to the VA for help with PTSD and group counseling to help them see outside the box. The Board liberally considered this contention and 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 Anxiety Disorder, Depressive Disorder, and mTBI outweighed the basis for applicant's separation – unlawfully carried and possessed a weapon, in possession of stolen property, and making a false official statement.

**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 of all the evidence before the Board, the applicant's Anxiety Disorder, Depressive Disorder, and mTBI did not excuse or mitigate the offenses of unlawfully carrying and possessing a weapon, in possession of stolen property, and making a false official statement. 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, as the reason the applicant was discharged was both proper and equitable.

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**AR20210001155**

(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:**

8/31/2024

**X**

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